

Lancaster City Council | Report Cover Sheet

Meeting	Cabinet	Date	12 April 2022
Title	Supplementary Planning Documents to Support the Climate Emergency Local Plan Review		
Report of	Director for Economic Growth and Regeneration		
Purpose of Report			
<p>The purpose of this report is for Members to consider the draft Flood Risk and Sustainable Drainage Supplementary Planning Document, the draft Flood Risk – Sequential Test and Exception Test Supplementary Planning Document and the draft Provision of Electric Vehicles Charging Infrastructure Supplementary Planning Document and seek authorisation for the Service Manager – Planning and Housing Strategy to proceed with informal and statutory consultation.</p>			
Key Decision (Y/N)	N	Date of Notice	Exempt (Y/N) N

Report Summary

The report outlines the purpose of the draft Supplementary Planning Documents (SPD). Each has been produced to provide additional guidance and advice about the planning policies which have been amended by the Climate Emergency Review of the Local Plan (CERLP). These new policies and the supporting SPDs aim to contribute to the Council's aspirations to address the climate emergency. SPDs in relation to other matters are also being drafted and will be reported separately.

The draft Flood Risk and Sustainable Drainage SPD provides advice in support of policy DM33: Development and Flood Risk and policy DM34: Surface Water Run-Off and Sustainable Drainage.

The draft Flood Risk – Sequential Test and Exception Test SPD provides advice in support of the tests required to be carried out for development in areas at flood risk.

The draft Provision of Electric Vehicle Charging Infrastructure SPD provides advice in support of the electric vehicle charging element of policy DM62: Vehicle Parking and Electric Vehicle Charging.

The report also explains the consultation process and recommends that delegated powers be given to the Service Manager – Planning and Housing Strategy to proceed with informal and statutory consultation and then adoption. As the SPDs support policies in the CERLP, they cannot be adopted until the plan has been adopted.

Recommendations of Councillors

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(1) It is recommended that Cabinet approve the draft SPDs and delegate authority to the Service Manager – Planning and Housing Strategy to advance the draft SPDs through informal and statutory defined consultation processes.

(2) The SPDs will then be adopted unless the consultation results in any significant changes, in which case the amended SPD will be reported back to Cabinet for final endorsement.

Relationship to Policy Framework

The Corporate Plan and Priorities (January 2022) includes a priority to create a sustainable district by taking action to meet the challenges of the climate emergency and transitioning to a low carbon transport system and to provide for healthy and happy Communities by supporting wellbeing.

The CERLP includes policies which seek to address flood risk and provide for electric vehicle charging infrastructure.

The draft SPDs will support the implementation of policies within the CERLP.

Conclusion of Impact Assessment(s) where applicable

Climate

On adoption the SPDs will support the Council's aspirations to address the climate emergency, mitigate risks to our community from climate change and support an inclusive transition to zero carbon living.

Wellbeing & Social Value

On adoption the SPDs will support new development to address flood risk and therefore wellbeing.

Digital

There are no digital impacts arising from a commitment to progress the draft SPD through the informal and statutory consultation processes and then to adoption.

Health & Safety

There are no Health & Safety, Equality and Diversity, Human Rights, Community Safety, HR implications arising from a commitment to progress the draft SPD through the informal and statutory consultation processes.

Equality

There are no equality impacts arising from a commitment to progress the draft SPD through the informal and statutory consultation processes and then to adoption.

Community Safety

There are no community safety impacts arising from a commitment to progress the draft SPD through the informal and statutory consultation processes.

The impacts of the policies within the CERLP will be assessed during the statutory Local Plan process. As the draft SPDs provide guidance upon the implementation of policies within the CERLP, they will not have an impact on these matters.

Details of Consultation

The draft SPDs have been advanced through discussion at the Local Plan Review Group.

The draft SPDs will be subject to informal and formal statutory consultation processes with stakeholders, each running for a 6-week period. This will be carried out while the CERLP is being progressed. Amendments to the SPDs may be

required to address comments raised through the consultation or amendments to policies recommended by the CERLP Inspector.

Legal Implications

The statutory consultation will be carried out in accordance with the process set out in the Town and Country Planning (Local Planning) (England) Regulations 2012. The decision to adopt an SPD is a decision that is subject to public law considerations and accordingly could be subject to judicial review challenge (if sufficient grounds for such a claim are made out). Once adopted the SPDs will form a material consideration in the determination of planning applications.

Financial Implications

The draft SPDs are intended to provide guidance on the implementation policies in the CERLP. The financial implications arising from its progression through the statutory consultation process are accounted for within existing budget.

Other Resource or Risk Implications

The main resource implication will be the staff required to support the progression of draft SPDs through informal and statutory consultation, any necessary amendment arising from consultation responses, and then adoption and subsequent review.

Section 151 Officer's Comments

The Section 151 Officer has been consulted and has no further comments to add.

Monitoring Officer's Comments

The Monitoring Officer has been consulted and has no further comments to add.

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Links to Background Papers

Draft Flood Risk and Sustainable Drainage Supplementary Planning Document
Draft Flood Risk – Sequential Test and Exception Test Supplementary Planning Document
Draft Provision Electric Vehicle Charging Infrastructure Supplementary Planning Document

1.0 Introduction

1.1 The policies within the CERLP aim to improve the way in which new development addresses and contributes to minimising and mitigating the effects of climate change. It is intended to produce six SPDs which will provide

additional guidance on how the policies will be interpreted and how applicants can implement the requirements within developments. As the SPDs will support policies in the CERLP, they cannot be adopted until the plan is adopted. It is however proposed to take them through the statutory consultation processes while the CERLP is progressing. This should allow them to be adopted at a similar time to the plan, providing guidance for applicants and forming a material consideration in making planning decisions at the time when it is needed.

- 1.2 The SPDs are being produced in two batches, partly for work programming reasons and partly not to overwhelm consultees. The first three, the draft Flood Risk and Sustainable Drainage SPD, the draft Flood Risk – Sequential Test and Exception Test SPD and the draft Provision of Electric Vehicle Charging Infrastructure Supplementary Planning Document are now available and are attached to this report.

2.0 The Content of the Draft SPDs

- 2.1 The draft SPDs do not propose new policies, they explain how certain policies in the CERLP will be interpreted and provide guidance on the detail and criteria within the policies.

Flood Risk and Sustainable Drainage SPD

- 2.2 This new SPD relates to policies DM33 and DM34 of the CELPR. It aims to provide additional information and guidance on how the requirements within these policies can be achieved. It includes sections about when flood risk assessments are required, advice about flood prevention, resilience, adaption and litigation, emergency flood plans, reducing flood risk, water courses, natural flood risk management, the sustainable drainage hierarchy which seeks the provision of above ground multi-functional sustainable drainage, the design of sustainable drainage systems, development run-off targets, the information required within the sustainable drainage strategies submitted with planning applications, management and maintenance and post certification of sustainable drainage systems.

Flood Risk – Sequential and Exception Tests SPD

- 2.3 This SPD provides guidance about how the sequential and exceptions tests used to determine the suitability of land at risk of flooding for development should be completed. The SPD will supersede PAN 6 (Application of the Flood Risk Sequential Test and Exception Test) providing updated and additional guidance.

Provision of Electric Vehicle Charging Infrastructure SPD

- 2.4 This SPD will supersede the existing Planning Advisory Note 5 (entitled: 'Provision of Electric Charging Points for Vehicles in New Development') and relates to policy DM62 of the CELPR. The aim of the SPD is to provide further guidance on how the electric vehicle charging infrastructure requirements set out in policy DM62 can be achieved. Recognising that the need to install EV

chargers has recently been incorporated into the revised building regulations (for residential and non-residential development), this SPD sets out the Council's position in relation to these regulations. Information is provided on the different types of EV chargers that are available, but in order to 'future-proof' the SPD (given that EV technology is rapidly evolving), it does not set out specific details on the types of chargers required. Instead, the SPD sets out a series of EV infrastructure design principles which should be carefully considered, to guide the type of charger(s) that it would be most appropriate to install (based on the technology available at the time), and how they should be delivered. For example, it is important to ensure that all EV charging facilities are accessible to those who may have mobility disabilities, and that careful consideration is given to the potential impact of EV infrastructure upon the historic environment (an issue raised through the CELPR SA process). Additionally, whilst the preference is for the delivery of EV charging infrastructure onsite, the SPD sets out the exceptional circumstances whereby offsite provision/contributions may be considered more appropriate. It also highlights the importance of management and maintenance.

3.0 Consultation

3.1 The formal process for preparing and adopting SPDs is set out in the Town and Country Planning (Local Planning) (England) Regulations 2012. The National Planning Policy Framework (NPPF), as updated in February 2019 defines SPDs as:

"...documents which add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan."

The NPPF also states that SPDs should be used where they can help applicants make successful applications or aid infrastructure delivery and should not be used to add unnecessarily to the financial burdens on development.

2.2 SPDs relate to specific sites or specific planning issues. They are not subject to Independent Examination and do not have Development Plan status. However, SPDs are given due consideration within the decision-making process and must relate to a specific Development Plan policy contained within a DPD.

2.3 There is a three-stage process for the preparation of Supplementary Planning Documents, this includes:

- Evidence gathering
- The preparation and consultation of a draft SPD
- The Adoption of the SPD

- 2.4 The evidence in respect of the policies in the CERLP was gathered in the lead up to the drafting of policies.
- 2.5 Early engagement in the preparation of SPDs is encouraged. A stage of informal consultation will allow stakeholders to comment on the content and where necessary provide evidence which may result in amendments to the draft SPDs.
- 2.6 In order to progress as an SPD, the Council must undertake a statutorily defined consultation process set out in the Town and Country Planning (Local Planning) (England) Regulations 2012, Regulation 12 Public Participation.
- 2.7 The consultation responses must be considered, and any necessary amendments made to the SPDs. As the SPDs have been drafted to support policies in the CELPR, amendments may also be necessary to address any changes to policies required by the Inspector. A Consultation Statement will be drafted for each SPD following each consultation stage. These will summarise the comments received, the Council's response and highlight amendments made to address comments where necessary. Following the final Regulation 12 Consultation, the SPDs will be adopted and published unless significant amendments have been made to the SPDs. If significant amendments are made, the SPD subject to the amendments will be reported back to cabinet for final endorsement and adoption.
- 2.8 It is intended to time the consultation process to allow adoption of the SPDs at a similar time to the adoption of the CELPR. This will ensure that they are available to provide advice to applicants on the new policies and they can be given weight in decision making.

4.0 Options and Options Analysis (including risk assessment)

<p>Option 1: Progress the draft SPDs through informal and statutorily defined consultation process.</p>
<p>Advantages: The consultation process will provide engagement with stakeholders and allow them to influence the content of the draft SPDs.</p> <p>Consultation and appropriate consideration of the responses will ensure that the SPDs can be afforded weight when determining planning applications.</p> <p>On adoption the SPDs will support the Council's aspirations to address the climate emergency, mitigate risks to our community from climate change and support an inclusive transition to zero carbon living.</p>
<p>Disadvantages: No disadvantages.</p>
<p>Risks: No risks.</p>
<p>Option 2:</p>

Do not progress the draft SPDs through informal and statutorily defined consultation process.

Advantages:

No advantages.

Disadvantages:

Additional guidance about the criteria within planning policies will not be available for prospective applicants or as a decision making tool.

The SPDs will not be available to support the Council's aspirations to address the climate emergency, mitigate risks to our community from climate change and support an inclusive transition to zero carbon living.

Risks:

Processing the draft SPDs without the necessary consultation will reduce any weight which could be attached to it in the decision making process.

4.0 Officer Preferred Option (and comments)

4.1 The officer preferred option is Option 1 - Progress the draft SPDs through informal and statutorily defined consultation process to ensure that if adopted it can be given weight in decision making.