

Environment and Communities Committee Report

Date of Meeting:	17 July 2021
Report Title:	Draft Sustainable Urban Drainage Systems Supplementary Planning Document
Report of:	Frank Jordan; Executive Director of Place
Report Reference No:	EC/03/21-22
Ward(s) Affected:	All

1. Executive Summary

- 1.1.** This report seeks approval to carry out four weeks of public consultation on the draft Sustainable Urban Drainage Systems Supplementary Planning Document (“SUDS SPD”).
- 1.2.** SUDS are design and engineering solutions to manage the surface water of a development site. The approach that can be taken to manage such water can vary significantly from multiple small scale, landscape and design led solutions that work with green space and habitats to delay and manage run off, to ‘hard’ engineering projects that store excess water to release into the mains water system. This SPD provides guidance on the preferred approach for development in Cheshire East and sets out the ways in which development sites are expected to work with water and manage drainage on site.
- 1.3.** The preparation of an SPD involves two stages of public consultation. This first consultation stage will be followed by another opportunity to comment on a final draft version of the SPD. The final draft of the SPD will be accompanied by a consultation statement setting out the feedback from stage one and how the document has been altered in response to that feedback. Having also considered comments made at stage two, the SPD may then be considered for adoption by the Council.
- 1.4.** Once adopted, the SPD will provide additional planning policy guidance on the implementation of Local Plan Strategy policies SE13 ‘Flood Risk and Water Management’, and the Site Allocations and Development Policies

Document (SADPD) Policy ENV 6' Surface Water Management and Flood Risk'. The SPD, once adopted, will be a material consideration in decision making and support the delivery of key policies in the Development Plan.

2. Recommendations

- 2.1.** To approve the draft SUDS Supplementary Planning Document (Appendix A) for four weeks of public consultation.
- 2.2.** To publish the associated Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report ("SEA") (Appendix B).
- 2.3.** To publish the associated Equalities Impact Assessment Screening Report ("EQIA") (Appendix C).

3. Reasons for Recommendations

- 3.1.** An SPD is not part of the statutory development plan. It is a recognised way of putting in place additional planning guidance and a material consideration in determining planning applications in the borough.
- 3.2.** Providing clear 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.

4. Other Options Considered

- 4.1.** The Council could choose not to prepare an SPD on SUDS. 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.
- 4.2.** Providing improved guidance on SUDS, particularly through the toolkit contained in the SPD allows site promoters to select a range of policy compliant approaches to managing surface water and improves the ability of the Council to secure positive solutions that improve the local environment.

5. Background

- 5.1.** 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 protect residents and improve our environment. As such, this SPD sets out guidance on policies contained in the Local Plan Strategy (LPS) and SADPD that will support these objectives by setting out clear expectations

on how surface water can be managed in new development in a way that benefits the natural environment and works within the landscape, providing multifunctional benefits and better outcomes for design, biodiversity and flood risk management.

- 5.2.** One of the key objectives of the LPS is for the Plan to protect and enhance environmental quality through a range of measures including the management of water, and to promote measures that reduce the impact of climate change, including flooding.
- 5.3.** CELPS policy SE13 'Flood Risk and Water Management' sets out the preferred approach to managing water and flood risk in new development and requires proposals to integrate measures for sustainable water management.
- 5.4.** Policy ENV 6 'Surface Water Management and Flood Risk' of the SADPD provides further detail and requires that sites adopt a SUDS approach unless it can be demonstrated this cannot feasibly be achieved. This SPD provides guidance on how SUDS can be achieved through a range of solutions.
- 5.5.** This SPD provides greater clarity to developers, landowners, communities and decision makers on the approach the Council will take to securing SUDS in new development 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 and sets out expectations in relation to issues such as maintenance and management after schemes have been completed.
- 5.6.** The draft SPD has been prepared by the Environmental Planning Team with assistance from the Strategic Planning Team.
- 5.7.** Subject to the approval of the recommendations in this report, the SPD will be consulted on in accordance with the Council's Statement of Community Involvement for a period of four weeks.
- 5.8.** 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:
 - 5.8.1.** Publish the initial draft SPD for four weeks public consultation;
 - 5.8.2.** Consider feedback received and make any changes necessary;
 - 5.8.3.** 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;

- 5.8.4.** Having considered representations, the SPD may then be adopted;
- 5.9.** Following adoption, the SPD must be published and made available along with an adoption statement in line with the 2012 Local Plan Regulations. The adoption of the SPD may be challenged in the High Court by way of judicial review within three months of its adoption.
- 5.10.** 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.

6. Consultation and Engagement

- 6.1.** It is proposed that the draft SPD will be subject to four weeks consultation. Following this, all comments will be considered, and changes made to the SPD, as appropriate, before a final version of the SPD is prepared for approval and further consultation.

7. Implications

7.1. Legal

- 7.1.1.** 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.
- 7.1.2.** 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.
- 7.1.3.** 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.
- 7.1.4.** 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.
- 7.1.5. Strategic Environmental Assessment**

- 7.1.6.** Strategic Environmental Assessment involves evaluation of the environmental impacts of a plan or programme. The requirement for SEA is set out in the European Directive 2001/42/EC adopted into UK law as the “Environmental Assessment of Plans or Programmes Regulations 2004”.
- 7.1.7.** The SEA Directive sets out a legal assessment process that must be followed. Often within the planning context, the SEA requirements are met by incorporating it within a Sustainability Appraisal (“SA”), which is a requirement for development plan documents.
- 7.1.8.** There is no legal requirement for SPDs to be accompanied by SA, and this is reinforced in Planning Practice Guidance (PPG ref: 11-008- 20140306). However, “in exceptional circumstances” there may be a requirement for SPDs to undertake Strategic Environmental Assessment where it is felt they may have a likely significant effect on the environment that has not been assessed within the SEA/SA of the local plan.
- 7.1.9.** A screening assessment has been undertaken (in Appendix B) which has determined that a SEA (or an appropriate assessment under the Habitats Regulations) is not required for the SPD.

7.2. Finance

- 7.2.1.** There are no significant financial costs arising from consultation on the SPD. The costs of printing and the staff time in developing the SPD are covered from existing budgets of the planning service.

7.3. Policy

- 7.3.1.** The SPD will expand and amplify existing development plan policies related to the provision of funding for infrastructure. 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.

7.4. Equality

- 7.4.1.** 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.
- 7.4.2.** The draft SUDS SPD provides further guidance on the approach that is expected from developers on this matter. The SPD is consistent with the LPS which was itself the subject of an Equalities

Impact Assessment (EqIA) as part of an integrated Sustainability Appraisal. A draft EQiA on the draft SUDS SPD has been prepared (appendix C) and will be published alongside the draft SPD for comment.

7.5. Human Resources

7.5.1. There are no implications for human resources.

7.6. Risk Management

7.6.1. 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).

7.7. Rural Communities

7.7.1. The draft SUDS SPD seeks to provide further guidance on implementing surface water management 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 communities directly or indirectly from improved water management on such sites.

7.8. Children and Young People/Cared for Children

7.8.1. The draft SPD does not have implication for children and young people or cared for children.

7.9. Public Health

7.9.1. The draft SPD does not have any specific public health implications but will generally improve the environment which can create a positive impact on a range of health indicators.

7.10. Climate Change

7.10.1. The draft SPD will help the council to manage the impact of climate change and reduce surface water run-off from new development sites, therefore helping to reduce the overall risk of flooding in the borough

Access to Information	
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Appendices:	Appendix A: Draft SUDS Supplementary Planning Document Appendix B: SEA / HRA Screening Report

	Appendix C: Draft Equalities Impact Assessment Screening Report
Background Papers:	N/A