

**Overview & Scrutiny
5 December 2023**

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: DRAFT SUSTAINABILITY SPD

REPORT OF: IAN FULLSTONE, SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER: CLLR. RUTH BROWN, EXECUTIVE MEMBER FOR PLANNING & TRANSPORT

COUNCIL PRIORITY: PEOPLE FIRST / SUSTAINABILITY / A BRIGHTER FUTURE TOGETHER

1. EXECUTIVE SUMMARY

We are preparing a Sustainability Supplementary Planning Document (SPD) to provide additional detail and clarity to Local Plan Policy SP1 (Sustainable Development in North Hertfordshire) and other relevant policies in the Plan.

The SPD will provide information as to our sustainability expectations for development in North Herts and offer good practice guidance to residents and developers when developing proposals and policy advice to case officers when determining planning applications.

This SPD follows the Developer Contributions SPD (adopted February 2023) and is the first of three planned SPD's that will address overarching sustainability in North Herts; it is presently planned that this SPD will be followed by Biodiversity and Design SPD's.

2. RECOMMENDATIONS

- 2.1. That the draft Sustainability SPD, attached as Appendix A to this report, be endorsed and approved for an six-week public consultation from 4th January 2024 to 16th February 2024.
- 2.2. That the Hertfordshire Development Quality Charter attached as Appendix C is endorsed and that developers of strategic and significant sites in the District (as defined by the Local Plan) are encouraged to voluntarily sign and commit to its pledges.

3. REASONS FOR RECOMMENDATIONS

- 3.1. To allow the draft Sustainability SPD to be progressed to public consultation so that it may be developed and eventually adopted to support the adopted Local Plan.
- 3.2. To support a common standard for design quality and sustainability across Hertfordshire.

- 3.3. To reinforce and deliver the Council's pledges and ambitions as set out in the Climate Emergency and Ecological Emergency declarations.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. The Council could rely solely on the Local Plan for all matters relating to sustainability instead of publishing a Sustainability SPD. However, elements of the Local Plan, particularly those relating to biodiversity, transport, and climate change adaptation/mitigation, require further clarification and guidance which can be provided through the SPD to help implement the Plan and achieve its sustainable development objectives.
- 4.2. Options for the scope and content of the document have been considered in consultation with the Cabinet Panel on the Environment (see below).

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. The Executive Member for Planning and Transport and Deputy have been briefed on the matters set out above.
- 5.2. In addition, consultation has taken place with the Cabinet Panel on the Environment upon the scope of the SPD in February 2023 with an update on the draft version of the document presented in September 2023. The comments received regarding the scope of the SPD and sustainable building standards have informed the current draft, resulting in improvements to the SPD in terms of its scope and the range of sustainable buildings standards it covers.
- 5.3. Internal consultation with relevant officers across Council departments have been involved in developing the draft SPD, including in relation to the most recent updates.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a key Executive decision that was first notified to the public in the Forward Plan on the 26 May 2023.

7. BACKGROUND

- 7.1. The National Planning Policy Framework (NPPF) and associated Guidance (NPPG) defines Supplementary Planning Documents (SPDs) as documents which add further detail to the policies in the development plan. SPDs are capable of being a material consideration in planning decisions but are not part of the statutory Development Plan and cannot introduce new planning policies. SPDs are not subject to an independent examination but are required to undergo public consultation.
- 7.2. In March 2021, Members considered a comprehensive [report](#) on implementation of the Local Plan. They resolved, among other matters, to support the production of a Sustainability SPD with a broad scope that would consider issues including energy efficiency and carbon reduction, climate change adaptation and health and well-being.
- 7.3. It was identified that the Council's sustainability guidance should be prioritised for revision because Policy SP1 in the (now adopted) Local Plan did not fully reflect current aspirations for sustainability.

- 7.4. The Local Plan, adopted in November 2022, contains policies with implications for sustainability. The main policy ‘hooks’ that link to the ability for the Council to seek sustainability in developments is in Local Plan Policy SP1: Sustainable development in North Hertfordshire and Policy D1: Sustainable design.
- 7.5. Policy SP1: Sustainable development in North Hertfordshire, criterion c), in particular, seeks to encourage sustainable development within North Herts. However, it does not fully reflect the aspirations of the present day and the direction of travel that the Council is taking in terms of climate change and sustainability.
- 7.6. Policy D1: Sustainable design, builds upon the intentions of Policy SP1 in terms of sustainable development.

Policy D1: Sustainable design
<p>Planning permission will be granted provided that development proposals:</p> <ul style="list-style-type: none"> a) Respond positively to the site’s local context; b) Take all reasonable opportunities, consistent with the nature and scale of the scheme, to: <ul style="list-style-type: none"> i. create or enhance public realm; ii. optimise the potential of the site by incorporating Sustainable Drainage Systems (SuDS); iii. reduce energy consumption and waste; iv. retain existing vegetation and propose appropriate new planting; v. maximise accessibility, legibility and physical and social connectivity both internally and with neighbouring areas; vi. future proof for changes in technology and lifestyle; vii. design-out opportunities for crime and anti-social behaviour; and viii. minimise the visual impact of street furniture and parking provision; c) Have regard to the Design SPD, and any other relevant guidance; d) Within Letchworth Garden City have regard to the Letchworth Garden City Design Principles contained in Appendix 5; and e) For residential schemes, meet or exceed the nationally described space standards and optional water efficiency standards.

- 7.7. In addition, the Council declared a climate emergency in May 2019 and an ecological emergency in July 2023 and committed to ‘do all reasonable in the council’s gift to aim for carbon neutrality by 2030.’ A Climate Change Strategy (2022-2027) was subsequently developed. This established a framework for action to tackle climate change in the District. It identified that tackling the climate emergency requires action across a number of different and complex environmental issues, ranging from: carbon reduction; water conservation, cleaner air, healthy and active travel, biodiversity loss,

greener spaces, adapting to global heating, warm homes, reducing waste and growing the green and circular economy.

- 7.8. North Herts is a member of the Hertfordshire Growth Board. Hertfordshire Growth Board is a partnership made up of the County Council, the 10 district and borough councils, the NHS Hertfordshire & West Essex Integrated Care System, Homes England and Hertfordshire Local Enterprise Partnership. It has been formed to proactively respond to the challenges and opportunities of planned growth across the County. This includes working closely with the Hertfordshire Climate Change and Sustainability Partnership to deliver upon individual and collective climate change objectives.
- 7.9. The Growth Board have published a Development Quality Charter. This sets out a series of Design Pledges as well as a sustainability pledge. The Growth Board has requested that the county's Local Planning Authorities individually support the Charter and set out any local criteria or thresholds for its application. This is separate to, but potentially complements, any decision on the Sustainability SPD.

8. RELEVANT CONSIDERATIONS

- 8.1. This is the draft SPD and incorporates advice on a range of changes in national policy and guidance such as the mandatory biodiversity net gain¹ and Local Nature Recovery Strategy² statutory guidance.
- 8.2. The SPD addresses the policy criteria identified above by providing more robust guidance for developers to ensure that North Herts can achieve an improved level of sustainability in its developments. The SPD will ensure that these matters are addressed effectively in new developments and, following any future adoption, will be a material consideration in the determination of planning applications.
- 8.3. The SPD covers a range of sustainability topics including zero carbon, energy efficiency, waste reduction, water efficiency, green infrastructure, wildlife and biodiversity conservation and climate change mitigation and adaptation.
- 8.4. It also sets three standards of sustainability: bronze, silver and gold where bronze is the baseline (policy and buildings regs) requirement. Developers will be encouraged to achieve higher sustainability standard (silver or gold) – for applications achieving the higher standards, this will be a positive consideration in the planning balance..
- 8.5. It is possible for draft SPDs to be a material consideration in the determination of planning applications. This allows their advice to be applied prior to formal adoption. However, it is *not* proposed to use the draft Sustainability SPD in this way.
- 8.6. As written, the draft SPD covers all scales of development. The Council receives approximately 1,800 planning applications per year and it is important to ensure that its advice can be applied in a proportionate manner. Imposing an additional layer of checks and advice to *all* development could create both additional burdens on local residents seeking to make relatively small-scale changes to their homes as well as having resource implications for the Council in terms of checking every application and seeking compliance with any measures through construction and delivery.

¹ The Environment Act 2021 [Schd. 14](#).

² DEFRA [Local nature recovery strategy statutory guidance](#)

- 8.7. In terms of practical application the advice in the Sustainability SPD could be used and applied in different ways dependent on the scale and nature of the development:
- a. As voluntary, good practice guidance and advice which is not formally assessed as part of the application. This might be most appropriate for small-scale developments such as household extensions by local residents;
 - b. As a self-assessment checklist completed and submitted by the applicant which is subject to a light-touch review by officers as part of the application process; and
 - c. As a formal assessment of the credentials of the development which is examined and reported on by officers as part of the application process and secured, where required and appropriate, by planning conditions or other measures.
- 8.8. The most appropriate approach(es) to use of the SPDs and any thresholds for them require further consideration, including obtaining the views of residents and local planning agents through the consultation. Alongside this, the draft Sustainability SPD will be informally tested on a range of application types during the consultation period. The recommended approach to applying the SPD would be set out in the final version of the document and reported to Cabinet prior to adoption.
- 8.9. The draft SPD is attached at Appendix A and the accompanying SEA Screening Determination at Appendix B. The draft SPD will be updated, as appropriate, following consultation responses and other relevant matters prior to its adoption.
- 8.10. Subject to approval by Cabinet, the draft SPD will be made available for public consultation for a period of six weeks commencing early January 2024. Any comments received will inform the final version of the SPD which would then be re-presented to Cabinet for approval and adoption at an appropriate time.
- 8.11. As set out in Section 7, the Hertfordshire Growth Board have separately published a Development Quality Charter to be applied across the County. The Charter is cross-referenced where applicable in the SPD. A number of pledges relate to 'major' sites. The Growth Board have confirmed that this term is meant in the dictionary sense rather than the statutory planning definition of Major development, which generally for residential development means schemes of 10 units or more.
- 8.12. Officers' view is that use of the Charter should be actively encouraged for developers of Strategic and significant development sites within the District, using the definitions of these terms set out in the Local Plan. This is generally the schemes of 100 homes or more that are captured by the Council's existing masterplanning requirements.

9. LEGAL IMPLICATIONS

- 9.1. Under the Terms of Reference for Cabinet, paragraph 5.7.18 of the Constitution states that the Cabinet should exercise the Council's functions as Local Planning Authority except to the extent that those functions are by law the responsibility of the Council or delegated to the Service Director: Regulatory. This includes the preparation and adoption of SPDs which do not form part of the Council Policy Framework
- 9.2. The statutory basis for Supplementary Planning Documents and their preparation is set out by a range of acts and associated regulations including the Planning and Compulsory Purchase Act 2004 (as amended) and the Localism Act 2011. Detailed requirements for the preparation of SPDs, including requirements for consultation, are stipulated in the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

- 9.3. The Levelling Up and Regeneration Act received Royal Assent in November 2023. Once relevant provisions are enacted, SPDs will be abolished and replaced by Supplementary Plans which will be required to go through a more formal process of preparation and examination. There are presently no dates for commencement, the issuing of associated secondary legislation (regulations) or detail of any transitional arrangements. This will be monitored and reported on as required through the regular Strategic Planning Matters report and / or any future reports on this and other SPDs.

10. FINANCIAL IMPLICATIONS

- 10.1. The general costs of preparing Supplementary Planning Documents are met through existing revenue budgets.

11. RISK IMPLICATIONS

- 11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.

- 11.2. There are no new risk implications arising from this report.

- 11.3. The risks associated with not producing a Sustainability SPD include:

- lack of clarity and uncertainty to case officers and applicants when negotiating and determining planning applications;
- lack of consistency with the Local Plan as well as national planning policy and guidance; and
- a risk of not securing the maximum range and / or amount of sustainability measures possible.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

- 12.2. There are not considered to be any direct equality issues arising from this report. Future individual schemes or considerations may well be subject to appropriate review to ensure they comply with latest equality legislative need. Any risks and opportunities identified will also be subject to assessment for impact on those that share a protected characteristic.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and “go local” requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. Supplementary Planning Documents (SPD) must be 'screened' to determine whether statutory environmental assessment is required which would consider the social, economic and environmental implications of proposed policies and allocations. A screening opinion is attached at Appendix B and concludes that the Sustainability SPD is not likely to have 'significant environmental effects' beyond the adopted Local Plan policies which have been subject to an SA and SEA.
- 14.2 The 'parent' policies in the Local Plan were subject to statutory environmental assessment.
- 14.3 The SPD will have positive environmental implications, securing sustainable development for a range of measures including, but not limited to: biodiversity net gain, sustainable travel, renewable energy and climate change adaptations and mitigations.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are no new human resource implications arising from the contents of this report.

16. APPENDICES

- 16.1 Appendix A – Draft Sustainability SPD
- 16.2 Appendix B – SEA Screening Determination
- 16.3 Appendix C – Hertfordshire Development Quality Charter

17. CONTACT OFFICERS

Ian Fullstone, Service Director of Regulatory
01462 474480 ian.fullstone@north-herts.gov.uk

Omar Ezzet, Strategic Planning Officer
01462 474379 omar.ezzet@north-herts.gov.uk

Henry Thomas, Graduate Planning Officer
henry.thomas@north-herts.gov.uk

Nigel Smith, Strategic Planning Manager
01462 474847 nigel.smith@north-herts.gov.uk

Debbie Coates, Principal Strategic Planning Officer
01462 474353 deborah.coates@north-herts.gov.uk

Ian Couper, Service Director of Resources
01462 474243 ian.couper@north-herts.gov.uk

Rebecca Webb, HR Services Manager
01462 474481 rebecca.webb@north-herts.gov.uk

Isabelle Alajooz, Deputy Legal Manager & Deputy Monitoring Officer
01462 474346, Isabelle.Alajooz@north-herts.gov.uk

Reuben Ayavoo, Policy & Community Manager
01462 474212 reuben.ayavoo@north-herts.gov.uk

18. BACKGROUND PAPERS

[Review of North Hertfordshire Planning Guidance report to Cabinet, 25 July 2017](#)

[Local Plan Implementation report Cabinet, 16 March 2021](#)

[Local Plan adoption](#)