

TO: EXECUTIVE
27 SEPTEMBER 2016

**DESIGN SUPPLEMENTARY PLANNING DOCUMENT (SPD)
– CONSULTATION DRAFT AND PROCESS**

Director of Environment, Culture & Communities

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform the Executive of the development of a new draft Supplementary Planning Document (SPD) on planning design issues, as attached at Appendix A, and to seek approval for the proposed period of public consultation set out at section 8 of the report to commence in autumn 2016.

2 EXECUTIVE SUMMARY

- 2.1 The Design SPD provides design principles and best practice to guide the design quality of developments proposals. It builds on the design guidance set out within the National Planning Policy Framework (NPPF) and the Council's own policies as set out in the Core Strategy Development Plan Document 2007; the saved policies of the Bracknell Forest Borough Local Plan 2002 and the current Streetscene SPD and Character Area Assessment.
- 2.2 The content of the Design SPD is structured as follows:

Chapter One - Introduction

This sets out the scope of the document, who it is aimed at, and the weight to be given to the information within it.

Chapter Two - Design and Context

This chapter details some of the more high level principles relating to understanding the site and context of the area, responding to existing character and, where needed, creating "places" with their own identity and the standards of quality expected in new development in the Borough.

Chapter Three - Built Form and Spaces

Detailed guidance is provided on the basic principles of design to create places that will provide good communities and pleasant homes for our residents in the future.

Chapter Four – Extending Your Home

This includes much of the information already set out in the Householder's Leaflet: A Guide to Extending Your Home, with additional information and up to date references and sources.

Chapter Five – Design and Access Statements

The document includes information relating to what should be provided within a Design and Access Statement, checklists and where to go for additional information.

3. RECOMMENDATIONS

- 3.1 That the Executive notes the draft Design SPD and approves the (Consultation Draft) Design SPD at Appendix A for public consultation for the six week period set out at section 8 of this report.**

4 REASONS FOR RECOMMENDATIONS

- 4.1 The Council has reviewed its current design guidance and considers that a Design SPD would assist with the implementation of current planning policies and provide prospective applicants with a clearer idea of the Council's expectations for the design of development schemes. A public consultation that accords with the Council's Statement of Community Involvement (SCI) will be required as part of this process.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 Not producing the draft Design SPD could result in the continuation and possible increase of officer time being expended upon assessing the standard of design included within planning applications to ensure that an acceptable standard is achieved throughout the borough. In addition, the Council's current guidance does not have the legal status afforded to an SPD, which are material planning considerations and therefore carries limited weight in planning terms.

6 SUPPORTING INFORMATION

- 6.1 The National Planning Policy Framework (NPPF) states at paragraph 153 that SPDs should be used to assist applicants to make successful applications. This new SPD is seen as assisting and clarifying policy implementation. It also details the Council's desire to achieve high quality development across the Borough. The key policies relevant to this new Design SPD will be policy "CS 7 Design" in the Core Strategy Development Plan Document 2007 and Bracknell Forest Borough Local Plan 2002 saved policy "EN20 – Design considerations in new development". The document also complements and cross references to the current Streetscene SPD, Parking Standards SPD and the Character Area Assessments SPD.
- 6.2 The Council currently has a design leaflet entitled "Extending Your Home: A Householders Guide". This is available to download on the Council's website and provides guidance for residents on extending their homes. This leaflet is well liked and very useful for both members of the public and technical consultants, agents and officers. However, this document has never been through a public consultation process or adopted as an SPD and is therefore limited in terms of the weight that can be attributed to it. The scope of the design advice within it is also very limited.
- 6.3 The new SPD is intended to be similarly simple and easy to use, but with a wider scope to provide more general advice on design principles, including information that could be used in connection with both small and large scale new developments. The information for householders on extending their homes has also been reviewed and updated and is included as one of the chapters of the document.
- 6.4 Tibbalds Planning and Urban Design consultancy were appointed to produce the document. A copy of the draft document is attached at Appendix A.

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- 6.5 The draft Design SPD seeks to achieve the right content and tone for a wide audience of both technical professionals assessing large scale developments and the general public submitting small scale householder planning applications. The aim is to keep the document focussed and easy to use and not to reproduce design advice found in other Council documents.
- 6.6 The document has been through an internal consultation process with the relevant divisions in the Environment, Culture and Communities department. The document has also been to the Local Plans Working Group in June and to the Overview and Scrutiny Panel in July. Appropriate changes have been made to the document following this internal consultation and the Member meetings.
- 6.7 The Council has undertaken a Strategic Environment Assessment (SEA) of the Design SPD under Regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004. As part of this process the three statutory bodies, Historic England, Natural England and the Environment Agency have been consulted. The consultation period ran from 7th July 2016 – 18th August 2016. None of the statutory bodies specified the need for an SEA. A copy of the Strategic Environmental Assessment Screening Report is attached as Appendix B. The Design SPD Strategic Report Environmental Assessment Determination will be attached as part of the public report for the Executive in September 2016.
- 6.8 The draft Design SPD now needs to go through a public consultation process. The proposed consultation is set out in section 8 of this report. This will be completed in accordance with the Council's SCI, Sustainability Appraisal and Strategic Environment Assessment Scoping requirements and Paragraphs 11 – 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 which sets out procedural issues for the adoption of a SPD.

7 **ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

Borough Solicitor

- 7.1 As stated in the report, SPD's are local plan documents that add further detail to policies in a local plan and can be used to provide additional guidance on a particular issue, such as design. Once adopted a SPD becomes a material consideration in the determination of planning applications and will form part of the Council's statutory Local Development Framework.
- 7.2 Paragraph 6.7 of the report, advises that the draft Design SPD has completed the initial process of SA scoping and consultation with statutory consultees. The next step of the draft Design SPD adoption process will be the public consultation stage. This will be undertaken in accordance with the Council's SCI, subject to the approval of the recommendation.
- 7.3 As SPDs are not Development Plan documents that form part of the Development Plan they are not subject to the requirement to undergo independent examination in the same way as Development Plan Documents. However, the Council is still legally required to undertake a process of public consultation before they can be adopted in accordance with paragraph 12 of The Town and Country Planning (Local Planning) England Regulations 2012 and Section 19(3) of the Planning and Compulsory Purchase Act 2004.
- 7.4 The Council is required to adhere to the public participation requirements set out in paragraph 12 of The Town and Country Planning (Local Planning) England

Regulations 2012 prior to the adoption of a SPD. This includes the production of a statement confirming the persons who have been consulted, setting out a summary of the main issues raised by those persons and explaining how those issues have been addressed in the SPD.

- 7.5 Section 19(3) specifically requires local planning authorities to comply with their adopted Statement of Community Involvement (SCI) when undertaking a consultation exercise in respect of the adoption of a SPD. The Council's SCI provides for a period of 4 weeks of formal public consultation and the recommendation therefore accords with this statutory requirement.
- 7.6 After reviewing responses received, the Council will consider the need for any further consultation, which may relate to a specific topic. These matters will be addressed in subsequent reports as part of the decision making process.

[Equality Impact Assessment

The Equality Act 2010 introduced a single public sector equality duty. This duty requires the Council to have due regard in its decision making processes to the need to:

- a) eliminate discrimination, harassment, victimisation or other prohibited conduct;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and
- c) foster good relations between those who share a relevant characteristic and those that do not share it.

The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

As part of the consultation process the Council will consult a broad range of stakeholders and make every effort to be inclusive. A detailed Equalities Assessment in relation to the SPD will be undertaken at the appropriate stage of the decision making process.

Human Rights Considerations

The SPD will potentially engage certain human rights under the Human Rights Act 1998 ('the HRA'). The HRA prohibits unlawful interference by public bodies with convention rights. The term 'engage' simply means that human rights may be affected or relevant. In the draft SPD, a number of rights are potentially engaged:-

- **The right to a fair trial (Article 6)** – giving rise to the need to ensure proper consultation and effective engagement of the public in the process;
- **The right to respect for private and family life (Article 8)** – for instance the Final Design SPD could impact on viability of housing provision or re-provision. Other considerations may include impacts on amenities or the quality of life of individuals based on design considerations being too prohibitive;
- **Article 1, Protocol 1 (Protection of Property)** – this right prohibits interference with individuals' right to peaceful enjoyment of existing and future property/homes. It could be engaged, for instance, if the final Design SPD makes future development unviable.

It is important to note that few rights are absolute in the sense that they cannot be interfered with under any circumstances. 'Qualified' rights, including Article 6, Article 8 and Protocol 1, can be interfered with or limited in certain circumstances. The extent of legitimate interference is subject to the principle of proportionality whereby a balance must be struck between the legitimate aims to be achieved by a local planning authority in the policy making process against the potential interference with

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individual human rights. Before making their decision members will be advised to have regard to human rights considerations and strive to strike a fair balance between the legitimate aims of adopting the SPD for the benefit of the community against the potential interference with individual rights]

Borough Treasurer

- 7.7 The costs associated with the public consultation can be met from within the existing Local Development Framework Revenue Budget.

Equalities Impact Assessment

- 7.8 A draft Equalities Screening Record has been undertaken for this stage of the process (refer to Appendix C) which will be completed with the final adopted Design SPD and included as an appendix for the Executive agenda in March 2017

Strategic Risk Management Issues

- 7.9 None as a consequence of this report.

Other Officers

- 7.10 The preparation of this SPD has been informed by technical evidence and consultation with officers across the Council.

8 CONSULTATION

- 8.1 The future programme for the Draft Design SPD is:
- Public consultation is proposed to start on Monday 17th October and will run for 6 weeks, concluding on Friday 25th November 2016.
 - Consideration of comments received and revision of Draft SPD – December 2016 to January 2017.
 - Executive decision on adoption of the Design SPD March 2017.

Principal Groups to be Consulted

- 8.2 The principal groups which will form part of the public consultation to be undertaken are proposed as follows:
- Parish and Town Councils;
 - Local Development Framework (LDF) consultees (those who have asked to be consulted on all LDF issues);
 - Statutory consultees;
 - Neighbourhood Plan groups;
 - House builders, developers, architects and designers;
 - Highway consultants; and
 - Other interested groups or individuals requesting further information.

Additionally, a statement will be released to the press and copies of the document will be available on the Council's website, in all local libraries, Parish and Town Council Offices, and in the Council reception areas.

Method of Consultation

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- 8.3 The document will be placed on the Council's website and letters will inform those detailed above of where they can view the document. Hard copies will be delivered to each of the Council's libraries and to the Parish and Town Council's offices.

Representations Received

- 8.4 Representations received will be fully considered and a final document incorporating any appropriate changes will be produced for adoption in the Spring of 2017.

Background Papers

Contact for further information

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