

**Committee Name and Date of Committee Meeting**

Cabinet – 11 July 2022

**Report Title**

Local Plan: Consultation on draft Supplementary Planning Documents

**Is this a Key Decision and has it been included on the Forward Plan?**

Yes

**Strategic Director Approving Submission of the Report**

Paul Woodcock, Strategic Director of Regeneration and Environment

**Report Author(s)**

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**Ward(s) Affected**

Borough-Wide

**Report Summary**

Approval is sought to undertake public consultation on the following draft Supplementary Planning Documents (SPDs):

- Developer Contributions SPD
- Biodiversity Net Gain SPD
- Trees SPD
- Preparing a Soils Strategy SPD
- Development in the Green Belt SPD

Rotherham's Local Plan provides the framework for determining planning applications. Supplementary Planning Documents provide additional detail and guidance to support policies of the Local Plan. Once adopted, they are a material consideration which can be taken into account when determining planning applications. Supplementary Planning Documents help improve planning applications, which in turn can speed up the planning process and produce better outcomes for the community.

**Recommendations**

1. That approval be given to public consultation on the draft Supplementary Planning Documents at Appendices 1 to 5.

2. That, following consultation, a further report be submitted to Cabinet in early 2023 regarding adoption of the Supplementary Planning Documents.

### **List of Appendices Included**

- Appendix 1 Developer Contributions SPD
- Appendix 2 Biodiversity Net Gain SPD
- Appendix 3 Trees SPD
- Appendix 4 Preparing a Soils Strategy SPD
- Appendix 5 Development in the Green Belt SPD
- Appendix 6 Equality Part A – Screening
- Appendix 7 Carbon Impact Assessment

### **Background Papers**

National Planning Policy Framework

<https://www.gov.uk/guidance/national-planning-policy-framework>

The Town and Country Planning (Local Planning) (England) Regulations 2012

<https://www.legislation.gov.uk/ukxi/2012/767/contents/made>

Rotherham Local Plan 2013 – 2028

<https://www.rotherham.gov.uk/planning-development/guide-local-plan/1>

Adopted Statement of Community Involvement

<https://www.rotherham.gov.uk/downloads/download/80/statement-of-community-involvement>

PAS Biodiversity Net Gain guidance

<https://www.local.gov.uk/pas/topics/environment/biodiversity-net-gain>

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **Local Plan: Consultation on draft Supplementary Planning Documents**

### **1. Background**

- 1.1 Rotherham's Local Plan provides the framework for determining planning applications. Supplementary Planning Documents (SPDs) provide additional detail and guidance to support Local Plan policies. Once adopted they are a material consideration which can be taken into account when determining planning applications. SPDs provide detailed guidance to householders, planning agents and developers to help improve the quality of submitted planning applications, which in turn can speed up the planning process and produce better outcomes for the community.
- 1.2 Following adoption of the Local Plan Core Strategy (2014) and Sites and Policies documents (2018), the Council is preparing new guidance to assist applicants in the preparation of planning applications.
- 1.3 Priority was initially given to preparing guidance which supports the delivery of new homes and other development, and to updating existing guidance regularly used in the consideration and determination of planning applications. This led to a first suite of SPDs that were approved for adoption by Cabinet on 15 June 2020. The second suite of SPDs, including affordable housing and development viability, were adopted on 21 June 2021 following public consultation.
- 1.4 Approval is now sought for consultation on a third suite of SPDs, which address how developers will make financial contributions and contribute to the protection and enhancement of the natural environment and the creation of sustainable communities.
- 1.5 This report seeks approval to consult on the following draft Supplementary Planning Documents (SPDs):
  - Developer Contributions SPD
  - Biodiversity Net Gain SPD
  - Trees SPD
  - Preparing a Soils Strategy SPD
  - Development in the Green Belt SPD (2022 amendment)
- 1.6 The anticipated adoption of these draft SPDs, following public consultation and subsequent Cabinet approval, will assist in mitigating the negative impacts set out in the Nature Crisis motion approved by Council on 25 May 2022. The SPDs will assist by presenting key actions that this Council can take to support a more natural environment, promote biodiversity and assist in nature recovery, and tackle climate change.

### **2. Key Issues**

- 2.1 The draft SPDs proposed for consultation cover a range of issues. A summary of the key elements of each document is provided below:

## **Developer Contributions**

Sets out the process through which the Council will seek contributions from developers towards mitigating the impacts of development. Specifically:

- Education provision (eg school places).
- Library provision and library space.
- Biodiversity Net Gain plus 10%.
- The value of amenity trees.
- Green Infrastructure, green spaces, outdoor sport and recreational provision.
- Transport and related infrastructure.
- Community Access Plans and other management or operational plans.
- Local primary health care provision (eg medical centres).

Provides clear guidance to mitigate the impacts of future development proposals and to ensure that any gaps in provision of social and community facilities arising from new housing (for instance) are provided for by the developer; unless there are clearly substantiated and justified reasons as to why a developer could not viably fund such planning contributions.

Establishes the requirements for on-site or off-site contributions, or financial contributions in lieu, provided via S106 planning obligations to mitigate impacts arising from the development.

Seeks to ensure that new development accords with adopted planning policies and is socially, economically and environmentally sustainable.

S106 planning contributions are in addition to the payment of the Community Infrastructure Levy (CIL). They can be sought alongside CIL for the same development but must meet the tests set out in legislation.

## **Biodiversity Net Gain**

Sets out the Council's approach to seeking Biodiversity Net Gain (BNG) in line with the requirements introduced by the Environment Act (2021). This reflects Objective 10 of the Core Strategy which aims to manage the Borough's biodiversity through planning policies and supports the Council's Climate Change Action Plan.

- Introduces the BNG Metric 3.1 and the Metric 3.1 for small sites. (The Biodiversity

Metric is a habitat-based approach designed to provide ecologists, developers, planners and other interested parties with a means of assessing changes in biodiversity value (losses or gains) brought about by development or changes in land management. Version 3.1 is the latest published.)

- Sets out how to assess the biodiversity value of a site and the potential impacts arising from new development on the natural environment.
- Sets out how to apply the mitigation hierarchy and clarifies that where irreplaceable habitats cannot be offset, then planning permission should be refused, in accordance with national and local planning policy.
- Sets out how to calculate Biodiversity Net Gain.
- Provides a biodiversity checklist for applicants.

## **Trees**

Sets out guidance on the protection of existing trees on-site, and provision of replacement and new trees, with a view to protecting, enhancing and increasing tree cover within Rotherham. This reflects Objective 13 of the Core Strategy which aims to reduce the Borough's carbon emissions over the plan period and supports the Council's Climate Change Action Plan.

- Summarises the issues that can arise on development sites with existing trees, and what needs to be considered when planting replacement trees.
- Introduces the methodology to formalise current practice in negotiating replacement trees with developers -.
- Addresses the approach to be taken to trees: from the initial design stage, through to their consideration in the planning application and future development on-site, and subsequently ongoing management and maintenance of trees.
- Briefly reviews the legislation supporting tree protection.

## **Preparing a Soils Strategy**

Sets out detailed guidance on the required assessments of soils to be undertaken on-site,

when these are required, and how to undertake them. It also summarises best practice in dealing with soils on development sites and supports the Council's Climate Change Action Plan through the protection of biodiversity of soils.

- Sets out the importance of soils within the Borough and the ecosystem services they provide, including providing support for plants and animals. Also stresses the fragility of soils.
- Provides a summary of the issues that may arise when dealing with soils on a development site.
- Provides a summary of DEFRA and British Standards in dealing with soils.
- Sets out the requirements before and during development occurring on-site, and the replacement of soils where needed.

**Development in the Green Belt**

Sets out amendments to adopted SPD No. 3 Development in the Green Belt.

Following the adoption of the SPD in June 2020, and its implementation, several amendments were identified that will clarify application of the SPD to buildings and previously developed land within the Green Belt:

- Extensions to existing buildings (para 18).
- Replacement buildings (para 31).
- Change of use of land (Green Belt guidance 6 second para).
- Appendix 1 of the SPD (paras 91, 92, 97, 98 & 100).

These changes have been highlighted within the consultation draft of the amended SPD included at Appendix 5 of this report.

- 2.2 In line with The Town and Country Planning (Local Planning) (England) Regulations 2012 the Council is required to undertake public consultation on draft SPDs for a minimum of four weeks, and to take account of any comments received in preparing final documents. Once adopted by the Council these documents can then be considered when determining planning applications.

### **3. Options considered and recommended proposal**

#### **3.1 Option 1: carry out public consultation on the draft SPDs**

Taking forward the documents will provide guidance to applicants, helping speed up the planning process by minimising amendments or negotiations, often necessary following submission of planning applications. Subsequent adoption of the documents as Supplementary Planning Documents will ensure that they have more weight in planning decision-making and enable the Council to refuse non-compliant planning applications. This will give more certainty for the community and prospective developers on the Council's preferred approach to the subjects covered by the SPDs.

#### **3.2 Option 2: do not carry out public consultation**

If no public consultation is undertaken, then the final documents could still be used by the Council as informal guidance but cannot be adopted as SPD. The documents would have limited weight when determining planning applications, which would be much less than if they were adopted as SPD.

#### **3.3 Option 3: decline to take forward the SPDs**

Whilst the SPDs provide further guidance to assist those preparing and determining planning applications, there is no requirement that the Council must produce them. However, they provide valuable additional guidance to applicants by providing clarity on Local Plan policy requirements and enable the Council to refuse non-compliant planning applications.

3.4 Option 1 is the recommended option.

### **4. Consultation on the proposal**

4.1 Preparation of the draft SPDs has been undertaken by, or in conjunction and consultation with other relevant services. The Council's Development Management Service within the Planning Service have reviewed all the draft SPDs. It is anticipated that further member engagement will be arranged during the consultation period to allow members to raise any specific questions and provide feedback on the detail of the draft SPDs.

4.2 Consultation will be undertaken in line with the Council's adopted Statement of Community Involvement. This Statement sets out how the Council involves the public and stakeholders in producing planning policy documents and consulting on planning applications.

4.3 Consultation will be undertaken via the Council's planning consultation website. This notifies interested parties (including statutory consultees, members of the public and other stakeholders) on the Local Plan consultation database and allows and encourages comments to be submitted online. A summary of the consultation plan is set out below.

#### **Where will the draft SPDs be available to view?**

The draft SPDs will be available to view on the Council's planning consultation website, with links from the Planning Policy webpage and from the corporate consultations webpage.

Printed copies of the draft SPDs will be available to view at the Main Library in Riverside House during normal office hours.

**How will people know about the draft SPDs?**

The Council's Planning Service maintains a database of those interested in preparation of the Local Plan and other planning documents. They will be notified by email of the consultation.

Notification will also be sent to any relevant stakeholders identified whose details are not currently held on the consultation database.

The Council's Planning webpages will be updated to provide details of the consultation and how to provide comments.

A notice publicising the consultation will be placed in the local press and a press statement will be issued.

**5. Timetable and Accountability for Implementing this Decision**

- 5.1 Subject to approval by Cabinet, it is proposed to undertake public consultation over a four-week period in September 2022. The exact dates will be confirmed nearer the time.
- 5.2 Following consultation, any comments received will be considered in producing final versions of the SPDs and a consultation feedback report prepared detailing the main issues raised and how these have been addressed.
- 5.3 A further report will be brought to Cabinet in early 2023 seeking adoption of these SPDs. The timing of this further report will be dependent on the timing of the consultation and the volume and nature of the consultation responses to the draft SPDs.

**6. Financial and Procurement Advice and Implications**

- 6.1 Consultation in respect of these draft SPDs will be undertaken via the Planning consultation website, the costs of which will be contained within the approved revenue budget for the Service.
- 6.2 Developer Contributions are used to fund specific capital projects and revenue services in areas affected by developments. This includes, for example, but not exclusively, the provision of school places, sustainable travel measures, contributions to library and health services and facilities, play areas, green spaces and amenity/recreational water bodies. In addition, the Council has received funding of £12,559 from DEFRA in respect of work required to develop the Council's response to Biodiversity Net Gain.

6.3 Procurement is satisfied with the approach set out. Any chargeable goods or services required by the Council should be sought in accordance with Section 58 – Normal Procedure of the Financial and Procurement Procedure Rules.

## **7. Legal Advice and Implications**

7.1 The recommendations and options set out in this report are reasonable and in compliance with the requirements of the Town and Country Planning Act 1990 as amended and the Town and Country Planning (Local Planning) (England) regulations 2012 (the Regulations). The Report specifically seeks authority from Cabinet to allow for a period of public consultation for the SPDs referred to in the report; this requirement is in accordance with the requirements of the Regulations which sets out that consultation is a specific requirement to allow for the validation of an SPD.

## **8. Human Resources Advice and Implications**

8.1 There are no direct human resources implications arising from this report.

## **9. Implications for Children and Young People and Vulnerable Adults**

9.1 The SPDs are intended to assist in delivering the Council's strategy and policies set out in the Local Plan. These include promoting and delivering sustainable patterns of development and sustainable communities, reducing pollution, and conserving and enhancing the quality of the built and natural environment.

## **10. Equalities and Human Rights Advice and Implications**

10.1 The SPDs are intended to assist in delivering the Council's strategy and policies set out in the Local Plan. SPDs provide guidance on the strategic policies of the Local Plan.

10.2 The published Integrated Impact Assessments (IIA) that supported the preparation, examination and adoption of the Rotherham Local Plan provide a comprehensive Equalities Assessment of all the strategic policies of the Local Plan.

10.3 Community and stakeholder consultations were undertaken at various stages of Local Plan preparation, and this resulted in further refinements to policy wording. At each stage of Local Plan preparation an IIA, including an Equalities Assessment, was prepared and refined to reflect the most up to date policies that emerged following consultation.

10.4 The Supplementary Planning Documents promote the delivery of sustainable patterns of development and the creation of sustainable communities for all residents, businesses and visitors, and conserve and enhance the quality of the built and natural environment for the benefit of everyone.

## **11. Implications for CO2 Emissions and Climate Change**

- 11.1 Climate change poses a significant threat to environments, individuals, communities, and economies on local, national, and international scales. In recognition of this the Council has aimed to be net carbon neutral as an organisation by 2030, and for Rotherham as a whole to achieve the same position by 2040.
- 11.2 The draft Supplementary Planning Documents proposed for consultation promote best practice. The Developer Contributions SPD will secure developer contributions through S106 Planning Obligations that have the potential to:
- Reduce the carbon footprint of development.
  - Promote higher standards of building.
  - Promote the construction of climate resilient dwellings.
  - Promote the protection and enhancement of the natural environment; and minimise the impacts of carbon emissions harmful to local air quality, the natural environment and health.
- 11.3 The Biodiversity Net Gain SPD will set out the requirement for developers to meet the Biodiversity Net Gain plus 10% requirement introduced by the Environment Act 2021. This includes:
- The protection of, and improvements to, the natural environment.
  - Increased participation in active travel through increasing access to Green Infrastructure corridors.
  - Ensuring improvements and enhancements to the natural environment that will lead to improved health of local communities.
- 11.4 The Trees SPD will set out the requirements for retention and replacement of trees on development sites, which has been shown to encourage active travel through an enhanced natural environment and will:
- Assist in the mitigation of CO<sub>2</sub> emissions, through active travel.
  - Seek compensation off-site for new development proposals where on-site mitigation and enhancement is not possible.
  - Provide carbon capture and 'clean' the air of emissions and reduce the carbon footprint of the development, through increased tree cover.
- 11.5 The Preparing a Soils Strategy SPD will set out requirements for the management of soils on-site and will:
- Ensure the efficient management and re-use of soils and reduce waste produced by incorrect disposal of soils.
  - Encourage and protect biodiversity within soils thus supporting all levels of life within the carbon food chain.
  - Maintain the health of the Borough's vegetation, providing enhanced Green Infrastructure to improve carbon capture in the Borough.
  - Help to secure the food supply in the Borough, which is under threat due to climate change, through promoting good soil conditions.

11.6 The Development in the Green Belt SPD amendments are clarifications to the existing document and will not directly affect emissions and climate change.

## 12. Implications for Partners

12.1 The implications for partners or other directorates are mainly associated with consultation on the draft SPDs and to ensure partners and directorates are fully engaged in the process.

## 13. Risks and Mitigation

13.1 The Council may be open to legal challenge should Supplementary Planning Documents not be prepared and adopted in accordance with The Town and Country Planning (Local Planning) (England) Regulations 2012. Legal advice will be sought as necessary.

## 14. Accountable Officers

Simon Moss, Assistant Director of Planning, Regeneration & Transport

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	27/06/22
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	21/06/22
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	01/06/22

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