

Report to Cabinet

29 September 2022

By the Cabinet Member for Planning and Development

DECISION REQUIRED



**Horsham
District
Council**

Not Exempt

Facilitating Appropriate Development and Biodiversity and Green Infrastructure Planning Guidance documents

Executive Summary

Two advice documents have been drafted to provide guidance to those involved in submitting and determining planning applications prior to the adoption of the new Local Plan.

Both the Facilitating Appropriate Development (FAD) and the Biodiversity and Green Infrastructure Planning Advice Note (PAN) are non-statutory planning documents. This report is seeking formal endorsement to allow for the documents to be published and utilised in the consideration of planning applications. This will help to ensure that the Council is clear on its emerging aspirations and evidence including biodiversity net gain requirements, climate change measures and emerging evidence indicating the potential for higher levels of affordable housing provision.

Recommendations

It is recommended that the Cabinet agree to recommend to Council that it:

- i) Formally endorses the Facilitating Appropriate Development (FAD) and agrees to the publication of the document for use as a non-statutory Planning Guidance document.
- ii) Formally endorses the Biodiversity and Green Infrastructure Planning Advice Note (PAN) and agrees to the publication of the document for use as a non-statutory Planning Guidance document.
- iii) Grants the Cabinet Member for Planning and Development delegated authority to agree any necessary minor editorial changes to the documents referenced in i) and ii) above.

Reasons for Recommendations

- i) To provide clear and consistent planning guidance to aid applicants, stakeholders and those involved in determining planning applications in advance of the adoption of the new Local Plan.

Background Papers

Horsham District Planning Framework

Wards affected: All

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Background Information

1 Introduction and Background

- 1.1 The planning policies for Horsham District are set out in the Horsham District Planning Framework adopted in 2015. It sets out policies on a range of issues and sets a housing target of 800 new homes per year. It is the Council's overarching development plan document and is the starting point for decisions made on planning applications.
- 1.2 It is a requirement of National Planning Policy that Local Plans be reviewed and if necessary, updated every five years. The Council has been progressing a Local Plan review, but this has been delayed due to unforeseen changes to National Planning Policy, and more recently by the requirement for the Local Plan to demonstrate that it is water neutral. This has limited the Council's ability to introduce desired changes to its policy to ensure greater consideration of environmental matters including biodiversity and green infrastructure. In addition, as the Council cannot currently demonstrate a five-year housing land supply, policies that control the supply of housing may be considered out of date.
- 1.3 Given this background, it is proposed that non-statutory advice documents are published that reflect updated Council aspirations and provide guidance and advice to assist the consideration of planning applications.

2 Relevant Council policy

- 2.1 The Local Plan review is identified as a key project in the Corporate Plan and can help to deliver many of the five goals contained in the Corporate Plan. Given the delays to the Local Plan review it was considered that publication of the two advice documents will help to achieve the Council's corporate goals ahead of the adoption of the Local Plan.

3 Details

- 3.1 Two Planning Advice documents have been drafted. These are appended to this report as Appendix 1 and Appendix 2. It is proposed that two advice documents are endorsed and published by Council.

Facilitating Appropriate Development (FAD) (Appendix 1).

- 3.2 The key aim of the FAD is to provide advice and guidance primarily in relation to applications for new housing development. The Council is not currently able to demonstrate a five-year housing land supply, and whilst there remains a requirement for new development to demonstrate that it is water neutral, the Council has nevertheless received a number of speculative applications. It is anticipated that further applications may also be received in the period before a new Local Plan is adopted.
- 3.3 In the event that development can demonstrate that it is water neutral, it is likely that the National Planning Policy Framework's (NPPF) 'presumption in favour of sustainable development' will apply as the Council cannot currently demonstrate a

five-year housing land supply. As the Council's current Local Plan is over 5 years old, the Local Plan's policies on housing are considered out of date and are unlikely to be sufficient to justify a refusal on these grounds alone. However, in light of both the Council's wider environmental aspirations, changing legislation and the content of the emerging Local Plan, it is considered that prospective applicants and decision makers should be aware of the Council's aspirations and weight that can be assigned to emerging policy.

3.4 The content of the FAD therefore discusses the Council's five-year housing land supply position and the presumption in favour of sustainable development, as well as the weight to be afforded the emerging Local Plan and Neighbourhood Plans. It also provides signposting as to where applicants can find the most up-to-date information on water neutrality. The document provides guidance in relation to different planning matters that need consideration when determining planning applications, including:

- locational suitability and scale – development should be focused in appropriate locations and should relate to the current settlement;
- deliverability – it is preferable to apply for full planning permission and that applicants of complex schemes should provide detailed information relating to delivery to help improve the Council's housing land supply;
- local housing needs – latest viability work shows that 10 or more homes on greenfield land can deliver at 45% of homes as affordable housing;
- biodiversity – it is the expectation that development delivers at least 10% biodiversity net gain and that the PAN provides further guidance on this matter;
- climate change – applicants are advised to consider climate change when developing proposals in terms of layout, orientation, energy use, etc.;
- transport – proposals should seek to promote sustainable modes of transport, balance the need for parking and ensure that it is well located and not in conflict with other use and consider principles and priorities set out in other documents; and
- design – development should be well designed and applicants should have regard to the National Design Guide and Model Design Code.

Biodiversity and Green Infrastructure Planning Advice Note (Appendix 2)

3.5 Since the adoption of the HDPF the Government and Natural England have provided greater clarity over the regard to be given to biodiversity net gain and green infrastructure. The Biodiversity and Green Infrastructure Planning Advice Note (PAN) therefore seeks to provide guidance to cover the interim period before the introduction of the new Environment Act 2021 requirements relating to 10% biodiversity net gain, which are expected to come into force in November 2023 and the adoption of the revised Local Plan. The PAN seeks to provide clear guidance to applicants in respect of the Council's expectations that can be sought in the meantime in accordance with the HDPF and the NPPF.

3.6 The PAN clearly sets out how biodiversity net gain should be calculated. It is important to note that prior to the Environment Act requirements coming into force or the updated Local Plan being adopted, the Council is not able to set a specific percentage of biodiversity net gain to be delivered. Until the Environment Act provisions are in force, or a respective Local Plan policy adopted, the refusal of a

planning application solely on the basis that it fails to deliver 10% biodiversity net gain, could not be justified. The PAN therefore provides guidance to ensure there is no net loss in biodiversity and that some measurable net gain is delivered.

4 Next Steps

- 4.1 Should the recommendation be agreed, the documents will be considered by full Council. If endorsed by full Council, the documents will be published on the Council's website and could be used to inform the consideration of planning applications and provide advice to prospective applicants.

5 Views of the Policy Development Advisory Group and Outcome of Consultations

- 5.1 The Facilitating Appropriate Development (FAD) document was discussed at the Planning & Development Policy Development Advisory Group (PDAG) on 4 July 2022. Members agreed that it would be helpful to publish such a document in order to seek the best possible outcomes on applications being submitted in advance of the new Local Plan being adopted. A draft of the document was made available for consideration by PDAG members in early September and feedback from this review has been incorporated into the FAD.
- 5.2 The Biodiversity and Green Infrastructure Policy Advice Note (PAN) was made available to PDAG members in early September 2022. Due to cancellation of PDAG on 12th September written feedback was requested. Feedback was received and respective amendments have been incorporated into the PAN.
- 5.3 This report has been submitted to the Monitoring Officer and the Interim Director of Resources for input and their comments have been incorporated into this report.

6 Other Courses of Action Considered but Rejected

- 6.1 The Council could decide not to prepare or publish the advice documents. However, not doing so would limit the ability of the Council to work towards its corporate aspirations in so far as they are reflected in planning applications.
- 6.2 A further course of action that was considered was whether it was appropriate to prepare additional Supplementary Planning Documents (SPDs) to cover the issues contained within the advice documents. SPDs are statutory planning documents designed to supplement existing policies contained within a Local Plan. They must be prepared in accordance with regulations. SPDs cannot amend existing policy nor introduce new policy nor can SPDs be easily amended when adopted. Given that the Council is seeking to outline new aspirations and identify emerging policy direction, SPDs cannot be used as they would be regarded as amendments to the existing policy framework. Such an approach could be successfully challenged through a Judicial Review.

7 Resource Consequences

- 7.1 There are no direct financial consequences of the recommendations of this report. The documents have already been produced as part of existing Strategic Planning budgets. The documents will be published on the Council's website only.

8 Legal Considerations and Implications

- 8.1 There are no specific legal implications arising from the recommendations of this report. The advice documents are not statutory planning documents and do not form part of the development plan. There is no statutory duty to prepare planning advice documents. On their own, they are unlikely therefore to be capable of being used to justify a refusal of a planning application.
- 8.2 The advice documents are not intended to introduce legal implications for the council or developers, but instead provide guidance to assist with the determination of planning applications.

9 Risk Assessment

- 9.1 There are no obvious risks to following the recommendation of the report. The documents provide advice and do not change Council policy.

10 Procurement implications

- 10.1 No procurement implications arise from the recommendations of this report. The documents have been produced in-house by the Strategic Planning Team.

11. Equalities and Human Rights implications / Public Sector Equality Duty

- 11.1 There are no Human Rights or Equality & Diversity implications arising from this report.

12 Environmental Implications

- 12.1 The advice documents are likely to have positive impacts as both contain advice to planning applicants as to environmental aspirations of the Council above that contained in existing Local Plan policy

13 Other Considerations

- 13.1 There are no GDPR, data protection or Crime and Disorder implications arising from this report.