

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 16 JANUARY 2018

Title of report	REVIEW OF SUPPLEMENTARY PLANNING DOCUMENTS
Key Decision	a) Financial No b) Community Yes
Contacts	Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk Strategic Director of Place 01530 454555 james.arnold@nwleicestershire.gov.uk Head of Planning & Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk
Purpose of report	To consider the status of the Council’s approved Supplementary Planning Documents (SPDs) in the light of the adoption of the Local Plan.
Reason for Decision	To ensure that the Council in determining planning applications is using the most appropriate Supplementary Planning Documents.
Council Priorities	Business and Jobs Homes and Communities
Implications:	
Financial/Staff	The withdrawal of existing Supplementary Planning Documents has no tangible impact upon resources. However, the report highlights that the preparation of new Supplementary Planning Documents identified in the newly adopted Local Plan will have to be reviewed having regard to available resources.
Link to relevant CAT	None
Risk Management	The continued use in the determinations of planning applications of Supplementary Planning Documents which no longer have a relevant policy in the newly adopted Local Plan leaves the Council vulnerable to challenge at appeal.
Equalities Impact Screening	None discernible

Human Rights	None discernible
Transformational Government	Not applicable
Comments of Head of Paid Service	The report is satisfactory.
Comments of Deputy Section 151 Officer	The report is satisfactory.
Comments of Deputy Monitoring Officer	The report is satisfactory.
Consultees	None
Background papers	Existing Supplementary Planning Documents which can be viewed at www.nwleics.gov.uk/pages/supplementary_planning_guidance National Planning Policy Framework which can be found at www.gov.uk/government/publications?topics%5B%5D=planning-and-building
Recommendation	<p>(I) THAT THE FOLLOWING SUPPLEMENTARY PLANNING DOCUMENTS BE WITHDRAWN WITH IMMEDIATE EFFECT:</p> <ul style="list-style-type: none"> • PLAY AREA DESIGN GUIDANCE; • ASHBY AREA CYCLING NETWORK PLAN; • NORTHERN PARISH CYCLING STRATEGY; • TELECOMMUNICATIONS GUIDANCE; • DESIGNING OUT CRIME; • LIGHTING SCHEMES GUIDANCE; • AFFORDABLE HOUSING; AND • RETAIL <p>(II) THAT LONG WHATTON AND DISEWORTH PARISH COUNCIL BE ADVISED THAT IT IS CONSIDERED THAT THE DISEWORTH VILLAGE DESIGN STATEMENT SHOULD BE REVIEWED AND THAT IF IT IS NOT THEN THE COUNCIL WILL WITHDRAW IT AS A SPD BY 31 MARCH 2018;</p> <p>(III) THAT APPLEBY MAGNA PARISH COUNCIL BE ADVISED THAT IT IS CONSIDERED THAT THE APPLEBY MAGNA VILLAGE DESIGN STATEMENT SHOULD BE REVIEWED AND THAT IF IT IS NOT THEN THE COUNCIL WILL WITHDRAW IT AS A SPD BY 31 MARCH 2018;</p> <p>(IV) THAT THE DEVELOPMENT GUIDELINES SPD BE FORMALLY WITHDRAWN WITH IMMEDIATE EFFECT;</p>

	<p>(V) THAT THE REVISED ASHBY CYCLING NETWORK BE ADOPTED AS SPD SUBJECT TO LEGAL ADVICE;</p> <p>(VI) THAT CONSIDERATION BE GIVEN TO PUBLISHING REVISED SPD IN RESPECT OF PLAY ARE DESIGN AND AFFORDABLE HOUSING; AND</p> <p>(VII) THAT THE REVIEW OF THE LOCAL PLAN CONSIDER THE NEED FOR ADDITIONAL SPD.</p>
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1.0 BACKGROUND

- 1.1 As members will be aware the Local Plan was adopted by Council on 21 November 2017.
- 1.2 The previous Local Plan was adopted in 2002. In addition to the Local Plan, the Council also has a number of Supplementary Planning Documents (SPD) which were produced to support various policies in the previous local plan (it should be noted that some are referred to as Supplementary Planning Guidance (SPG) which was the term used prior to the 2004 Planning and Compulsory Purchase Act).
- 1.3 Following adoption of the new Local Plan it is now necessary to consider whether it is appropriate to retain these SPDs, to review and replace with updated SPD or to withdraw them.

2.0 EXISTING SUPPLEMENTARY PLANNING DOCUMENTS

- 2.1 SPDs are local development documents which provide technical detail to expand upon planning policies set out in the Local Plan; SPDs cannot make policy in themselves. SPDs can be thematic or area specific, provide guidance and / or set out requirements, and are material considerations which can be taken into account when making planning decisions.
- 2.2 Paragraph 153 of the NPPF states that "*Supplementary planning documents 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.*" The glossary to the NPPF also notes that they [SPD's] are "*Documents which add further detail to the policies in the Local Plan.*"
- 2.3 The Council currently has eleven SPDs. These cover a range of issues including affordable housing, design of new development, telecommunications and retail issues. Most of these date from the early 2000s, with the latest being 2017. Copies of all of the SPDs can be viewed at www.nwleics.gov.uk/pages/supplementary_planning_guidance .
- 2.4 Each of the SPDs is assessed at Appendix A of this report. Each is assessed in terms of their relationship with both the previous Local Plan (2002) and the recently adopted Local Plan (2017) as well as considering any changes in circumstances since the SPD was adopted by the Council.
- 2.5 Overall it is considered that all of the SPDs should be withdrawn save for the recently adopted Design SPD. However, it is recommended that further consideration be given to preparing revised SPDs in relation to both Play Areas (limited to the design and layout thereof) and Affordable Housing.

- 2.6 The two Village Design Statements were prepared by the respective Parish Councils and so they should be asked to consider reviewing them in view of their age.
- 2.7 In terms of the Ashby Cycling Network, Leicestershire County Council has prepared a new strategy which identifies a series of potential routes throughout the town. This has the potential to inform discussions in respect of contributions from new developments to create a network of cycle routes. Giving it formal status, such as an SPD, would provide additional weight. Its preparation has been subject to some consultation. It had initially been intended that this could replace the previous SPD. However, a recent High Court decision in relation to a SPD in Charnwood Borough has highlighted issues regarding what is or is not appropriate for inclusion in SPD. Officers are seeking legal advice as to whether this judgement affects the original intention. The recommendations set out above allow for the inclusion of the revised Ashby Cycling Network as SPD in the event that the legal advice so supports.
- 2.8 In addition to these SPDs, when the 2002 Local Plan was adopted a Development Guidelines SPG was also approved. This was taken off the Council's website some time ago in view of the fact that the guidance was dated and largely used specific standards rather than the more design based approach now used. However, it is something which has still been referred to occasionally by applicants and objectors. For the avoidance of doubt it is recommend that this be withdrawn as well.
- 2.9 The 2017 Local Plan identifies a number of potential SPDs that could be prepared. However, available resources in view of the need to undertake an immediate review of the Local Plan means that these will not be pursued in the near future. The review of the Local Plan will reconsider the need for these and other SPDs.

APPENDIX A

Title of SPD: Diseworth Village Design statement
Date adopted: 3 April 2000
Purpose: to provide design guidance in respect of developments in Diseworth
Policies in the 2002 Local Plan to which the SPD relates: Nothing specified although Policy E4 (Design) is of relevance.
Policies in the 2017 Local Plan which support SPD? Yes, Policy D1
Evidence base which supports the SPD: VDS was prepared by Long Whatton and Diseworth Parish Council. No other information available.
Comments : The VDS is somewhat dated, although there have not been significant changes in the village in the preceding period. Also no appeal decisions which have suggested that the date is an issue. A Conservation Appraisal was approved by the District Council in April 2001. The VDS is quite 'generic' in that it includes limited reference to specific sites and buildings within the village and so the passage of time is less noticeable. The issue of design is given greater weight today than when the VDS was prepared, for example the NPPF places significant emphasis upon achieving good design as part of new development. Concept of VDS has been overtaken to some extent by the emergence of Neighbourhood Plans which have formal development plan status. The District Council has recently approved a new SPD on Design, although it is not specific to Diseworth.
Recommendation: In view of the age of the SPD it should be reviewed, but as it was done by the Long Whatton and Diseworth Parish Council they would need to undertake such a review. Write to Long Whatton and Diseworth Parish Council to advise that it is considered that the VDS should be reviewed. In the event that they do not wish to review then it is recommended that the VDS should be withdrawn.

Title of SPD: Appleby Magna Village Design statement
Date adopted: 2000
Purpose: to provide design guidance in respect of developments in Appleby Magna
Policies in the 2002 Local Plan to which the SPD relates: A number of policies are referenced in the document, together with the (then) Structure Plan policies.
Policies in the 2017 Local Plan which support SPD? Yes, Policy D1
Evidence base which supports the SPD: VDS was prepared by a Design team linked to the Appleby Magna Parish Council. No other information available.
Comments : The VDS is somewhat dated and in recent times there have been (and are) significant changes in the physical structure of the village. No appeal decisions which have suggested that the date is an issue.

A Conservation Appraisal was approved by the District Council in September 2001. The VDS itself is quite specific in a number of places. The issue of design is given greater weight today than when the VDS was prepared, for example the NPPF places significant emphasis upon achieving good design as part of new development. SPD was subject to extensive consultation locally as part of its preparation and more widely when in draft form. Concept of VDS has been overtaken to some extent by the emergence of Neighbourhood Plans which have formal development plan status. The district council has recently approved a new SPD on Design, although it is not specific to Appleby Magna.

Recommendation:
 In view of the age of the SPD it should be reviewed, but as it was done by Appleby Magna Parish Council they would need to undertake such a review. Write to Appleby Magna Parish Council to advise that it is considered that the VDS should be reviewed. In the event that they do not wish to review then it is recommended that the VDS should be withdrawn.

Title of SPD: Play Area Design Guidance
Date adopted: July 2002
Purpose: To provide clarification as to how provisions of Policies L21 and L22 of the 2002 Local Plan will be implemented and to establish procedures for the provision of play space.
Policies in the 2002 Local Plan to which the SPD relates: Policy L21 (Children's Play Areas) and Policy L22 (Formal Recreation Provision)
Policies in the 2017 Local Plan which support SPD? Policy IF3 deals with Open space, Sport and Recreation
Evidence base which supports the SPD: None
Comments: SPD was subject to consultation. SPD includes reference to numerous policies in the then Planning Policy Guidance notes which have been superseded by NPPF. Approach taken in NPPF on the issue of identifying space requirements is now significantly different to that in place at the time that the SPD was prepared. The SPD refers to the "Council's requirement of 200sq per 10 dwellings", although this is not included as part of Policy L21 of the 2002 Local Plan. Policy L22 dealt with formal recreation provision and whilst it did not identify any specific level of requirement the SPD cross refers to the National Playing Fields Association (NPPFA) 6 Acre Standard. The references to the NPPFA Standards runs contrary to the NPPF and it can be viewed that the SPD is setting matters of policy and so should be removed. However, the lack of any specific standard in the emerging Local Plan means that there would be a vacuum in terms of negotiating and agreeing appropriate provision. The remainder of the SPD is largely concerned with providing advice in respect of the design and layout of play areas; the type and amount of play equipment required; maintenance issues and timing of provision. This largely fits with the advice in the NPPF regarding what SPD should seek to address.
Recommendation:

That the SPD as it stands be withdrawn and consideration be given to publishing a new SPD which deals with those issues relating to the design and layout of play areas.

Title of SPD: Ashby Area Cycling Network Plan
Date adopted: Not known
Purpose: To identify a potential cycling network in the Ashby area with a view to securing funding and/or routes as part of new developments or through other means.
Policies in the 2002 Local Plan to which the SPD relates: No
Policies in the 2017 Local Plan which support SPD? Policy IF4 requires provision of cycleways as part of new development "within and beyond sites".
Evidence base which supports the SPD: Appears to have been some form of consultation although not clear exactly what or when this was. Maps showing the proposed routes are not available on the intranet and it is not known where copies are held.
Comments: A new cycling strategy for the Ashby area has recently been produced by Leicestershire County Council which in any event superseded any proposals contained in the earlier SPD.
Recommendation: In view of the lack of any maps, together with the production of a new cycling strategy, it is recommended that the existing Ashby Area Cycling Network Plan SPD be withdrawn and replaced with the new one.

Title of SPD: Northern parishes Cycling Strategy
Date adopted: Not known
Purpose: To identify a potential cycling network in the Northern Parishes area with a view to securing funding and/or routes as part of new developments or through other means.
Policies in the 2002 Local Plan to which the SPD relates: No
Policies in the 2017 Local Plan which support SPD? Policy IF4 requires provision of cycleways as part of new development "within and beyond sites".
Evidence base which supports the SPD: Appears to have been some form of consultation although not clear exactly what this was. Maps showing the proposed routes are not available on the intranet and it is not known where copies are held.
Comments: Lack of maps is clearly an issue. There is a written description of proposed routes but they pre-date recent road developments, including the duelling of the A453 and they do not take account of the implications of the Roxhill scheme and any associated highways works.
Recommendation: In view of the lack of any maps, together with changes in the locality, it is recommended that the existing Northern Parishes Area Cycling Network Plan SPD be withdrawn.

Title of SPD: Telecommunications Guidance
Date adopted: January 2003
Purpose: To supplement local plan policies in respect of telecommunications development having regard to national policy and guidance.
Policies in the 2002 Local Plan to which the SPD relates: None as previous policy not saved in 2007.
Policies in the 2017 Local Plan which support SPD? Policy D3 deals exclusively with telecommunications development.
Evidence base which supports the SPD: Was subject to consultation and took account of previous guidance and practice at the time that it was prepared.
Comments: SPD was subject to consultation. Reference included to previous PPGs now superseded by NPPF. Telecomms has moved on significantly such that references in the SPD to 3G are now dated. Reference is also made to Permitted Development Rights and Prior Approval process which have now been superseded. Issues of design were also covered in national guidance which was withdrawn in January 2017, although the government has made it clear that it expects operators and local authorities to work together on new guidance. There are no locally specific reasons for requiring guidance that would differ from national guidance. Little used in determining planning applications.
Recommendation: In view of the changes which have occurred, together with the lack of any specific local reason for guidance, it is recommended that the SPD be withdrawn.

Title of SPD: Designing Out Crime
Date adopted: November 2003
Purpose: to provide guidance for architects, developers, landscape architects and urban designers in the public and private sectors in respect of how to design out crime (reduce crime and anti-social behaviour) as part of new developments.
Policies in the 2002 Local Plan to which the SPD relates: Policy E8 (Crime Prevention)
Policies in the 2017 Local Plan which support SPD? Policy D1 (Design of New Development) refers to a need to design developments to reduce anti-social behaviour and the risk of crime.
Evidence base which supports the SPD: Was subject to consultation and took account of previous guidance and practice at the time that it was prepared.
Comments: SPD was subject to consultation. Reference included to previous PPGs now superseded by NPPF. Also reference to legislation which has been superseded. Most of the issues are addressed, although not necessarily with specific reference to crime, as part of the recently approved Design SPD. National guidance is available (e.g. National Design Council). There are no locally specific reasons for requiring guidance that would differ from national guidance.

Recommendation:
In view of the changes which have occurred, together with the lack of any specific local reason for guidance, it is recommended that the SPD be withdrawn.

Title of SPD: Lighting Schemes Guidance
Date adopted: November 2003
Purpose: to supplement Local Plan policies in respect of external lighting schemes having regard to national policy and guidance.
Policies in the 2002 Local Plan to which the SPD relates: Policy E3 (Residential Amenities) and Policy E4 (Design)
Policies in the 2017 Local Plan which support SPD? Policy D1 (Design) and Policy D2 (Amenity)
Evidence base which supports the SPD: Was subject to consultation and took account of previous guidance and practice at the time that it was prepared.
Comments: SPD was subject to consultation. Reference included to previous PPGs now superseded by NPPF. Little used in determining planning applications. Some guidance is also available on Planning Portal and as part of Planning Practice Guidance. In addition the Commission for Dark Skies has produced good practice guidance. There are no locally specific reasons for requiring guidance that would differ from national guidance.
Recommendation: In view of the changes which have occurred, together with available guidance elsewhere and the lack of locally specific need it is recommended that the SPD be withdrawn

Title of SPD: Affordable Housing
Date adopted: January 2011
Purpose: To provide guidance to add to Policy H8 of the 2002 North West Leicestershire Local Plan and to optimise the provision of affordable housing as part of new housing developments
Policies in the 2002 Local Plan to which the SPD relates: Policy H8 (Affordable Housing)
Policies in the 2017 Local Plan which support SPD? Policy H4 (Affordable Housing)
Evidence base which supports the SPD: SHMA (2008) and Viability study (2007). SPD was subject to consultation.
Comments: SPD was subject to consultation. Reference included to previous PPGs now superseded by NPPF. Evidence base is out-of-date; HEDNA provides information regarding needs whilst Viability Study done as part of emerging Local Plan addresses the impact of affordable housing on viability. The 2017 Local Plan establishes targets and thresholds, those in SPD no longer relevant. Some aspects of SPD are not covered by policy, for example how off site commuted sums will be calculated.
Recommendation: The SPD should be withdrawn and that a new SPD be prepared.

Title of SPD: Retail
Date adopted: January 2011
Purpose: to supplement the 2002 Local Plan and applies to change of use applications as well as development for new 'town centre' uses in Ashby de la Zouch, Castle Donington, Ibstock, Measham and Kegworth.
Policies in the 2002 Local Plan to which the SPD relates: Policy R4 (Acceptable Uses in town Centre Core Areas) and R19 (Acceptable Uses in local Centres)
Policies in the 2017 Local Plan which support SPD? Ec10, Ec11 and Ec12
Evidence base which supports the SPD: Individual audits of each centre in terms of ground floor commercial uses.
Comments: Evidence base is dated. SPD was subject to consultation. The SPD includes what can be interpreted as policies in respect of the suitable balance of uses within centres including that retail uses should be no less than "50% of all uses. The 2017 Local Plan (Policy Ec10) does not include specific figures for each centre but does make it clear that retail uses will be the "predominant use " which can be interpreted as 50% or more. Policy Ec10 also replicates most of key Principle 2 whilst Policy Ec11 deals with Key Principles 3 and 4
Recommendation: The need for the SPD has been superseded by the newly adopted Local Plan. It is recommended that the SPD be withdrawn.

Title of SPD: Good design for North West Leicestershire
Date adopted: April 2017
Purpose: To set out the Council's design aspirations for new developments.
Policies in the 2002 Local Plan to which the SPD relates: E4 and H7
Policies in the 2017 Local Plan which support SPD? D1
Evidence base which supports the SPD: The SPD has had due regard to national guidance, including Building for Life and was subject to consultation.
Comments: The SPD was produced over a period of time and was prepared with a view to reinforcing the design approach set out in the 2017 Local Plan
Recommendation: That the SPD be retained.