

Report to Cabinet

Subject: Sustainable Urban Drainage Systems

Date: 14 December 2023

Author: Head of Development and Place

Wards Affected

All

Purpose

The purpose of this report is to consider whether it is necessary to prepare a Supplementary Planning Document (SPD) on the topic of Sustainable urban Drainage Systems (SuDS), specifically requiring the provision of construction phase drainage.

Key Decision

This is not a key decision.

Recommendation(s)

THAT: Cabinet:

- 1) Note the content of the report; which confirms that issues relating to SuDs more generally are addressed by existing and emerging policies/guidance and pre-commencement conditions are an effective solution to effectively manage construction phase drainage; and**
- 2) Agree that is not necessary to produce a Supplementary Planning Document (SPD) specifically on Sustainable urban Drainage Systems (SuDS) to ensure adequate drainage is installed first on any new housing development site before any other construction works are carried out.**

- 1.1 On 20th September 2023 the Council resolved that Cabinet should receive a report to consider the introduction of a Supplementary Planning Document (SPD) that ensures adequate drainage is installed first on any new housing development site before any other construction works are carried out. A key trigger was the occurrence of surface water run-off from two elevated sites during the autumn of 2022, following significant rainfall over a short period of time. Both planning permissions for housing development were permitted subject to conditions requiring surface water drainage schemes being incorporated as part of the overall development scheme, but unfortunately surface water flooding occurred during the early construction phase, prior to the required SuDS being installed. The issue is therefore the need to ensure that development sites are properly drained during their construction, in addition to SuDS which will ultimately serve completed development.
- 1.2 Whilst it is not possible to eliminate flood risk entirely from various sources, policy both national and local seeks to manage and minimise the risk of flooding on-site and elsewhere. In relation to surface water, Aligned Core Strategy (ACS) Policy 1 seeks SuDS wherever practical, and this is echoed in Local Planning Document (LPD) Policy 4 which requires development to have appropriate surface treatments (i.e. permeable surfaces) and SuDS. The subject of this report is to consider whether a SuDS Supplementary Planning Document to augment ACS Policy 1 and LPD Policy 4 would be advantageous in terms of reducing the risk of surface water runoff from development sites at all stages of their development and whether this would add value to current practice.
- 1.3 SuDS are a measure to manage surface water by replicating natural drainage patterns and to deliver benefits in terms of water quality, amenity and biodiversity so they are not simply treated as an engineering feature but a key component of development design. Typical SuDS features include amongst others: permeable paving, rain gardens, swales and detention basins. A number of councils across England have prepared SPDs specifically on the topic of SuDS. A desk top review indicates that in general these are prepared in response to local issues and opportunities.
- 1.4 Locally, Mansfield District Council recently adopted an SPD on SuDS in March 2023. In this case, the SuDS SPD complements a programme of works being undertaken by Severn Trent Water (STW) to reduce the amount of surface water entering into the local combined sewage system and to address this problem by creating surface water storage through blue and green infrastructure project investments. These include interventions in Mansfield Town Centre as part of enhancements associated with the Town Centre Masterplan projects especially through improvements to the public realm. SWT have some limited funding available for developers to exceed normal standards for SuDs and the

SPD encourages developers to liaise with STW in this regard. Recognising that the STW funding is time limited the SPD also sets out longer term guidance for the implementation and management of SuDS beyond the timeframe of the STW project.

- 1.5 None of the Greater Nottingham Planning Partnership Councils have prepared SPDs specifically on SuDS and at the time of writing none are proposing to. However, Ashfield District Council refers to SuDS in its non-statutory guidance on Climate Change (2022) and Erewash Borough Council contains some guidance on SuDS in its adopted Development, Flood Risk and Aquifer Protection SPD (2006).
- 1.6 It is also worth stating that many Councils reference the requirement for SuDS and guiding principles relating to the type, design and management of these drainage features within other types of SPD for example, SPDs on design, sustainable development, green and blue infrastructure, and parks and open spaces. In some cases, planning guidance on SuDS has been prepared by the Local Lead Flood Risk Authority (LLFA) who are statutory consultees for housing planning applications and may publish their policies on managing flood risk and drainage to aid the development process.
- 1.7 In addition to managing flood risk, common objectives contained in SuDS SPDs or other relevant SPDs containing SuDS guidance include the need to integrate SuDS into the design scheme from the outset, to address climate change; to achieve multiple benefits such as increased opportunities for biodiversity and incorporating SuDS within open space to promote amenity, health and wellbeing. A SPD on SuDS is not needed for the detailed technical specification of drainage works as there is specific guidance for this such as the Construction Industry Research and Information Association (CIRIA) SuDS Manual. Technical specification needs to be bespoke based on site surveys and dealt with at the planning application stage.
- 1.8 The specific issue for Gedling Borough has been where problems from surface water run off occurred during the early construction phase exacerbated by local topography i.e. sloping ground and heavy rain fall and in advance of the planned SuDS being installed as part of the development. In essence it is an issue about ensuring that a surface water drainage system is in place to coincide with the start of the construction phase especially on sites at a higher flood risk due to local topography. In order to address this specific issue, following the heavy rainfall in October 2022, Gedling Borough Council has attached a standard pre-commencement condition to planning permissions where development is proposed to take place on elevated land, to require a surface water drainage scheme to be in place during the construction phase with details submitted and agreed prior to the commencement of development. Such

drainage schemes for the construction phase are likely to be temporary in nature with the later stages of development including the operational phase being served by the approved SuDS scheme in accordance with the details approved in the planning permission.

- 1.9 The use of planning conditions is governed by tests set out in the National Planning Policy Framework (2023). Conditions must be necessary for the development to go ahead, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects. More specifically in relation to pre-commencement conditions the Council must give notice allowing the applicant 10 working days to either agree to the conditions or provide a substantive response and the application cannot be determined until the 10 days has expired, unless a response has been received sooner.
- 1.10 Governed by the tests set out above, pre-commencement conditions are considered an effective solution to the issue, applied at the planning application stage and are enforceable. The standard pre-commencement drainage condition is included in the **Appendix** and, when applied, accords with ACS Policy 1 and LPD Policy 4 and the NPPF tests.
- 1.11 The preparation of a SPD is therefore not considered necessary to address the specific issue of requiring drainage systems for surface water during the construction phase as the SPD policy would only repeat the pre-commencement condition and serve no other useful purpose.
- 1.12 Although not subject to independent examination like local plans the procedure for preparation of an SPD is not dissimilar. This includes notifying statutory consultees of the likely content and carrying out a consultation stage with any responses to be considered prior to adoption. Consequently, a SPD takes a considerable time to prepare and adopt regardless of the number of representations received although the more of these there are then the process generally takes longer. Probably an unlikely event in this case, but a SPD is also subject to a period for legal challenge on adoption which is an added risk. In short, it is felt that the preparation of a SPD to address this particular issue would not be the best use of available resources and unlikely to add sufficient value to current practice.
- 1.13 In addition to managing flood risk, other objectives associated with SuDS SPDs as outlined in this report are highly desirable in themselves for example in promoting biodiversity and to achieve multi-functional green space as part of open space provision and for its long-term management. However, it is proposed to promote such policy objectives where current adopted policy is deficient through the emerging Greater Nottingham Strategic Plan, future Local Planning Document Part 2 and forthcoming SPDs including the Design Codes for Gedling Borough (currently under

preparation) and the Open Space SPD for Gedling Borough (also currently under preparation).

2 Proposal

2.1 Cabinet is asked to note the report and agree the recommendation.

3 Alternative Options

3.1 Alternative options are considered in the body of the report being the preparation of a SPD on SuDS although this is not recommended. A further option would be to do nothing but this would not address the issues raised.

4 Financial Implications

4.1 A SPD on SuDS could be prepared within existing budgets but is not considered to be necessary and could potentially delay important policy preparation and monitoring work undertaken by the department.

5 Legal Implications

5.1 The 2004 Planning and Compensation Act empowers Local Planning Authorities to prepare local plans and supplementary planning documents.

5.2 The power to impose planning conditions is set out in the 1990 Town and Country Planning Act (as amended).

6 Equalities Implications

6.1 None direct. Current policies relating to SuDS and their implementation are set out in the adopted Aligned Core Strategy (ACS) and Local Planning Document (LPD) which have been subject to an Equalities Assessment.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 Current policies relating to SuDS and their implementation are set out in the adopted ACS and LPD which have been subject to a sustainability appraisal. The recommendation is for more effective implementation of existing policy which would help make development more resilient and sustainable.

8 Appendices

8.1 Appendix – Standard Pre-commencement Drainage Condition

9 Background Papers

9.1 None

10 Reasons for Recommendations

10.1 To address the Council resolution on 21st September 2023 and to seek Cabinet agreement that the preparation of a SuDS SPD is not necessary to ensure adequate drainage is installed first on any new housing development site before any other construction works are carried out. The alternative remedy of relying on a planning condition considered through the development management process is an effective measure to control any potential construction phase flooding, where development is proposed on elevated land.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer