

CABINET

Thursday, 9 December 2021

TREES AND DEVELOPMENT SUPPLEMENTARY PLANNING DOCUMENT

Report of the Senior Planning Policy Specialist

Recommendation(s)

It is recommended that Cabinet:

- (1) Approves the final draft Eastleigh Borough Trees and Development Supplementary Planning Document for adoption alongside the Local Plan; and
 - (2) Delegates authority to the Senior Planning Policy Specialist to make minor editing changes to the document prior to publication.
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Summary

The Trees and Development Supplementary Planning Document (SPD) provides guidance on the approach to trees alongside new development in the Borough. This is the final draft version which includes limited changes following public consultation in June – July 2021.

The guidance in this document will be used by Development Management when negotiating new development proposals and determining planning applications. Until the adoption of the Local Plan, this will be interim planning guidance. Once the Local Plan has been adopted, the Trees and Development SPD will become part of the Council's Local Plan and Policy Framework.

Statutory Powers

Town and Country Planning Act 1990 ("TCPA 1990")

Planning and Compulsory Purchase Act 2004 ("PCPA 2004")

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

Strategic Implications

1. The decision in this report supports the Eastleigh Borough Local Plan Policy on trees. The guidance will help meet the objectives in the Council's Corporate Plan (2015 – 2025) to develop green infrastructure and deliver an excellent environment for all. It also supports the Council's commitment to tree planting as part of the Climate Change and Environmental Emergency programme and has significant positive benefits.

Introduction

2. In May 2021, Cabinet approved the publication of the consultation draft Trees and Development SPD for public consultation. This SPD provides technical guidance on the implementation of Local Plan policy DM1, General Criteria for New Development. It will be a material consideration in determining planning applications.
3. The SPD includes key principles about incorporating existing trees, planting and establishing new trees and in exceptional cases, the replacement of existing trees on site. It collates guidance in one document and sets out how and when applicants should engage with the Council. This will help maximise the benefits of trees within developments, to deliver a net gain in trees and avoid potential conflicts if they are not given full consideration at an early stage.

Consultation on the draft SPD

4. The document was subject to six weeks public consultation between 9 June and 21 July 2021. This was a separate consultation carried out at the same time as the Local Plan Main Modifications consultation. Notification of the consultation was sent out to people on the Local Plan consultation database and who had signed up for email updates.
5. A total of 22 responses were received during the public consultation period. These include comments from individuals, public bodies and councils. In addition, the document was discussed at Policy and Performance Scrutiny Panel during this time and further internal comments were also received during the consultation period.
6. The Consultation Statement published in Appendix 1 provides details of the public consultation and comments received on the consultation draft SPD. It sets out the main issues raised and the Council's response and resultant changes proposed to the SPD.

Responses received and proposed changes

7. The majority of the comments received were supportive or commented on detailed proposals in the SPD. These comments related to technical aspects of tree planting such as planting distances away from structures, species selection, highways and water management issues and planting to avoid crime. Comments were received on policy aspects of appropriate enforcement

and penalties, the use of tree canopy assessments and standards for arboriculturists. There were also site specific comments and comments on trees with Tree Preservation Orders (TPO) which are not specifically covered by the SPD. A small number of responses commented on nuisance from trees and questioned the need for further guidance. Some changes are proposed in response to these comments, as set out below.

8. Alternative requirements were suggested including avoiding construction within a certain distance of established trees, using only native trees and specifying the amount of open land required around the base of new trees. The Council is already meeting some of the standards suggested such as the distance standard. In other cases such as using only native trees and the open land requirement, technical input will be required on a case by case basis taking into account multiple factors and it is not possible to include a single rule to cover all eventualities. While the emphasis will be on the use of native trees, using exclusively native species is not appropriate. This is partly because current guidance suggests not relying totally on native species in order to spread the risk to our tree population from the many new tree diseases spreading across from other parts of Europe and Asia and because of climate change. Other comments were submitted on the resources required to manage tree issues in the Council. While this may be relevant for the wider Tree Strategy, this is beyond the scope of the SPD. No further changes are proposed following these comments.
9. Some of the comments received suggested changes that would make the document clearer for the general public such as including common names for tree species and adding a glossary. As the SPD is a technical document to guide developers and consultants, it was decided that these changes were not necessary.
10. In addition to the comments proposing changes to the document, there were a number of wider comments about trees, hedgerows and nature conservation and potential implications for not complying with standards which were beyond the scope of the document or the powers of the Council. No changes were considered in response to these comments.

Changes to the consultation draft Trees and Development SPD

11. Appendix 2 provides a schedule of the changes made in the final draft version of the SPD. They include removing the option for a financial contribution instead of replacement trees, redrafting diagrams and minor wording changes for clarity.
12. Changes have been made following the responses received from Hampshire County Council as Highways Authority and as Flood Authority. As a result of their representations, the following changes were made:
 - (a) Changes to Figures 1 – 4 in response to comments by Hampshire County Council as Highways Authority and internal comments about the wider design aspects shown (as opposed to the layouts with regard

- to street trees). Addition of a note to state that the (non-tree related) design aspects of these figures are illustrative (paragraph 36.1);
- (b) Expanded text on SuDS features (Sustainable Drainage Systems) (paragraph 36.2.2) and about the potential of tree pit design to serve multiple purposes including storm water management (paragraph 44.2) in response to comments from Hampshire County Council as Flood Authority;
 - (c) Reference added to Hampshire County Council's Highways Guidance Note 15 'Trees, Landscape and Ecology' (paragraphs 32.2, 11.2 and 36.7);
 - (d) Specific mention of the various aspects development layouts should take account of including utilities and sightlines (paragraph 15.3)
13. Other changes were made as a result of other comments and further consideration by officers. These provide more information and clarification on the guidance in the SPD:
- (a) More details provided on the information required by the Council and on engagement with service providers and specialists (paragraphs 11.1, 18.2 and 19.2);
 - (b) Further clarification on discharging pre-commencement conditions and changes to approved plans (paragraphs 26.1 and 30.2)
 - (c) Addition of cross references to the tree replacement policy (Appendix 1) and references to the Biodiversity SPD and Sustainable Drainage Systems (SuDS) SPD;
 - (d) Wording changes to clarify the role of trees and the urban forest (Part 2);
 - (e) Additional wording to clarify that the guidance will be considered alongside other design guidance (Part 1);
 - (f) Addition of text stating that the Council expects that existing trees are retained (paragraph 13.4); and
 - (g) Reference removed to alternative arrangements for a monetary payment for the provision of off-site replacement trees (Appendix 1, section 4);
14. In addition, the Council is proposing updates to reflect recent changes to the National Planning Policy Framework (paragraphs 4.3 and 22.2) and further minor wording changes to remove any ambiguity, clarify terms and highlight positive actions that can be undertaken.
15. The final draft SPD (Appendix 3) has been prepared for publication. This version includes a contents page and photos and has been designed to reflect the Local Plan style. This report requests delegated approval to make minor

changes to the document before its publication. These changes cover minor factual, presentational or typographical changes that do not materially affect the content of the SPD such as updating images and correcting and updating text.

Next steps

16. Subject to Cabinet approval, the SPD will be finalised with minor, non-material changes as required. The SPD will be formally adopted when the Local Plan is adopted, until that time, it will be a material planning consideration with more limited weight.
17. Following the adoption of the SPD, the Council will publish the final version of the SPD and an adoption statement as set out in the adopted Statement of Community Involvement (2015) and Addendum (2020). In accordance with the Town and Country Planning (Local Planning)(England) Regulations 2012, any person with sufficient interest in the decision to adopt this SPD may apply to the High Court for permission to apply for judicial review of the decision. Any such application must be made promptly and in any event not later than 3 months after the date on which the Trees and Development SPD was adopted.

Financial Implications

18. None related to this report. The work to progress this SPD to adoption is accounted for in existing budgets.

Risk Assessment

19. There are no identified risks relating to this report.

Equality and Diversity Implications

20. An Equality Impact Assessment was undertaken on the Local Plan and its proposed modifications. The SPD provides detailed guidance on a Local Plan policy and promotes good practice and has no equality and diversity implications.

Climate Change and Environmental Implications

21. The SPD will have positive impacts on climate change and the environment. Trees contribute to the environment in a variety of ways and are an important element in mitigating the effects of climate change. The guidance will help maximise these benefits in new developments.

Conclusion

22. Cabinet is asked to approve the adoption of the Trees and Development SPD.

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Appendices Attached: 3

LOCAL GOVERNMENT ACT 1972 - SECTION 100D

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

Appendix 1 Consultation Statement

Appendix 2 Schedule of changes to the consultation draft Trees and Development SPD

Appendix 3 Final draft for Cabinet Trees and Development SPD