

# Delegated Decisions report



23 November 2021

## SUSTAINABLE CONSTRUCTION SUPPLEMENTARY PLANNING DOCUMENT

Name of Cabinet Member	<b>Councillor Peter Marland</b> (Leader of the Council)
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Exempt / confidential / not for publication	<b>No</b>
Council Plan reference	<b>Key Priority 4: Action on Climate Change</b>
Wards affected	<b>All wards</b>

### Executive Summary

The 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 It will replace the existing Sustainable Construction SPD which became out of date after the current local plan, Plan:MK, was adopted in March 2019.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 implementation of Policy SC1 (Sustainable Construction) in Plan:MK, improve the sustainability of new development in the borough, and generate housing performance intelligence to inform the new Local Plan. The report recommends that the Sustainable Construction SPD document (attached at **Annex A** to the report) and its supporting Energy and Climate Statement Template (attached at **Annex B** to the report) are adopted by the Council.

## 1. Decisions to be Made

- 1.1 That the Sustainable Construction Supplementary Planning Document, attached at **Annex A** to the report, be adopted, in line with the changes set out in **Annex C** to the report.
- 1.2 That, in accordance with Regulation 15 (2) of the Town and Country Planning (Local Planning) (England) Regulations 2012, the existing Sustainable Construction Supplementary Planning Document be revoked.
- 1.3 That the Director - Planning and Placemaking be given delegated authority to make minor corrections and editorial changes to the Sustainable Construction Supplementary Planning Document prior to publication.

## 2. Why is the Decision Needed?

- 2.1 The Sustainable Construction Supplementary Planning Document (SPD) clarifies how the policy is to be interpreted and would 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 by explaining how their proposals can accord with the requirements of policy SC1.
- 2.2 The SPD has been written in conjunction with Local Partnerships, who were commissioned by us to produce the SPD in consultation with stakeholders. The pre-consultation draft version of the SPD was subject to scrutiny by members of the Planning Cabinet Advisory Group in May 2020, feedback from whom shaped the document that was publicly consulted on for nine weeks commencing 2 November 2020. During the consultation period we received comments from local, regional, and national stakeholders. A full list of these, and our responses, are listed in **Annex C**. Where necessary, we have amended the SPD in line with these comments.
- 2.3 Following the consultation and further internal review, several minor changes to the content of the SPD have been made. These changes aren't significant and don't materially alter the content of the SPD. They include:
  - Adding additional wording reinforcing how foul water disposal systems will need to be resilient to the ongoing and predicted impacts of climate change.
  - Following additions/updates to national planning legislation and policy, adding references to the Planning Gateway 1 fire safety requirements, and the updated National Planning Policy Framework (2021). This includes emphasis on ensuring design of new developments is beautiful and reminding developers of tall buildings of their responsibilities regarding fire safety.

- Updates to the Introduction to reflect that the document is the final version, not the consultation version.

2.4 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 our ability to fully meet these objectives and the implementation of Plan:MK Policy SC1.

2.5 Implementing the SPD will also help create an evidence base of new building performance data, which will assist the development of robust low and zero carbon policies in the next Local Plan. The introduction of the requirement for quality and monitoring regimes to be implemented in line with Parts K.5 and 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 reinforces the requirement outlined in Policy SC1 that, when a development proposal is above a certain size threshold and cannot reduce its regulated carbon emissions to zero, payments are made into our Carbon Offset Fund. The Carbon Offset Fund is used to pay for interventions around the borough which generate 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 does not include development requirements beyond those already outlined within Policy SC1 in the adopted Local Plan which were assessed as part of the Examination in Public of Plan:MK. The SPD only provides additional detail on how developers can meet the existing 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 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 (section 106) obligations the Council receives, as payment of the costs required to

accord with SC1 would not hinder the ability of developers to pay other contributions.

(b) Legal Implications

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.

(c) Other Implications

(i) Policies and Council Plan

The SPD will replace our existing 2007 Sustainable Construction SPD 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 certainty to developers about how their proposals can meet the requirements of Policy SC1 in Plan:MK. It also provides guidance on monitoring certain building performance 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. This will help to support new development which:

- responds to our objective of being carbon neutral by 2030 and carbon negative by 2050;
- supports relevant recommendations in our Sustainability Action Plan (2020); and
- supports the fourth key priority in the Council Plan 2016-2022: "Action on Climate Change".

(ii) Energy Efficiency

Policy SC1 in Plan:MK requires that new developments in the borough follow the Energy Hierarchy and are built as energy efficient as possible. This will reduce the environmental impact of new development, as well as make new and existing buildings more resilient to the effects of climate change.

## 4. Alternatives

### 4.1 Do Nothing

The do-nothing option is not considered appropriate as our existing 2007 Sustainable Construction SPD is becoming increasingly out of date and 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, because of not implementing the monitoring regime requirement associated with Part K.6. of Policy SC1.

## 5. Timetable for Implementation

5.1 The SPD will be adopted at 5.00 pm on 3 December 2021, unless subject to a call-in. Following the call-in period, the SPD and supporting documents will be published on the Council website as soon as practicable.

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## List of Annexes

- Annex A Sustainable Construction SPD
- Annex B Energy and Climate Statement Template
- Annex C List of Public Consultation Comments and Council Responses

## List of Background Papers

None