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## 1. BACKGROUND

- 1.1 At its meeting of 8 December 2020, Cabinet approved an Air Quality Delivery Plan. Amongst the actions included for undertaking within 24 months was the preparation of a Supplementary Planning Document “*to recognise the importance of air quality as a material planning consideration and to help ensure consistency in the approach to dealing with air quality when determining planning applications in the district, including the approach to mitigation*”.
- 1.2 A Supplementary Planning Document (SPD) is a document which provides further information about a policy or policies in a development plan. An SPD can be a helpful way to provide guidance on matters such as how a policy should be interpreted in development management decisions, what information applicants need to supply to meet the requirements of a policy and procedural arrangements. Importantly, an SPD is not itself part of the development plan, but it is capable of being a material consideration in planning decisions. In addition, an SPD cannot be used to change or add to the policies in the adopted Local Plan. Such policy changes can only be made through the preparation of the new Local Plan.
- 1.3 The Draft Air Quality SPD was presented to Cabinet on [20 September 2022](#). Cabinet agreed to recommend to the Local Plan Committee that the Draft Air Quality SPD be approved for public consultation. Members of the Local Plan Committee followed this recommendation at its meeting on [27 September 2022](#) and public consultation on the SPD took place between 31 October and 13 December 2022.
- 1.4 Two responses were received (both developers/land promoters) and these are included at **Appendix B** of this report. The Planning Policy team has also discussed the SPD in some more detail with the Development Management and Environmental Protection teams, who recommended some specific changes and comments on the structure of the SPD.
- 1.5 Officers were in the process of considering the consultation responses when, on 30 January 2023, the Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 were made. The Regulations set two new targets for fine particulate matter (PM2.5):
- a maximum annual mean concentration target of 10 micrograms per cubic metre ( $\mu\text{g}/\text{m}^3$ ) to be achieved by 2040 (the AMCT); and
  - a population exposure reduction target of 35% compared to 2018 to be achieved by 2040 (the PERT).
- 1.6 The government’s Chief Planner wrote to local planning authorities on [3 March 2023](#) to confirm that whilst it is the responsibility of central government to drive action to meet the targets, local authorities, businesses and individuals all contribute to PM2.5 emissions and therefore have an important role in achieving the targets. The letter went on to say that a forthcoming Air Quality Strategy would provide a framework for local authority action and that:
- “The new targets will also need to be integrated into the planning system, and in setting out planning guidance for local authorities and businesses, we will consider the specific characteristics of PM2.5. The guidance will be forthcoming in due course, until then we expect local authorities to continue to assess local air quality impacts in accordance with existing guidance.”*
- 1.7 The [Air Quality Strategy for England](#) was published by Defra on 28 April 2023. It confirms that one of the government’s priorities for improving air quality is via planning reform (i.e. through the Levelling Up and Regeneration Bill and review of national planning policy). The Air Quality Strategy does refer to design-stage emission prevention as a means of

influencing the design of a scheme at an early stage thereby minimising the amount of pollution emitted, but the finer detail of how this should be achieved is expected in an update to national planning policy.

1.8 Officers had decided to wait for this guidance before finalising the SPD. However, with no clear publication date (it had been expected in spring 2023) officers recommend that the Council progresses with the publication of the Air Quality SPD subject to:

- the inclusion of references to the new Environmental Targets Regulations in respect of PM2.5
- references to anticipated updates to national planning policy in respect of air quality
- changes to the content and structure of the SPD in response to the public consultation (this is described in more detail below).

1.9 Officers will advise members once the updates to national planning policy are published. When this happens, there is a risk that the SPD could become out of date. However, this will not be made clear until the guidance is published and as the timescales for this are unknown, it is recommended that the Council proceeds with adoption of the SPD.

## 2. OUTCOMES FROM THE AIR QUALITY SPD CONSULTATION

2.1 Of the two developer responses received (**Appendix B**), one objected to the principal of the SPD and felt that it introduced significant new requirements for applicants of major developments. They felt that this was contrary to the role of SPDs as defined in the government's Planning Practice Guidance (PPG):

*“Supplementary planning documents (SPDs) should build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan. They are however a material consideration in decision-making. They should not add unnecessarily to the financial burdens on development.”* (Reference ID: 61-008-20190315)

2.2 It was this developer's view that the different requirements of the SPD (e.g. Site Suitability Assessment, Air Quality Impact Assessment etc) were 'additional' requirements which should be tested through the Local Plan rather than introduced in an SPD.

2.3 Following discussions with the Council's Environmental Protection team, the only element of the SPD which could be regarded as an 'additional' requirement (i.e. it goes above and beyond what the Council currently asks for) is the Damage Cost Calculation. The other elements (Site Suitability Assessment, Construction Dust Risk Assessment, Air Quality Impact Assessment, Emission Reduction Measures, Mitigation Measures) are factors which already make up an air quality assessment. The purpose of the SPD was to make it clearer when these elements would be required and provide further detail on them.

2.4 Reflecting on the above, the following amendments to the SPD are proposed. A revised copy of the SPD incorporating these changes is attached at **Appendix A**.

- Officers have concluded that the Damage Cost Calculation could potentially add to the financial burden of development and is therefore unsuitable to include in an SPD without having been tested in a full local plan viability assessment. To avoid any potential legal challenge, the requirement for a Damage Cost Calculation has been removed from the SPD.
- For the purposes of clarity, the SPD has been redrafted so that Section 4 (now called 'Development and Site Classification') focuses solely on helping applicants/decision makers identify if a proposed development is minor, major or major+ and if it is in an area of potential poor air quality. All references to air quality assessment requirements have been removed from Section 4 to avoid confusion.

- Meanwhile, Section 5 has been renamed ‘The Air Quality Assessment’ and amalgamates the elements previously included in Sections 5 to 8 in a more concise and logical manner.
- The requirement for a minor development to prepare a Good Practice Measures Statement when it is not in an area of poor air quality has also been removed from the SPD as it would unnecessarily add to the burden of development.

2.5 The same developer stated that the SPD did not distinguish between outline and detailed applications. The quantum and location of development will be known at outline stage, which will be sufficient to prepare an air quality assessment (if required) and identify potential mitigation measures. The detail of such mitigation measures could be conditioned for approval at a later date. Applicants would always be advised to agree the scope of any air quality assessment with the Environmental Protection team.

2.6 All remaining comments related to specific parts of the SPD and primarily focused on the structure of the SPD and the clarity of the overall document, clarity on some of the terminology used in the SPD and whether some of the recommended principles / mitigation measures were achievable under the planning system. As set out above, the structure of the SPD has been changes to aid both applicants and decision makers.

2.7 In response to the other comments, the following amendments have been made to the SPD:

- The glossary has been updated to include and define ‘key air quality terms’ which appear in the SPD. These terms have been put in ***bold and italics*** when they appear in the main body of the SPD.
- There is a clear distinction between mitigation measures which can be required through the planning system and those which are general good practice (but which could not form part of a planning condition, for example, boilers).

### 3. NEXT STEPS

3.1 Formulation of an SPD is an Executive function, but adoption is a Council function which has been delegated to the Local Plan Committee. Cabinet is asked to request the Local Plan Committee of 6 September 2023 (the next available Local Plan Committee meeting) to adopt the SPD.

Policies and other considerations, as appropriate	
Council Priorities:	The preparation of the Air Quality SPD will be particularly relevant for the following Council Priority: - Our communities are safe, healthy and connected.
Policy Considerations:	Adopted Local Plan National Planning Policy Framework Planning Practice Guidance
Safeguarding:	None
Equalities/Diversity:	None
Customer Impact:	None
Economic and Social Impact:	The SPD, if approved, will help to ensure that air quality issues are addressed which will have social benefits for our communities. A clean environment will also help to attract business and support economic growth.
Environment, Climate Change and Zero Carbon:	The SPD requires the applicants of development proposals in potential areas of poor air quality /

	development proposals which could potentially result in a deterioration in the existing air quality to undertake an air quality assessment and identify appropriate mitigation measures.
Consultation/Community Engagement:	The consultation arrangements which have been followed have been governed by the Town and Country Planning (Local Planning) (England) Regulations 2012 and in turn by the Council's own Statement of Community Involvement (as amended).
Risks:	The report highlights that there is a risk of a legal challenge in the event that the SPD goes above and beyond existing policy requirements. Amendments to the SPD are proposed to address this.
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