

## CABINET

14 FEBRUARY 2012

<b>Title:</b> Adoption of Supplementary Planning Documents - Biodiversity, Trees and Development and Residential Extensions and Alterations	
<b>Report of the Cabinet Members for Regeneration and Environment</b>	
<b>Open</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
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<b>Accountable Divisional Director:</b> Jeremy Grint, Division Director Regeneration and Economic Development	
<b>Accountable Director:</b> Tracie Evans, Corporate Director of Finance and Resources	
<b>Summary:</b> <p>The draft Biodiversity Supplementary Planning Document (SPD) and the draft Trees and Development SPD were approved for consultation by the Cabinet on 23 November 2010 (Minute 67 refers). The draft Residential Extensions and Alterations SPD was approved for consultation by the Cabinet on 3 November 2009, (Minute 77 refers).</p> <p>The Biodiversity SPD sets out the Council's guidance on protecting and enhancing biodiversity in the borough through the planning process. The Trees and Development SPD provides guidance on how trees are protected in the borough and how this impacts on development proposals. Both SPDs will assist applicants in making sure they comply with policies in the Council's Local Development Framework (LDF) and London Plan and relevant national legislation. The Residential Extensions and Alterations SPD contains design advice which applicants will have to follow when applying for planning permission for residential extensions and alterations.</p> <p>Following public consultation on the draft SPDs undertaken in a six week period from 11 June to 23 July 2011, the SPDs have been finalised and are ready to be adopted by the Council. This report sets out the consultation results and the changes that have been made in response to these. Officers consider the changes made following the consultation have strengthened the SPDs. Copies of the Consultation Reports are available in the Members' Rooms at the Civic Centre and Town Hall.</p> <p>The three SPDs have been circulated to all Members of the Council under separate cover in advance of the Cabinet.</p>	

## **Recommendation(s)**

The Cabinet is asked to recommend to the Assembly the adoption of the Biodiversity Supplementary Planning Document, the Trees and Development Supplementary Planning Document and the Residential Extensions and Alterations Supplementary Planning Document.

## **Reason(s)**

These three Supplementary Planning Documents will help deliver the “Better Together” and “Better Homes” themes of the Council Policy House by assisting in the delivery of the related outcomes “a borough with improved estates and homes that people choose to live in” and “a borough in which people are proud and satisfied to live and work”.

## **1. Introduction and Background**

- 1.1 The draft Biodiversity SPD and the draft Trees and Development SPD were approved for consultation by the Cabinet on 23 November 2010 (Minute 67 refers). The draft Residential Extensions and Alterations SPD was approved for consultation by the Cabinet on 3 November 2009, (Minute 77 refers).
- 1.2 Formal consultation on the three documents was undertaken in a six week period from 11 June 2011 to 23 July 2011. The consultation was in accordance with the Town and Country Planning (Local Development) (England) Regulations 2004 (the regulations) and the Council’s adopted Statement of Community Involvement.
- 1.3 Following the consultation period the three documents were revised in light of the comments made. The majority of the changes to the three documents were minor and serve to improve the clarity of the documents. However, a few more significant changes were required and these are set out below:

## **2. Proposal and Issues**

- 2.1 There are two significant changes being proposed to the draft Biodiversity SPD in response to comments received from the Environment Agency and Greenspace Information for Greater London:
  - Emphasizing more strongly in the document that development should where feasible seek to restore and enhance any watercourses on and adjacent to the development site. The naturalisation of culverted water courses should be investigated and measures to enhance the natural habitats alongside watercourses considered.
  - Clarifying in the document that where a habitat survey is required that publically available data obtained from the National Biodiversity Network (NBN) Gateway does not provide sufficient detail and cannot be considered as a substitute for a data search by Greenspace Information for Greater London.
- 2.2 The first change reflects the value in enhancing watercourses and naturalising culverted water courses in terms of benefiting biodiversity in the borough. This

change will help ensure that opportunities, where appropriate, to improve existing water courses as part of agreements on major planning applications will not be lost.

2.3 No significant changes were made to the draft Trees and Development SPD.

2.4 There is one significant change being proposed to the draft Residential Extensions and Alterations SPD.

- Removing the requirement to leave a gap of 1 metre to the neighbours boundary when undertaking a side extension. Instead the SPD will state that the Council may ask for a gap where the particular character of a street justifies it.

2.5 The reason for this change is to ensure that the SPD does not make an unnecessary blanket requirement and focuses on sustaining and enhancing positive characteristics of existing buildings and surroundings. This change is also supported by a number of planning appeal decisions having been allowed recently. Planning inspectors have taken the view that in some circumstances, the gaps between buildings do not contribute positively to the character of an area and that the loss of these gaps is not always harmful.

### **3. Options Appraisal**

3.1 The Council could choose not to adopt the Biodiversity SPD, the Trees and Development SPD and the Residential Extensions and Alterations SPD. However, the Cabinet previously approved the draft Biodiversity SPD and Trees and the Development SPD on 23 November 2010 and the Cabinet previously approved the draft Residential Extensions and Alterations SPD on 3 November 2009. Officers consider the changes made following the consultation have strengthened the SPDs and that they provide essential guidance to developers and Council staff alike during the development management process

### **4. Consultation**

4.1 Formal consultation on the three documents was undertaken in a six week period from 11 June 2011 to 23 July 2011. The consultation was in accordance with the Town and Country Planning (Local Development) (England) Regulations 2004 (the regulations) and the Council's adopted Statement of Community Involvement.

4.2 As part of this, the documents were placed on the Council's website, a public notice placed in the News, and electronic copies placed in the borough libraries on CD rom. In addition, consultation letters were sent directly to statutory planning consultees (including neighbouring boroughs, utility providers, Natural England, the Environment Agency and English Heritage), a list of general consultees (developers, agents and community groups) who have been actively involved in the LDF process in Barking and Dagenham and a list of 80 agents known to be operating with respect to householder developments in the borough.

## 5. Financial Implications

Implications completed by: David Abbott, Principal Accountant

- 5.1 The SPDs do not contain any new policies, but provide guidance on how to comply with existing legislation and the implementation of LDF policy. No new planning applications would be required specifically as a result of this document, and therefore there will be no incremental increase in overall applications or planning income.

The work associated with consulting on and implementing the three SPDs has been carried out by current staff, and met from within the existing Regeneration & Economic Development budget. The only incremental costs to the Council of consulting on and implementing the SPDs are the minor costs of advertising, postage, and printing.

## 6. Legal Implications

Implications completed by: Paul Field, Senior Lawyer

- 6.1 The Planning and Compulsory Purchase Act 2004 (the "Act") required the Council to replace its Unitary Development Plan (UDP) with a Local Development Framework (LDF). As observed above the Supplementary Planning Documents are key LDF documents.
- 6.2 The Local Authorities (Functions and Responsibilities) (Amendment) (No 2) (England) Regulations 2004 provide that adoption of LDF documents are not an Executive function, so the resolution to adopt LDF documents under section 23 of the Act must be carried out by the Assembly

## 7. Other Implications

### 7.1 Risk Management

Biodiversity and Trees and Development Supplementary Planning Documents

<b>Risk</b>	<b>Probability</b>	<b>Impact</b>	<b>Priority</b>	<b>Action</b>
Failure to meet legal requirements.	Low	High	High	Relevant Act and Regulations will be followed in preparing and adopting the SPDs.
Policy not applied successfully	Low	High	High	Development Management staff will be fully briefed.
Failure to integrate fully with other Council policies and strategies	Low	High	High	The Draft SPDs have been prepared in consultation with Natural England, the GLA, the London Biodiversity Partnership and relevant Council services. The SPDs help deliver the Policy House outcomes.

Guidance is not upheld at appeal	Medium	High	High	These SPDs are in line with Government guidance on protecting and enhancing biodiversity and protecting trees. Their purpose is to provide detailed guidance to developers on the implementation of LDF policy set out in the Borough Wide Development Policies DPD and the Core Strategy which have now been adopted.
Policy is challenged by developers.	Low	High	High	Other local authorities have issued similar guidance. The SPDs do not impose any new requirements but instead provide guidance to developers on how to comply with legislation and LDF policy.

#### Residential Extensions and Alterations Supplementary Planning Document

<b>Risk</b>	<b>Probability</b>	<b>Impact</b>	<b>Priority</b>	<b>Action</b>
Failure to meet legal requirements.	Low	High	High	Relevant Act and Regulations will be followed in preparing and adopting SPD.
Policy not applied successfully	Low	High	High	This SPD has been prepared by Development Management who will also be responsible for using the SPD when determining applications for residential extensions and alterations.
Failure to integrate fully with other Council policies and strategies	Low	High	High	The Draft SPD has been prepared in consultation with relevant consultees and helps deliver the Policy House outcomes.
Guidance is not upheld at appeal	Medium	High	High	This SPD takes account of the latest changes to the General Permitted Development Order. It is also more comprehensive than the Council's current guidance and therefore will enable the Council to take a more consistent approach to householders applications and appeals.

Policy is challenged by developers.	Low	High	High	Other local authorities have issued similar guidance. The SPD does not impose any new requirements but instead provides guidance to developers on how to comply with legislation and LDF policy.
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7.2 **Staffing Issues** - The adoption of the SPDs will incur no additional burden to Council staff. Indeed, the plans are a key tool in assisting Development Management Officers when considering planning applications in the borough and will help bridge the capacity gap due to the reduction in resources in the Planning Policy Team.

7.3 **Customer Impact** - The three SPDs do not contain new policies but they do provide helpful guidance on how to comply with legislation concerning the protection of wildlife as well as implementation of LDF policy.

The consultation process undertaken in 2011 allowed the general public, developers and statutory bodies to comment on these documents. Consultation was undertaken in line with the Council's Statement of Community Involvement.

The potential impacts on customers are identified below:

External Customers:

- **Developers**

The Trees and Development SPD and the Biodiversity SPD explain the requirement to protect biodiversity and trees during the development process and to identify mitigation measures where necessary. This should enable developers to incorporate the protection and enhancement of biodiversity and the protection of trees from the earliest stages of a new project. This will help ensure that the necessary information is provided with the planning application and that delays are avoided later in the planning process.

- **Householders**

The Biodiversity SPD and the Trees and Development SPD both set out the responsibilities of householders with regard to permitted development and the protection of wildlife and to the protection of trees. These responsibilities are defined by legislation and therefore do not represent any additional burden on householders.

The Residential Extensions and Alterations SPD provides clearer and more detailed advice for those submitting planning applications for a proposal which involves the extension or alteration to their home. Applicants should therefore be more certain as to what they need to do to gain planning permission thereby saving time for themselves and planning officers. In addition clearer guidance should save applicants money.

Internal Customers:

- **Development Management.**

The Biodiversity SPD and the Residential Extensions and Alterations SPD should help Development Management identify at an early stage in the planning process if:

1. The necessary information has been provided
2. Measures to protect, enhance and create biodiversity and to protect trees are included in the application.

This will help Development Management staff ensure legal and policy requirements are met during the planning process.

The Residential Extensions and Alterations SPD will help Development Management when dealing with householder pre-application enquiries as well planning applications.

- **Property Services**  
Council proposals for the development of sites will benefit from the additional guidance provided in the three SPDs.

#### **7.4 Health Issues**

Biodiversity SPD and the Trees and Development SPD - The borough has a number of important habitats for sustaining biodiversity including 30 designated Sites of Importance for Nature Conservation, gardens, allotments, rivers and reed beds, and grassland. The borough is also home to a variety of protected species of plants and animals. The borough's biodiversity is enjoyed and accessed by many residents. It underpins our sense of health and wellbeing.

Residential Extensions and Alterations SPD - The SPD provides further guidance with respect to implementing adopted LDF policy. The SPD will help ensure residential extensions and alterations are allowed to take place in the borough to suit changing householder needs whilst also protecting the residential amenity of neighbouring properties (e.g. not lead to significant overlooking, loss of privacy, immediate outlook or overshadowing).

**7.5 Crime and Disorder Issues** – The Biodiversity SPD and the Trees and Development SPD both provide guidance on how to comply with legislation such as the Wildlife and Countryside Act 1981 and will help to address environmental crime in the borough.

**7.6 Property / Asset Issues** - Council proposals for the development of sites will also need to comply with LDF policy and as such will benefit from the guidance provided in all three SPDs.

#### **Background Papers Used in the Preparation of the Report:**

- Cabinet Report, 23 November 2010, Local Development Framework – Draft Biodiversity and Draft Trees and Development Supplementary Planning Document (Minute 67, 23/11/2010)
- Cabinet Report, 3 November 2009, Local Development Framework – Residential Extensions and Alterations Draft Supplementary Planning Document (Minute 77, 3/11/09)