

# Somerset West and Taunton Council

## Executive Committee – 18<sup>th</sup> November 2020

### Interim Policy Statement on planning for the Climate Emergency – Draft for public consultation

This matter is the responsibility of Executive Councillor Mike Rigby (Planning and Transportation)

Report Author: Graeme Thompson, Strategy Specialist

#### 1. Executive Summary / Purpose of the Report

- 1.1 An Interim Policy Statement (the Statement) entitled Climate Positive Planning has been drafted for public consultation. The Statement has been produced in response to the Council's Climate Emergency declaration and identification of an action within the Carbon Neutrality and Climate Resilience (CNCR) Action Plan. It has been produced as an interim measure to ensure that we are applying existing adopted planning policies to the best of their effect in tackling the climate emergency, before a new Local Plan makes sufficient progress to attract significant weight in the decision making process. Importantly, the Statement does not seek to alter existing or bring forward new planning policy. The Statement is not in itself planning policy, and is not part of the statutory Development Plan. Instead it is an explanatory document, underlining that the Climate Emergency is a material consideration, and identifying how the requirements of development plan policy may be viewed in assessing development proposals. The Statement itself will be a useful resource of guidance for planning officers, Members of the Planning Committee, and planning applicants alike. Before the Statement can be adopted by the Council, it is important and reasonable that the Statement is subject to consultation with our local communities and developers alike. This report recommends that the Statement is approved for public consultation, with consultation likely to run through November and December 2020. The final Statement, taking account of comments made during consultation, will be presented to Executive Committee and subsequently Full Council for adoption in early 2021.

#### 2. Recommendations

That Scrutiny Committee recommends:

- 2.1 That Executive Committee approve the Draft Interim Policy Statement on planning for the Climate Emergency for public consultation.
- 2.2 That responsibility for any minor textual and visual changes and enhancements prior to publication for consultation are delegated to the Director for Development and Place in consultation with the Portfolio Holder for Planning and Transportation.

### 3. Risk Assessment

- 3.1 The Corporate Risk Register contains a risk associated with not achieving carbon neutrality by 2030. Development of this Statement is identified as an immediate action within the Carbon Neutrality and CNCR Action Plan and should help the Council to maximise the use of its existing, adopted planning policy towards bringing forward sustainable development, cognisant of and responding to the Climate Emergency. Adoption of the Statement cannot guarantee that all development will come forward in precise alignment with the policies of the adopted development plan or the guidance included in the Statement because planning decisions are made on a case-by-case basis. Planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Existing planning policies were prepared prior to the Council's declaration of a Climate Emergency and prior to development of the Somerset Climate Emergency Strategy and SWT's own Carbon Neutrality and Climate Resilience (CNCR) Action Plan. The CNCR Action Plan identifies a number of potential actions to be taken forward in relation to planning which will be required to meet our target of carbon neutrality. However, in many cases, these will require changes to policy which can only be made through adoption of a Development Plan Document (DPD) – (for instance the action to “*Develop Local Plan policy requiring all new development to be zero carbon and climate resilient as soon as practically possible*”). Such changes will be explored through the new Local Plan to 2040. In the meantime, this Statement is designed to ensure that the Council is applying existing adopted planning policies to the best of their effect in tackling the Climate Emergency.
- 3.2 The Corporate Risk Register also contains a risk associated with failure to have an up to date Local Plan or to demonstrate that the district has a five year land supply or sufficient Housing Delivery Test score. Failure of the above points could lead to housing policies of the district's local plans being considered out of date and application of / fall back on the presumption in favour of sustainable development. This would lead to unplanned development and likely less sustainable patterns of development. It should be recognised that this Statement does not override the general presumption in favour of sustainable development emanating from the National Planning Policy Framework and the subject of local policies. Sustainable development is a multi-dimensional concept, and refers to economic, social and environmental factors. As such, this Statement must be read in conjunction with the development plan as a whole. Due to the multiple pressures on the planning system, which include the delivery of housing to meet the national housing crisis and the provision of infrastructure such as roads, schools and open space to meet the demands of new housing, coupled with the need to ensure that development remains viable, it can be difficult to ensure that issues of greater environmental sustainability receive the same attention as economic and social sustainability arguments. However, mitigation and adaptation to climate change should not be seen as an obstacle to the achievement of these other aims. The declaration of a Climate Emergency addresses this difficulty by pushing the environmental sustainability of development back up the priority list, to be considered alongside issues of economic and social sustainability. The Statement provides additional explanation, context, justification and guidance in relation to existing adopted planning policies. It does not set new policy or new burdens on the viability of development.
- 3.3 The NPPF and PPG explain how viability should be addressed primarily at the plan making stage. Prior to their adoption, all existing policies were viability tested through plan production and Examination including through the Taunton Deane CIL Charging

Schedule Examination for former Taunton Deane policies. By successfully being found sound at Examination, the policies of the plans have been judged to be viable, the plans deliverable, and to avoid risk to the overall development of the area. As such, viability should not be used to justify a reduction in the attention given to environmental considerations. Where the need for a viability assessment at the application stage is appropriately and adequately justified, the Council will need to weigh up and prioritise the various policy requirements of the development plan, taken as a whole, to determine whether and how sustainable development can be brought forward in a viable way. If it considers that such prioritisation calls into question the sustainability of a development, then there is the potential for permission to be refused. Although, as with any planning application, the determination will depend on an evaluation of the proposal in terms of all relevant planning policies and material considerations.

- 3.4 The Council must, therefore be aware of the risk that, in cases where viability is a justified concern, then insistence upon full compliance with policies dealing with responding to the Climate Emergency will necessitate reductions in other policy / infrastructure requirements. However, a nuanced and case-specific consideration will be required to understand what the correct balance of requirements should be to result in sustainable development. Careful consideration of impacts upon five year land supply and Housing Delivery Test compliance will be required as part of this in determining planning applications.
- 3.5 There are costs associated with complying with our own local planning policies that need to be borne by our own developments (as any other development). However, the Statement does not add any new costs, and many of our own developments such as Firepool are already aiming to be exemplars in environmental standards and sustainability.

#### **4. Background and Full details of the Report**

##### Context

- 4.1 The Shadow Council's Climate Emergency declaration in February 2019 committed the Council to "*start working towards making Somerset West and Taunton carbon neutral by 2030*". In October 2020, the Council's Scrutiny Committee recommended and Executive Committee approved a Carbon Neutrality and Climate Resilience (CNCR) Action Plan as well as the Somerset Climate Emergency Strategy. Both documents are due to be considered for approval and adoption at Full Council on 26<sup>th</sup> October.
- 4.2 The Somerset Climate Emergency Strategy and the CNCR Action Plan both clearly identify the roles that planning can play in tackling the Climate Emergency in relation to both mitigation of and adaptation to the climate change that is projected to occur.
- 4.3 The CNCR in particular sets out actions relating to policy development as part of Local Plan review. However, development of a new Local Plan takes a number of years. The timetable for production of the Council's Local Plan to 2040 is currently under review due to ongoing conversations about the future of local government in Somerset as well as uncertainty related to the sweeping planning reforms proposed in the Government's Planning White Paper. As a result it is important that the Council looks to maximise the use of existing planning policies already at its disposal. As such the CNCR Action Plan also identified an immediate action to "*Publish an Interim Policy Statement clarifying relevance and implementation of existing development plan policies on sustainable design and construction and relevance of the Council's Climate Emergency declaration as a material consideration*". This Statement is intended to respond to that action.

- 4.4 Following the recent declaration of an Ecological Emergency, the Statement picks up on a number of ways that existing policy can support action to tackle the Ecological Emergency as well as the Climate Emergency, though this is not its primary focus.
- 4.5 Due to the multiple pressures on the planning system, which include the delivery of housing to meet the national housing crisis and the provision of infrastructure such as roads, schools and open space to meet the demands of new housing, coupled with the need to ensure that development remains viable, it can be difficult to ensure that issues of greater environmental sustainability receive the same attention as economic and social sustainability arguments. However, mitigation and adaptation to climate change should not be seen as an obstacle to the achievement of these other aims. The declaration of a Climate Emergency addresses this difficulty by pushing the environmental sustainability of development back up the priority list, to be considered alongside issues of economic and social sustainability.

#### Purpose and Intentions

- 4.6 The Interim Policy Statement seeks to clarify existing planning policy requirements within the district with regards to planning for the Climate Emergency, and in particular Policy DM5 of the Taunton Deane Core Strategy – “Use of resources and sustainable design”.
- 4.7 Existing, adopted planning policy was clearly drafted with the intention of improving the assessment by the Council of the sustainability credentials of development proposals within the district. However, shifts of emphasis within national policy have led to potential confusion over the applicability and effect of certain policies. The Council’s declaration of a Climate Emergency has led to a renewed aspiration to improve the sustainability of development within the district, and an increased recognition of the importance of this objective. The Council has begun work on a new Local Plan to 2040, however, it will be some time before the emerging new Local Plan attracts significant weight in the decision making process. In the interim, the principal purpose of this Statement is to ensure that we are applying existing adopted planning policies to the best of their effect in tackling the Climate Emergency.
- 4.8 The Statement is not in itself planning policy, and is not part of the statutory Development Plan. Instead it is an explanatory document, underlining that the Climate Emergency is a material consideration, and identifying how the requirements of development plan policy may be viewed in assessing development proposals. The Statement itself will be a useful resource of guidance for planning officers, Members of the Planning Committee, and planning applicants alike.
- 4.9 It should be recognised that this Statement does not override the general presumption in favour of sustainable development emanating from the National Planning Policy Framework and the subject of local policies. Sustainable development is multi-dimensional, and refers to economic, social and environmental factors. As such, this Statement must be read in conjunction with the development plan as a whole.

#### Structure

- 4.10 The Statement provides national and local context in terms of the issues at hand, legislation, policy and guidance. It also discusses viability implications and what the Statement does not do (including for instance why we cannot start requiring zero carbon homes with immediate effect through existing adopted planning policy).

- 4.11 The Statement then has two main parts:
- IPS 1 – General relevance of the Climate Emergency in determining planning applications; and
  - IPS 2 – Relevance and justification of Policy DM5 (Use of resources and sustainable design) of the Taunton Deane Core Strategy.
- 4.12 An appendix accompanies the Statement summarising the issues in relation to specific planning policies across the adopted development plan as well as referencing where relevant guidance or evidence exists or is in development.
- 4.13 IPS 1 is applicable across the Somerset West and Taunton Local Planning Authority area (i.e. excluding Exmoor National Park). IPS 2 is applicable solely within the former Taunton Deane Borough Council area (excluding Exmoor National Park).

Impacts on and role in decision making

- 4.14 Once adopted, alongside changes to the local validation checklist (currently being drafted and also aiming for consultation later this year), the Statement should provide planning officers and the Planning Committee with more confidence to seek (and where applicable insist upon) improved climate mitigation and adaptation measures from new development, in line with local and national legislation and policy.
- 4.15 IPS 1 confirms that the Climate Emergency will be generally material to planning applications, and will have specific relevance to the following types of development:
- New dwelling houses (including replacement dwellings);
  - New non-residential floorspace;
  - New mixed-use developments;
  - New infrastructure developments (including roads, rail, utilities, energy generation/storage installations).
- 4.16 IPS 1 further proposes to require submission of a completed checklist that applicants will need to submit alongside other documents at validation stage. The checklist is a series of questions where the answer should be an elaboration on what is essentially either “yes” or “no”. We won’t be able to require the answer to these questions to be “yes”, but it will become a prompt for the applicant to think about how their development is/could respond to the Climate Emergency. The answers to the questions will also not be scored or given any particular weighting, although they will bear relation to the Council’s evaluation of the proposal under adopted planning policies. The need to answer these questions may also identify opportunities for the applicant to explore and/or the Council to look to instigate negotiation around, which would not have come forward otherwise. It will also aid the planning officer to determine whether or not, on balance, the development in question is sufficiently responding to the Climate Emergency and current requirements of local and national policy. Introduction of this requirement will require amendment to the local validation checklist (which, itself, is intended to be subject to appropriate local consultation later this year).
- 4.17 IPS 2 states that in determining relevant planning applications, the Council will apply Policy DM5 of the Taunton Deane Core Strategy as development plan policy. It confirms that applicants should submit a sustainability checklist and energy statement setting out how they comply with the policy.

- 4.18 The majority of policy DM5 (and importantly, key elements of it) remain valid, sound and as such are a vital tool in ensuring new development and in particular new buildings themselves in the former Taunton Deane area are sustainably designed, energy efficient and respond to the Climate Emergency. The policy position on these issues is less definitive for the former West Somerset area, but the guidance in the appendix suggests that the Council will *encourage* applicants in the West Somerset area to also demonstrate how they comply with policy DM5.
- 4.19 Importantly, this Statement should not be used to justify the ignoring of the wider aspects of sustainable development in determining planning applications. As stated already, sustainable development is comprised of economic, social and environmental factors. It is the responsibility of the planning system to balance these factors appropriately, whilst bearing in mind the legal duties placed on local authorities around mitigation of, and adaptation to, climate change.
- 4.20 The Council will expect areas not yet benefitting from outline or reserved matters approval, to respond to the Climate Emergency and the Taunton Garden Town Design Charter and Checklist.

#### Public consultation

- 4.21 The document is liable to minor textual and visual changes and enhancements between consideration by Scrutiny Committee and publication for consultation. This is likely to include insertion of an executive summary. Any changes will be delegated to the Director for Development and Place in consultation with the Portfolio Holder for Planning and Transportation.
- 4.22 It is proposed to publish the Statement for public consultation with the development industry, local communities and businesses for a six week period, hopefully beginning in late November, though details are still in the process of being finalised.
- 4.23 Due to current restrictions, this is likely to be an online-only consultation, with the document published through the Council's consultation portal. To support this consultation, officers will present the proposals to the local agent's forum, and publish a press release on the issue.
- 4.24 Consultation on a revised local validation checklist will also take place later this year so that adoption of a revised checklist can coincide with adoption of the Statement in the New Year.

#### Next steps

- 4.25 Following consultation, the intention would be to bring the Statement back to Executive Committee and then on to Full Council for adoption. Depending on the exact timings of the consultation, and the numbers and detail of consultation responses, the earliest that the Statement might come back to Executive would be January 2021.

## **5. Links to Corporate Strategy**

- 5.1 Addressing climate change is identified as the Council's primary objective in the Corporate Strategy. The Annual Plan for 2020/21 refers to the approval of a Carbon Neutrality and Climate Resilience (CNCR) Action Plan and progression of actions to reduce the Council's and the District's carbon footprint, support biodiversity and increase resilience to more extreme weather events. The CNCR Action Plan identifies development of this Interim Policy Statement as an "immediate" action. The Annual Plan

also refers to the production of a Draft Local Plan to 2040, consultation and subsequent submission to the Secretary of State. With the timetable for Local Plan production under review, this Statement provides a route to maximising use of existing policy in the meantime. Proposals for public consultation align with the strategic outcome to be “a Council which informs and engages openly with our stakeholders”.

## **6. Finance / Resource Implications**

- 6.1 There are no direct financial implications associated with the Statement or public consultation on it. The future implementation of the Statement in the planning service will need to be accompanied by officer and Member training, which may have financial costs associated with it, should external support be necessary. Though details of this are not yet known and there is no financial request associated with this report.
- 6.2 There are costs associated with complying with our own local planning policies that need to be borne by our own developments (as any other development). However, the Statement does not add any new costs, and many of our own developments such as Firepool are already aiming to be exemplars in environmental standards and sustainability.

## **7. Legal Implications**

- 7.1 The Statement includes a review of the national legislative and policy context, which has been informed by discussion with SHAPE, as the Council’s legal service.
- 7.2 The planning system is set by and subject to a number of pieces of national legislation and regulation. In particular, Section 19 of the Planning and Compulsory Purchase Act 2004 (as amended by the Planning Act 2008) states that “*Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority’s area contribute to the mitigation of, and adaptation to, climate change*”. The Climate Change Act 2008 (as amended) legally binds the UK to a target of 100% carbon reduction by 2050. The National Planning Policy Framework (NPPF) is guidance, as opposed to statute, but at paragraph 149 states that “*Plans should take a proactive approach to mitigating and adapting to climate change... In line with the objectives and provisions of the Climate Change Act 2008*”. Combining the statutory requirement of the PCPA 2004 (above) with this policy requirement from the NPPF places a powerful duty on planning in this regard.
- 7.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 set out that Local Development Documents are the only documents that are able to set “*development management and site allocation policies, which are intended to guide the determination of applications for planning permission*”. This Statement is not a Local Development Document under the meaning of the regulations and as such cannot set such policies, nor does it attempt to. Provided that the Statement is clearly defined as a document which does not contain planning policy or represent a specific material planning consideration, and provided its status in the context of local and national planning policy is clear, then it can provide a useful framework for understanding and interpreting the Council’s broad obligations in addressing climate change issues in relation to proposals for development.

## **8. Climate and Sustainability Implications**

- 8.1 The Statement has been produced with the express purpose of maximising use and impact of existing planning policies with regards to the climate and sustainability implications of new development within the district (with the exception of Exmoor National Park, as a separate Local Planning Authority). What the Local Planning Authority can require of new development in this regard is limited by legislation, regulation, national policy and adopted local planning policy.
- 8.2 As an example of these limitations, the Somerset Climate Emergency Strategy and the CNCR Action Plan identify the need to move towards requiring zero carbon homes as soon as possible. However, this Statement is unable to set such a requirements as set out within the Statement.

## **9. Safeguarding and/or Community Safety Implications**

- 9.1 No safeguarding and/or Community Safety Implications are envisaged.

## **10. Equality and Diversity Implications**

- 10.1 The Statement does not seek to alter existing or bring forward new planning policy. It simply provides additional explanation, context, justification and guidance in relation to existing adopted planning policies. There are therefore, no additional adverse equality impacts anticipated as a result of these clarifications.
- 10.2 The Statement does not override the general presumption in favour of sustainable development emanating from the National Planning Policy Framework and the subject of local policies. Sustainable development is multi-dimensional, and refers to economic, social (including impacts on those with Protected Characteristics) and environmental factors. As such, this Statement must be read in conjunction with the development plan as a whole.
- 10.3 Groups representing those with protected characteristics will be invited to comment on the Statement as part of the consultation process.

## **11. Social Value Implications**

- 11.1 The Statement identifies how new development should respond to existing planning policies in the context of the Climate Emergency. Holistically planned and delivered sustainable development drives social value in and deriving from new development.

## **12. Partnership Implications**

- 12.1 None anticipated.

## **13. Health and Wellbeing Implications**

- 13.1 Delivering on many of the existing planning policy requirements aimed at mitigating and adapting to climate change is also likely to have co-benefits for health and wellbeing (e.g. prioritising active travel, ensuring warm and energy efficient homes, avoiding overheating, access to multifunctional and bio-diverse green infrastructure).

## **14. Asset Management Implications**

14.1 The Statement and existing planning policies apply to all new development within the local planning authority area, including that on land owned by the Council and the Council's own developments.

## 15. Data Protection Implications

15.1 With permission from the consultee in line with the Guide to the General Data Protection Regulation (GDPR), personal data will be collected as part of the consultation on the Draft Statement.

## 16. Consultation Implications

16.1 Consultation on the Draft Statement will be undertaken in line with the Council's Statement of Community Involvement.

### Democratic Path:

- **Scrutiny – Yes**
- **Executive – Yes**
- **Full Council – No**

Reporting Frequency:  **Once only**

### List of Appendices

Appendix A	"Climate Positive Planning" - Draft Interim Policy Statement
------------	--------------------------------------------------------------

### Contact Officers

Name	Graeme Thompson
Direct Dial	07768034787
Email	G.Thompson@somersetwestandtaunton.gov.uk