

Delegated Decisions report



20 October 2020

CONSULTATION ON DRAFT SUSTAINABLE CONSTRUCTION SUPPLEMENTARY PLANNING DOCUMENT

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Exempt / confidential / not for publication	No
Council Plan reference	Key Priority 4: Action on Climate Change
Wards affected	All wards

Executive Summary

The draft Sustainable Construction Supplementary Planning Document (SPD) has been prepared in conjunction with Local Partnerships. It will replace the existing Sustainable Construction SPD which became out of date after the current local plan, Plan:MK, was adopted in March 2019. The new Sustainable Construction SPD will aid both the implementation of Policy SC1 (Sustainable Construction) in Plan:MK and generate data and intelligence to inform the new Local Plan in order to improve the sustainability of new housing development in the borough. The report below outlines this in greater detail and recommends that the draft Sustainable Construction SPD document enclosed at the Annex be publicly consulted upon for nine weeks commencing on the 02 November 2020.

1. Decisions to be Made

- 1.1 That the draft Sustainable Construction Supplementary Planning Document be publicly consulted upon for nine weeks, commencing on 2 November 2020.
- 1.2 That the Director Planning, Strategic Transport and Placemaking be granted delegated authority to make minor corrections to the draft Sustainable Construction Supplementary Planning Document prior to the consultation.

2. Why is the Decision Needed?

- 2.1 Following adoption of Plan:MK, the Council has received queries from developers about how Policy SC1 is to be interpreted. This has included questions such as:
 - What format should Sustainability Statements and Energy and Climate Statements take?
 - What types of technologies / construction techniques are recommended to meet different parts of the Policy?
 - How do we calculate carbon offset payments?
 - What form should the quality and monitoring regimes take, as required by Parts K.5. and K.6. in Policy SC1?
 - How do we close the gap between energy performance of new buildings as built and performance as designed?
- 2.2 This SPD will clarify how Policy SC1 in Plan:MK is to be interpreted and, once adopted, be a material consideration in the determination of relevant planning applications. As a robust, high quality and detailed document it will provide certainty to developers bringing forward development by explaining how proposals can accord with the requirements of Policy SC1. In particular, the SPD will explain how Parts K.4.-K.6. in Policy SC1, which have been disengaged since adoption of Plan:MK (as guidance explaining them has been absent), will be implemented. It has been written in conjunction with Local Partnerships, who have been commissioned by the Council to produce the SPD in consultation with officers. The draft SPD has already been subject to scrutiny by members of the Planning Cabinet Advisory Group in May 2020, feedback from whom has shaped the version of the SPD in the Annex of this report. This next stage of public consultation will allow other interested parties the opportunity to comment on the content of the SPD and suggest changes they think are necessary.

2.3 Consultation on the draft Sustainable Construction SPD is required as part of the process of preparing and adopting a SPD as set out in The Town and Country Planning (Local Planning) (England) Regulations 2012 (SI 2012/767) (the 2012 Regulations), subject to changes made by The Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 (SI 2020/731) (the Coronavirus Regulations 2020). The SPD is also listed in the Council's Local Development Scheme as an SPD that would be prepared over the period 2019-2022.

2.4 The SPD explains a range of ways in which developments can be built more sustainably, including measures, such as:

- reusing land and buildings wherever possible and feasible;
- where demolition is necessary, recycling old building materials;
- using sustainably sourced and energy efficient materials and fixtures in new buildings;
- using green roofs to improve water management and air quality;
- recognising and encouraging outstanding sustainable design in non-residential developments by exempting such developments from paying planning obligations related to carbon offsetting;
- building adaptability into new developments so their use can change overtime without requiring demolition/significant refurbishment;
- encourage recycling of waste by providing more space to accommodate waste storage;
- implement fabric first, passive design and landscaping measures to reduce energy demand for heating, lighting and cooling;
- encourage energy storage and demand management to reduce dependency on electricity from the national grid;
- make new buildings and more generally the built environment more resilient to the effects of climate change;
- above certain development size thresholds, improve on carbon reduction requirements set out in Building Regulations Part L through more efficient design and providing on-site renewable energy generation;
- requiring carbon offset payments where building design cannot reduce carbon emissions from a development to zero;
- ensure 'as built' design performance matches the calculated design performance of new dwellings;
- monitor building performance and send this information to building occupiers and the planning authority, to encourage the closing of the performance gap;

- all new dwellings must achieve an estimated water consumption of no more than 110 litres/person/day;
- water reuse and recycling measures should be used in new buildings where feasible; and
- supporting the retrofit of existing buildings which results in greater energy efficiency, fewer carbon emissions and/or improvements in the general suitability/longevity of existing building stock.

2.5 Furthermore, completion and implementation of the SPD will support the objectives of the MK Sustainability Strategy 2019-2050, including targets for Milton Keynes to be carbon neutral by 2030 and carbon negative by 2050. It will also support achieving the fourth key priority in the Council Plan 2020: “Action on climate change”. Not completing the SPD will limit the ability of the Council to fully meet these objectives and limit the implementation of Plan:MK Policy SC1.

2.6 The SPD will also underpin, through the creation of an evidence base of new building performance data, the development of robust low and zero carbon policies in the next Local Plan. In addition, our work producing a bespoke monitoring regime for collecting building performance data, in line with Part K.6. of Policy SC1, will enhance the reputation of Milton Keynes as a pioneer in the sustainable construction sector.

3. Implications of the Decision

Financial	Yes	Human rights, equalities, diversity	No
Legal	Yes	Policies or Council Plan	Yes
Communication	Yes	Procurement	No
Energy Efficiency	Yes	Workforce	No

(a) Financial Implications

The SPD requires that, when a development proposal is above a certain size threshold and cannot reduce its carbon emissions to zero, payments are made into the Council’s Carbon Offset Fund. As noted in paragraph 2.6, the Carbon Offset Fund is used to pay for interventions around the borough which use renewable energy and energy efficiency technologies to offset any carbon emissions from new development. In terms of its impact on the viability of new development, the SPD doesn’t include development requirements beyond those already outlined within Policy SC1 in the adopted Local Plan, the SPD only provides additional detail on how developers can meet the requirements of SC1.

Policy SC1 itself was scrutinised as part of the Whole Plan Viability Study (2017) undertaken during preparation and examination of Plan:MK. The Whole Plan Viability Study concludes: “In the current market, the analysis in this report confirms that residential development is not put at serious risk by the cumulative impact of the Council’s policies [including SC1] and can bear reasonable developer contributions without threatening development in Rural / High-Value / Flanks and Central Milton Keynes. However, in the older City Core / Older Centres & City Estates the ability to bear developer contributions is likely to be limited at higher rates of affordable housing. Whilst some non-residential uses are not viable, they are not rendered unviable by the cumulative impact of the Council’s policies, rather by the general market conditions.”

Moreover, the Planning Inspector concluded the examination process with reference to Policy SC1, stating: “The viability of Policy SC1 has been assessed on an average offset payment currently secured under Policy D4 of the development plan. Overall, I find Policy SC1 to be sound”. The SPD, therefore, would not adversely affect the level of planning obligations the Council receives as payment of the costs required to accord with SC1 would not hinder the ability of developers to pay development contributions.

(b) Legal Implications

The Town and Country Planning (Local Planning) (England) Regulations 2012 set out the statutory requirements for the consultation and adoption of Supplementary Planning Documents. However, the Coronavirus Regulations 2020 make changes to the 2012 Regulations in relation to the legal requirement to make available local plan documents for inspection. Under the Coronavirus Regulations 2020, during the ‘relevant period’ (16 July 2020 – 31 December 2020), local plan documents will be taken to be made available when it is published on the Council’s website and the requirement to make the SPD available for public inspection at the Council’s principal office is removed. If the SPD is required to be made available after the relevant period, the Council must make the SPD available for public inspection in accordance with the 2012 Regulations as soon as reasonably practicable (subject to any further changes in the law which may extend the relevant period).

Under section 19(3) of the Planning and Compulsory Purchase Act 2004, the Council must prepare SPDs in accordance with the Council’s Statement of Community Involvement (SCI) (which sets out the Council’s

policy for consulting and engaging with individuals, communities and other stakeholders).

If adopted, in line with statutory requirements, the SPD will be a material consideration in the determination of relevant planning applications. Implementation of the SPD may also reduce the likelihood of 'appeal' challenges from developers under Section 78 of the Town and County Planning Act 1990 (as amended), by increasing certainty regarding how Policy SC1 should be interpreted and decreasing disagreements about when certain information is required by Policy SC1 to be submitted to the Council – either prior to, or post, granting of planning permission.

(c) Policies and Council Plan

The SPD will make development more sustainable by helping developers ensure new developments have a low environmental impact. It reflects current national and local planning policies, such as Paragraphs 148, 149 and 150 in the National Planning Policy Framework which collectively outline how new developments can be built to mitigate climate change.

The SPD will replace the existing 2007 Sustainable Construction SPD produced by the Council and its associated *Calculating Carbon Neutrality* guidance note. These are now increasingly out-of-date, as they were prepared to support the implementation of previous Local Plan policy that has been superseded by Plan:MK.

When complete, the SPD will provide the Council and developers certainty about how new development can meet the requirements of Policy SC1 in Plan:MK. The SPD will also create a bespoke methodology for assessing certain sustainability aspects (energy use, carbon emissions, overheating risk, indoor air quality) of new homes. This in turn will generate important data and information about the performance of dwellings that could underpin ambitious policies in a new Local Plan. It will help to support new homes coming forward in Milton Keynes that will respond to the Council's objective of being carbon neutral by 2030 and carbon negative by 2050, as well as more specific recommendations related to new housing made by the Climate Change Task and Finish Group and supporting the fourth key priority in the Council Plan 2016-2022: "Action on Climate Change".

(d) Energy Efficiency

As detailed in paragraph 2.4 of this report, Policy SC1 in Plan:MK requires that new developments in the borough are built as energy efficient as possible. This will have the positive effect of reducing the environmental impact of new development and making new and existing buildings more resilient to the effects of climate change.

(e) Communication

Milton Keynes Council's Statement of Community Involvement (SCI) 2020 sets out the consultation and engagement processes used to prepare planning policy and documents. Consultation on this SPD will follow the procedures as set out in the SCI, the Coronavirus Regulations 2020 and updated National Planning Policy Guidance (PPG).

The SCI states that the Council shall engage with the public and other interested stakeholders as much as possible through digital communication methods, such as email and interactive webinars, to reduce the risk of transmission of the coronavirus. The Development Plans team will be hosting a virtual presentation during the consultation period which will be an opportunity to explain the content of the SPD to and answer questions from interested parties.

The PPG also encourages that Councils take reasonable steps to ensure that members of the public without access to internet can be involved. The SCI states the Council will seek to make available hard copies of consultation documents at Civic, and where possible at other public buildings such as libraries. This may include viewing documents in Civic by appointment only. However, where this isn't possible the Council will publish consultation materials on its website in electronic format only.

4. Alternatives

4.1 Do Nothing - the do nothing option is not considered appropriate as the Council's existing 2007 Sustainable Construction SPD is becoming increasingly out of date and ineffective, as it does not reflect current national and local planning policy. Doing nothing will also hinder the creation of robust low and zero carbon policies in the next Local Plan, as a result of not implementing the monitoring regime associated with Part K.6. of Policy SC1.

4.2 The 'Preferred Option' is to consult on the new draft SPD which, once adopted, will:

- (a) ensure new development in the borough is sustainably constructed;
- (b) replace our existing Sustainable Construction SPD documents;
- (c) reflect current national and local planning policy including Plan:MK; and
- (d) put in place arrangements needed to inform development of the next local plan.

5. Timetable for Implementation

- 5.1 Subject to agreement at the Delegated Decision meeting on 20 October 2020, a nine-week consultation period would commence on 2 November 2020. Following consideration of consultation responses, adoption is expected in March/April 2021.

List of Annexes

Annex: Draft Sustainable Construction Supplementary Planning Document, available on CMIS [link here](#).

List of Background Papers

None.