

Environment and Communities Committee Report

Date of Meeting:	09 September 2021
Report Title:	Draft Environmental Protection Supplementary Planning Document
Report of:	Paul Bayley, Director of Environment and Neighbourhood Services
Report Reference No:	EC/21/21-22
Ward(s) Affected:	All

1. Executive Summary

- 1.1.** This report seeks approval to carry out a minimum of four weeks of public consultation on the draft Environmental Protection Supplementary Planning Document (SPD).
- 1.2.** The Environmental Protection SPD adds detailed guidance on how the policies of the Local Plan Strategy (LPS) and the Site Allocations and Development Policies Document (SADPD) should be applied to manage and mitigate the environmental impacts of new development. The SPD addresses matters including air quality, contaminated land, noise, light pollution and odour pollution.
- 1.3.** 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.

2. Recommendations

- 2.1.** To approve the draft Environmental Protection Supplementary Planning Document (Appendix A) for a minimum of four weeks of public consultation, including the associated Strategic Environmental Assessment and Habitats

Regulations Assessment Screening Report (“SEA”) (at Appendix C of the SPD).

- 2.2. To publish the associated Equalities Impact Assessment Screening Report (“EQIA”) (Appendix B).

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 on 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 Environmental Protection. 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.

5. Background

- 5.1. 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.
- 5.2. Once adopted, the SPD will provide additional planning policy guidance, primarily related to the implementation of Local Plan Strategy policy SE12 ‘Pollution, Land Contamination, and Land Instability’ and a range of more detailed emerging policies set out in the SADPD, including policy ENV12 ‘Air Quality’, policy ENV13 ‘Aircraft Noise’, and policy ENV14 ‘Light Pollution’. The SPD, once adopted, will be a material consideration in decision making and support the delivery of key policies in the Development Plan.
- 5.3. One of the key objectives of the 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.

- 5.4.** 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.
- 5.5.** A suite of additional policies set out in the emerging SADPD also provide detailed requirements that applicants must satisfy in order to gain planning consent.
- 5.6.** This SPD provides greater clarity to developers, landowners, communities and decision makers on the approach the Council will take to environmental protection 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.
- 5.7.** The draft SPD has been prepared jointly by the Strategic Planning Team and the Environmental Protection Team.
- 5.8.** 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 at least four weeks.
- 5.9.** 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:
 - 5.9.1.** Publish the initial draft SPD for at least four weeks public consultation;
 - 5.9.2.** Consider feedback received and make any necessary changes;
 - 5.9.3.** 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;
 - 5.9.4.** Having considered representations, the SPD may then be adopted;
- 5.10.** Following adoption, the SPD 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.
- 5.11.** 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 a minimum of 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

7.2. Strategic Environmental Assessment

- 7.2.1.** 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”.
- 7.2.2.** 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.

- 7.2.3.** 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.
- 7.2.4.** 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.

7.3. Finance

- 7.3.1.** There are no significant direct 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.

7.4. Policy

- 7.4.1.** The SPD will expand on how existing development plan policies related to the 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.

7.5. Equality

- 7.5.1.** 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.
- 7.5.2.** The draft Environmental Protection 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 Environmental Protection SPD has been prepared (at appendix C of the SPD itself) and will be published for comment.

7.6. Human Resources

- 7.6.1.** There are no direct implications for human resources. The work associated with the SPD will be carried out by existing staff in the Strategic Planning Team and Environmental Protection Team.

7.7. Risk Management

7.7.1. 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 this report).

7.8. Rural Communities

7.8.1. The draft Environmental Protection SPD seeks to provide further guidance on reducing, managing and mitigating impact on the environment, including development that may take place in rural areas.

7.9. Children and Young People/Cared for Children

7.9.1. The draft SPD does not have a direct implication for children and young people or cared for children but will assist in securing growth that reduces harm to the environment and support healthy communities for all residents.

7.10. Public Health

7.10.1. The draft SPD supports the improvement of public health by setting out clear requirements that protect the environment and therefore the wellbeing and public health of communities across the borough.

7.11. Climate Change

7.11.1. Whilst the draft 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 Tom.Evans@cheshireeast.gov.uk 01625 650023 / 07772629846
Appendices:	Appendix A: Draft Environmental Protection Supplementary Planning Document Appendix B: Draft Equalities Impact Assessment Screening Report
Background Papers:	N/A