

**OPEN**

By virtue of paragraph(s) X of Part 1 Schedule 1 of the Local Government Act 1972.

**Environment and Communities Committee**

**11<sup>th</sup> March 2024**

**Environmental Protection Supplementary Planning Document**

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**Report of Peter Skates Acting Executive Director – Place**

**Report Reference No: EC/40/23-24**

**Ward(s) Affected: All**

**Purpose of Report**

- 1 This report seeks approval to adopt the Environmental Protection Supplementary Planning Document (“SPD”).

**Executive Summary**

- 2 Cheshire East Council’s Corporate Plan sets out three aims. These are to be an open and enabling organisation, a Council that empowers and cares about people, and to create thriving and sustainable places. In striving to create thriving and sustainable places, a key objective is to reduce impact on the environment and appropriately control development to protect and support our borough. As such, this SPD sets out guidance on how planning decisions can contribute to these aims.
- 3 This SPD provides guidance on the council’s approach to Environmental Protection issues when considering planning applications. The specific areas covered in the SPD are: air quality (including dust pollution), contaminated land, noise, light pollution and odour pollution. All these issues have the potential to impact on the health and wellbeing of Cheshire East’s residents, businesses and visitors and the SPD sets out the relevant technical advice aimed at preventing or reducing the impact of proposed developments and protecting public health, wellbeing and amenity across the borough.
- 4 Once adopted, the SPD will provide additional planning policy guidance on the implementation of the Development Plan Policies, most notably Local Plan Strategy Policy SE 12 ‘Pollution, Land Contamination and

Land Instability'. Once adopted, the SPD will be a material consideration in decision making on planning applications and will support the delivery of policies in the Development Plan.

- 5 A report of consultation is included at Appendix B, setting out the feedback from both stages and how the document has been altered in response to that feedback.

## RECOMMENDATIONS

The Environment and Communities Committee is recommended to:

1. Consider the Report of Consultation (Appendix B); the Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report (Appendix C); and the Equalities Impact Assessment Screening Report (Appendix D)
2. Adopt the Environmental Protection Supplementary Planning Document (Appendix A)
3. Delegate to the Head of Planning the authority to make minor changes and corrections to the SPD prior to publication.

## Background

- 6 One of the key objectives of the Local Plan Strategy (LPS) is to protect and enhance environmental quality and ensure that development addresses the local causes of water, air, light, noise and other forms of pollution and contaminated land.
- 7 LPS Policy SE12 'Pollution, Land Contamination and Land Instability' sets out the approach the Council will take to these matters and how they should be addressed in planning proposals and decision making. A suite of additional policies is also set out in the SADPD, providing detailed requirements that applicants must satisfy in order to gain planning consent.
- 8 This SPD provides greater clarity to developers, landowners, communities and decision makers on the approach the Council will take to Environmental Protection matters and provides additional guidance to applicants on how they should respond to the policy requirements in the LPS and SADPD. It also 'signposts' sources of information, including relevant documentation and Council services.

- 9 This SPD has been prepared by a cross disciplinary team involving staff from the Strategic Planning Team, the Environmental Protection Team and the Development Management Team.
- 10 The process for preparing an SPD is similar in many respects to that of a Local Plan document. However, they are not subject to independent examination by the Planning Inspectorate. There are several stages in their production:
- (a) Publish the initial draft SPD for four weeks public consultation;
  - (b) Consider feedback received and make any changes necessary;
  - (c) Publish the final draft SPD, along with a consultation statement setting out who has been consulted in its preparation, the main issues raised in feedback and how those issues been addressed in the final draft SPD;
  - (d) Having considered representations, the SPD could then be adopted.
- 11 Should the SPD be adopted it must be published and made available, along with an adoption statement, in line with the 2012 Regulations. The adoption of the SPD may be challenged in the High Court by way of judicial review within three months of its adoption.
- 12 Once adopted, the effectiveness of this SPD will be monitored as part of the Authority Monitoring Report, using information from planning applications and decisions. The outcome of this ongoing monitoring work will help inform future decisions about the SPD.

### **Consultation and Engagement**

- 13 Following initial consultation on the first draft document in October and November 2021 several key changes were made to the document including:
- (a) Referring to the now adopted SADPD policies;
  - (b) References to other potential stakeholder and consultees, such as United Utilities and the Canal & River Trust
  - (c) Confirmation that land contamination can arise from a variety sources, not just industrial heritage.
  - (d) Multiple updates and changes based on improving legibility and providing further information

- 14 Following final consultation on the final draft document in November and December 2023, 34 comments were received from 11 consultees and further changes were made to the document including:
- (a) recognition of the need to carefully consider lighting proposals within aerodrome safeguarding areas;
  - (b) clarifying that the document relates to specific environmental protection matters which do not include the more general effects of carbon on the climate;
  - (c) providing further information in relation to noise and light pollution in proximity of the strategic highways network; and
  - (d) clarifying that under the heading of ‘Odour Impact Assessments’ the scope and approach will be agreed between the local planning authority and the relevant waste-water operator.
- 15 A full report of consultation is available at Appendix B, which provides a response to all key issues raised through the consultation and details all the changes made as a result of those issues.

### **Reasons for Recommendations**

- 16 A SPD is not part of the statutory development plan but it is a recognised way of putting in place additional planning guidance and a material consideration in determining planning applications in the borough.
- 17 Providing clear, detailed guidance up front about policy expectations should enable applicants to better understand policy requirements. The SPD should assist applicants when making relevant planning applications, and the Council in determining them.
- 18 The guidance and technical advice set out in this SPD will enable applicants to make sure that their proposed development meets policy requirements and is designed to minimise the impacts on public health, wellbeing and amenity.

### **Other Options Considered**

- 19 The Council could choose not to prepare an SPD on Environmental Protection matters. Any relevant planning application would continue to be assessed against existing planning policies. However, this would not allow the Council to provide additional practical guidance on this matter or give clarity to the approach that should be employed by all parties in a consistent way that gives certainty to applicants and decision makers.

Option	Impact	Risk
Do nothing	The Environmental Protection SPD could not be adopted and become a material consideration in the determination of planning applications.	The improved outcomes that could be achieved through additional guidance on how developers are expected to address policies of the Local Plan, would not be achieved.

## Implications and Comments

### *Monitoring Officer/Legal*

- 21 The Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012 provide the statutory Framework governing the preparation and adoption of SPDs. These include the requirements in Section 19 of the 2004 Act and various requirements in the 2012 Regulations including in Regulations 11 to 16 that apply exclusively to producing SPDs.
- 22 Amongst other things, the 2012 regulations require that an SPD contain a reasoned justification of the policies within it and for it not to conflict with adopted development plan policies.
- 23 The National Planning Policy Framework and the associated Planning Practice Guidance also set out national policy about the circumstances in which SPDs should be prepared.
- 24 SPDs provide more detailed guidance on how adopted local plan policies should be applied. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan.

### *Section 151 Officer/Finance*

- 25 There are no significant direct financial costs arising from adoption of the SPD. The costs of printing and the staff time in developing the SPD are covered from existing budgets of the planning service.

The financial burdens associated with following the Environmental Protection SPD rest with site promoters/developers, not with the Council. Therefore, there is no anticipated impact on the Council's approved budget/Medium Term Financial Strategy (MTFS). Through viability testing undertaken as part of the process to adopt the policies of the LPS and SADPD, it was found that in most locations in Cheshire East,

compliance with the requirements of planning policy was viable. Where policy requirements are considered not to be viable, it is the responsibility of the applicant to demonstrate why policy requirements should not be met.

*Policy*

- 26 The SPD will expand on how existing development plan policies related to environmental protection may be applied. An SPD will give additional advice to applicants on how they can demonstrate they have complied with relevant policies of the development plan related to this matter.
- 27 The SPD will contribute to the aims and priorities of the Corporate Plan as set out in the Table below.

<p><b>An open and enabling organisation</b></p> <p>Ensure there is transparency in all aspects of council decision making</p> <p><b>Listen, learn and respond to our residents, promoting opportunity for a two-way conversation</b></p> <p>The report includes a Report of Consultation, setting out the key issues raised through the previous consultation and what we have changed in response or an explanation of why a change would not be appropriate for this SPD.</p>	<p><b>A council which empowers and cares about people</b></p> <p><b>Reduce health inequalities across the borough</b></p> <p>The guidance and advice contained in the SPD aims to prevent or reduce the impact of proposed developments across the borough and protecting public health, wellbeing and amenity.</p>	<p><b>A thriving and sustainable place</b></p> <p><b>A great place for people to live, work and visit</b></p> <p><b>Reduce impact on the environment</b></p> <p>The guidance and advice contained in the SPD aims to prevent or reduce the impact of proposed developments across the borough and protecting public health, wellbeing and amenity.</p>
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*Equality, Diversity and Inclusion*

- 28 The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a “relevant protected characteristic” and persons who do not share it; foster good relations between persons who share a “relevant protected characteristic” and persons who do not share it.

- 29 The Environmental Protection SPD provides further guidance on the approach that is expected from developers on this matter. The SPD is consistent with the LPS and SADPD which were the subject of an Equalities Impact Assessment (EqIA) as part of an integrated Sustainability Appraisal. An EqIA on the Environmental Protection SPD has also been prepared (Appendix D).

#### *Human Resources*

- 30 There are no direct implications for human resources.

#### *Risk Management*

- 31 The subject matter of the report does not give rise for any particular risk management measures because the process for the preparation of an SPD is governed by legislative provisions (as set out in the legal section of the report).

#### *Rural Communities*

- 32 The Environmental Protection SPD seeks to provide further guidance on Environmental Protection matters in new development. Whilst most major development is expected to take place in, or adjacent to urban areas the guidance will apply to sites in rural areas too, where relevant, and therefore will benefit communities directly or indirectly from the reduced impact of development on public health, wellbeing and amenity.

#### *Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)*

- 33 This SPD does not have a direct implication for children and young people or cared for children, but will assist in securing development that protects public health, wellbeing and amenity across the borough, affecting all communities.

#### *Public Health*

- 34 Whilst there are no specific public health implications of the SPD, the document is likely to have an overall positive impact on public health and wellbeing by setting out clear requirements to ensure adopted policy is adhered to, which ultimately is designed to protect the environment and therefore the wellbeing and public health of communities across the borough.

#### *Climate Change*

35 Whilst this SPD does not have any direct climate change implications it may assist in promoting more active and sustainable travel options through the management of air quality pollution related to travel.



**Access to Information**

Contact Officer:	Tom Evans, Neighbourhood Planning Manager and Interim Environmental Planning Manager  Tom.evans@cheshireeast.gov.uk
Appendices:	Appendix A: Environmental Protection SPD  Appendix B: Report of Consultation  Appendix C: Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report  Appendix D: Equalities Impact Assessment Screening Report
Background Papers:	N/A