

CABINET

4TH OCTOBER 2022

NON-STATUTORY INTERIM PLANNING POLICY STATEMENT: CLIMATE EMERGENCY

Cabinet Member(s): Councillor Richard Chesterton, Cabinet Member for Planning and Economic Regeneration

Responsible Officer: Richard Marsh, Director of Place

Reason for Report: To seek approval for the Non-Statutory Interim Planning Policy Statement to be published for public consultation

RECOMMENDATION:

To Cabinet that:

- 1) **The draft Non-Statutory Interim Planning Policy Statement: Climate Emergency (Appendix 1), including the Net Zero Carbon Toolkit (Appendix 2) and the Net Zero Housing Assessment Tool (Appendix 3) be approved for public consultation.**
- 2) **Delegated authority be given to the Director of Place in consultation with the Cabinet Member for Planning and Economic Regeneration to finalise the material and arrangements for consultation.**

Financial Implications: None identified

Legal Implications: The Non-Statutory Interim Planning Policy Statement will not have a Supplementary Planning Document status. However, it will be guidance and a resource which can be used by applicants to help inform the preparation of planning applications submitted to the Council for determination within the Mid Devon area. The Non-Statutory Interim Planning Policy Statement can help clarify how the requirements of existing development plan policies can be met in relation to climate change, which can assist the assessment of planning applications, and it underlines that tackling climate change is a material consideration.

Risk Assessment: None identified.

Budget and Policy Framework: The Non-Statutory Interim Planning Policy Statement will provide guidance that can assist the understanding and implementation of relevant policies in the statutory development plan for the district.

Equality Impact Assessment: The Non-Statutory Interim Planning Policy Statement will not in itself lead to any impacts on the equality strands protected under the Equality Act 2010 (the “protected characteristics”) over and above those considered and addressed through the Local Plan Equalities Impact Assessment, although it could be used to assist the achievement of climate ‘justice’.

Relationship to Corporate Plan: The Non-Statutory Interim Planning Policy Statement plan will help meet the Corporate Plan priorities: ‘Homes’, ‘Environment’, ‘Community’ and ‘Economy’.

Impact on Climate Change: The Non-Statutory Interim Planning Policy Statement will supplement relevant policies in the adopted Local Plan where these are relevant to adapting to, and mitigating the impacts of, climate change through development in Mid Devon, and it will draw from current good practice and relevant legislation and statutory provisions since the Local Plan was submitted to the Secretary of State in March 2017 and subject to its independent examination.

1.0 INTRODUCTION / BACKGROUND

- 1.1 The decision to prepare a non-statutory interim policy statement on planning for the climate emergency was taken by the Cabinet at its meeting on 4th February 2021, together with the preparation of a new Local Plan for Mid Devon (Minute 304).
- 1.2 The adopted Local Plan has been prepared in the context of the 2012 National Planning Policy Framework and was examined under transitional arrangements. Its content pre-dates more recent national planning policy, the Council’s adoption of the Devon Climate Change Declaration (26th June 2019, Item 18), and also technical evidence and policy formulation intended for the Greater Exeter Strategic Plan but which can be used to help inform the preparation of other development plans, programmes and strategies.
- 1.3 The preparation of a new Local Plan will provide the opportunity to include more up to date policies consistent with the current 2021 National Planning Policy Framework to help mitigate the impacts of climate change and move towards zero carbon, through a spatial strategy for the distribution of growth and managing the development and use of land and buildings. However, the preparation of a new Local Plan through a full plan review can take up to five years to complete.
- 1.4 Following the Cabinet decision (Minute 304) an interim planning policy statement has been prepared for Mid Devon (hereafter abbreviated in this report to ‘Statement’ – see **Appendix 1**). This can help clarify how the requirements of policies in the adopted Mid Devon Local Plan can be met in relation to climate change (e.g. Policy S1 Sustainable Development Priorities, and others where relevant) and it underlines that tackling climate change is a material consideration. The ‘Statement’ can also be used help inform the preparation of a new Local Plan. The ‘Statement’ includes guidance in relation to increasing accessibility, reducing the need to travel, and efficient movement of goods; improving energy efficiency; adapting to higher temperatures; mitigating flood risk; and resilience of natural systems and resources. The scope of content and detail of the ‘Statement’ has been shaped through a review of relevant policy hooks in the adopted Local Plan, and a Climate Emergency – Planning Applications Checklist including a set of principles and objectives developed by planning officers and the Council’s Climate and Sustainability Specialist.

1.5 The recently published 'Plan Mid Devon Issues Paper' (January 2022) includes 6 top priorities for the future planning of the district and its places. Whilst the priorities are interrelated and each one is important in its own right, the first, and overarching, priority addresses 'responding to the climate emergency and moving to a net-zero carbon future'. However, Plan Mid Devon will not be adopted before 2025; therefore, there is a need to enhance existing policy considerations for all new development through the introduction of the 'Statement'.

1.6 The 'Statement' provides the following opportunities:

- It allows the Council to set out its expectations to applicants for planning permission for proposed development in Mid Devon, shape planning proposals that are submitted to the Council for determination, and be used to help inform the decisions made on these
- It can supplement relevant policies in the adopted Mid Devon Local Plan
- It will enable a greater focus on climate change and climate emergency matters in advance of a new Local Plan.
- It can be used to help inform the preparation of policies in the new Local Plan for Mid Devon ('Plan Mid Devon')

The 'Statement' and use of a 'Climate Emergency – Planning Applications Checklist' will help raise the profile and importance, and improve the transparency of climate change and climate emergency considerations in the planning process in Mid Devon.

1.7 However, the 'Statement' can include guidance only, it cannot introduce new planning policy, but it can draw from relevant legislation and statutory provisions.

1.8 The 'Statement' will be applicable to all applications for the development and use of land and buildings in Mid Devon (outside the Dartmoor National Park) that are submitted to the Council for determination. However, not all of its principles / objectives may be relevant in every instance and this will need to be considered on a case by case basis. Exemptions to the use of the 'Statement' will include development that is subject to 'permitted development rights' where there is no need to apply for planning permission.

2.0 RELEVANT POLICY BACKGROUND AND CONTEXT

2.1 Section 19 (1A) of the Planning and Compulsory Purchase Act 2004 (as amended) includes a requirement for development plan documents to include policies designed to ensure that development and land use contribute to the mitigation of, and adaptation to, climate change.

2.2 Section 1 (1) of the Climate Change Act 2008 (as amended) includes a commitment to reduce net emissions of greenhouse gases (GHG) by 100% by 2050 (relative to 1990 levels). However, the Government's adoption of the sixth carbon budget in 2021, mandates a 68% reduction of GHGs by 2030.

2.3 Amongst the revisions to the National Planning Policy Framework (NPPF) 2021, a requirement was introduced for 'mitigating and adapting to climate

change, including moving to a low carbon economy' (paragraph 8(c)). This is supported by Paragraph 15 which 'support[s] the transition to a low carbon future'. While paragraph 153 states that plans should consider 'the long-term implications for flood risk ... water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures' on the future resilience of infrastructure and communities.

- 2.4 The preparation of the 'Statement' has also had regard to other legislation, introduced following the submission of the current Local Plan in March 2017 for its independent examination:
- 2.5 The Environment Act 2021 sets out new requirements for waste reduction, air and water quality, and emphasises the sustainable use of resources. It also introduces a requirement to enhance biodiversity, and places weight on the role of nature based solutions in addressing climate change.
- 2.6 The Building Regulations 2021 amendments introduce Part O 'Overheating in new residential buildings' to reduce overheating through passive measures. Part L 'Conservation of fuel and power' introduces a requirement for non-residential buildings to reduce baseline emissions by at least 31% (against 2013 Building Regulations), and 30% for new homes. Part S 'Infrastructure for charging electric vehicles' mandates that a minimum of one electric vehicle charging point must be provided for all new dwellings.
- 2.7 Net Zero Strategy: Build Back Greener 2021 contains commitments to increase onshore wind, solar and other renewable energy sources, and to facilitate higher levels of active travel within urban areas.
- 2.8 The Heat and Buildings Strategy 2021 advocates a whole lifecycle system, fabric first approach to decarbonising buildings, outlaws the installation of new and replacement gas boilers by 2035, and supports inclusion of heat pumps and heat networks in new development.
- 2.9 A Written Ministerial Statement (HCWS258) on Improving Water Quality and Tackling Nutrient Pollution July 2022 announced details of a forthcoming nutrient mitigation scheme. This will be aimed at reducing nutrient enrichment from phosphorus causing harm to habitats with subsequent loss of biodiversity. The scheme will affect new residential or commercial development, including student and tourist accommodation, within the Somerset Levels and Moors Ramsar catchment area.
- 2.10 Climate Emergency Declaration 2019. Mid Devon District Council signed the Devon Climate Emergency Pledge on 26th June 2019 and is aiming to become carbon neutral by 2030 (Net Zero greenhouse gas emissions). This is ahead of Devon County Council's commitment to realise this by 2050 and that of the sixth Carbon Budget, which sets a legally binding target for a 78% reduction by 2035 (compared with 1990 levels)¹.

¹ June 2021 <http://www.theccc.org.uk/publication/sixth-carbon-budget/>

- 2.11 The Mid Devon Climate Strategy 2020-2024² clearly identifies the role in that the planning system can lead in mitigating, and adapting to, climate change. To complement this, a variety of planning-related work streams are currently being implemented through the Mid Devon Climate Action Plan.
- 2.12 Due to the urgent need for action and the potential impact on delivery of housing and associated infrastructure, the Council is placing preparation for, and response to climate change at the forefront of its corporate agenda. This will ensure that environmental sustainability is considered alongside social and economic sustainability. This will, of necessity, require changes to existing planning policies, which will be explored during the preparation of Plan Mid Devon. This new Local Plan will cover the period to 2043, set within a vision that looks ahead to 2053. Alongside this is a commitment to update the Council's Air Quality Supplementary Planning Document (SPD). A draft Air Quality Supplementary Planning Document was reported to the Cabinet at its meeting on 6th September and approval sought to consult on this.
- 2.13 In April 2021 the Secretary of State recognised that 'the scale and urgency of the climate change emergency is such that tackling climate change is a material consideration to which significant weight should be attached'.³

3.0 CONTENT

- 3.1 The Non-Statutory Interim Planning Policy Statement: Climate Emergency ('Statement') at **Appendix 1** includes the following content:

- 1.0 Introduction
- 2.0 Purpose, Status and Content
- 3.0 Climate Emergency Context
 - Legislative Context
 - National and Local Policy Context
 - Future National and Local Policy Context
- 4.0 Climate Emergency – Planning Applications Checklist
- 5.0 Net Zero Carbon Toolkit
- 6.0 Net Zero Housing Assessment Tool
- Appendix A Legislative, Regulatory and Policy Context

² <https://sustainablemiddevon.org.uk/Media/sefbojtr/mddc-climate-strategy-2020-2024-v1-dec2020-ac.pdf>

³ APP/V2255/W/19/3233606 Secretary of State decision. Appeal by Quinn Estates Ltd and Mulberry Estates (Sittingbourne) Ltd against Swale Borough Council.

Climate Emergency – Planning Applications Checklist

- 3.2 The 'Climate Emergency – Planning Applications Checklist' provides guidance for applicants that can be used to help inform the preparation of planning applications submitted to the Council for determination, and also the decisions made on these. This can contribute to improving the quality of development and place making.
- 3.3 Policies of the adopted Local Plan have been scoped in terms of climate-related considerations. Policy themes have been derived from these and are included as a set of principles and objectives within the 'Climate Emergency – Planning Applications Checklist'. Relevant measures for consideration are listed alongside the objectives.
- 3.4 It is intended that applicants for planning permission will be expected to have regard to the principles and objectives contained in the Statement's 'Climate Emergency – Planning Applications Checklist' and show how these have been considered and used in preparing planning applications, and these principles and objectives will be used by the Council, alongside relevant development plan policies and policies of the National Planning Policy Framework in the consideration of planning applications that are submitted for determination. It is intended that the completed 'Climate Emergency – Planning Applications Checklist' will be published on the Council's website alongside other documents for each planning application being determined by the Council.

Net Zero Carbon Toolkit

- 3.5 The 'Statement' introduces a 'Net Zero Carbon Toolkit', which has been funded through the Local Government Association Housing Advisers Programme. The Net Zero Carbon Toolkit (**Appendix 2** to this report) explains how net zero carbon developments can be delivered through construction, and takes into account embodied carbon and operational energy requirements. The toolkit includes advice on different methods of design and construction to achieve and maintain a healthy and comfortable indoor climate.
- 3.6 Applicants for the development of new homes are encouraged to make use of the Net Zero Carbon Toolkit in the preparation of planning proposals. In doing so, this can help show how the principles and objectives of the Climate Emergency – Planning Applications Checklist, where relevant to new build homes, can be met.

Net Zero Housing Assessment Tool

- 3.7 The Council has developed a 'Net Zero Housing Assessment Tool' in association with the University of Exeter. This is presented in a .pdf format in **Appendix 3** for the purpose of this report, but will be published in the form of a functional spreadsheet (MS Excel) for the consultation on the 'Statement' and its use. The Net Zero Housing Assessment Tool can be used alongside the Net Zero Carbon Toolkit to evaluate the costs and benefits of a range of low carbon standards for new residential developments.

- 3.8 The Net Zero Housing Assessment Tool calculates the carbon performance of 4 dwelling typologies: 1- and 2-bed apartments, attached and detached houses for a range of fabric and building services specifications. It then sizes the required photovoltaic array to comply with Part L of the Building Regulations, and permits further improvements. This establishes the cost uplift needed to achieve user-selected performance standards, which can be compared with the lowest cost means needed to meet the minimum requirements of the 2021 Building Regulations amendments. The tool has the capacity to be updated should further amendments occur.
- 3.9 Applicants for the development of new homes are also encouraged to make use of the Net Zero Housing Assessment Tool in the preparation of planning proposals. In doing so, this can help show how the principles and objectives of the Climate Emergency – Planning Applications Checklist, where relevant to new build homes, can be met.

4.0 GROUPS CONSULTED

- 4.1 The Planning Policy Advisory Group (PPAG) was consulted on the Non-Statutory Interim Planning Policy Statement at its meeting on 12th September 2022. A number of matters were raised, including how the development sector will be engaged, and whether there will be exemptions to the use of the 'Statement'. This report has been updated following the PPAG meeting.
- 4.2 The Net Zero Action Group (NZAG) was consulted on the Non-Statutory Interim Planning Policy Statement at its meeting on 9th August 2022 and has been supportive of the work in progress. The Group has been advised that the scope of the 'Statement' is related to the policy content of the current adopted Local Plan, with some ability to go beyond in relation to more recent national planning policy and other relevant legislation. The Group has queried the ability to introduce energy efficiency standards which go beyond the current Building Regulations (2021); to do so would require additional technical work and understanding of potential impact on development viability.

5.0 NEXT STEPS

- 5.1 The 'Statement' will be subject to the following engagement:
- It will be published through a press release and be subject to a minimum of 6 weeks public consultation.
 - A meeting of the Mid Devon Agents' Forum will be arranged for the 'Statement' to be discussed and comments invited on it.

All comments received within the consultation period will be carefully considered to help finalise the 'Statement' before it is brought back for consideration and approval at a future meeting of the Cabinet.

- 5.2 The 'Statement' is capable of being updated to reflect any changes in relevant legislation. Officers will keep this under review as necessary and in relation to progress made towards the completion of the new Local Plan (Plan Mid Devon). Officers will also keep the 'Statement' under review in light of how it is

used by the development industry and feedback provided, so it will be an effective tool to shape planning applications submitted to the Council for determination and that the information provided can be used to help inform decisions made on these.

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Circulation of the Report:

Councillor Chesterton - Cabinet Member for Planning and Economic Regeneration

Leadership Team, Finance, Legal Services and Equalities

List of Background Papers and Links:

Appendix 1 - Draft Non-Statutory Interim Planning Policy Statement: Climate Emergency

Appendix 2 - Net Zero Carbon Toolkit

Appendix 3 - Net Zero Housing Assessment Tool