

## **HIGH PEAK BOROUGH COUNCIL**

**The Executive**

**11 February 2021**

<b>TITLE:</b>	<b>Water in Buxton – Supplementary Planning Document</b>
<b>EXECUTIVE COUNCILLOR:</b>	<b>Councillor Anthony McKeown, Leader of the Council</b>
<b>CONTACT OFFICER:</b>	<b>Mark James, Principal Planning Officer</b>
<b>WARDS INVOLVED:</b>	<b>Corbar, Barms, Stone Bench, Cote Heath, Buxton Central, Burbage</b>

### **Appendices Attached:**

Appendix 1- Draft Water in Buxton Supplementary Planning Document

Appendix 2 - Strategic Environmental Assessment Screening Report

### **1. Reason for the Report**

- 1.1 To notify Councillors of the draft Water in Buxton Supplementary Planning Document (SPD) and plans for public consultation. Feedback on the document and plans for consultation is also sought.

### **2. Recommendation**

- 2.1 That Councillors note the purpose and content of the draft SPD and approve its publication for consultation purposes.
- 2.2 That Councillors note the findings of the Strategic Environmental Assessment (SEA) Screening Report.

### **3. Executive Summary**

- 3.1 A draft SPD has been prepared to provide further guidance for Local Plan Policy S7 (Buxton Sub-Area Strategy) and Policy EQ1 (Climate Change) insofar as they relate to the following water related constraints in the Buxton area:
  - a. Protection of the quality and quantity of mineral water sources in Buxton

b. Minimising phosphate levels in River Wye which forms part of the Peak District Dales Special Area of Conservation (SAC)

3.2 The Council has appointed Wood PLC to assist with the preparation of the SPD and public consultation. The draft document has also been informed to date by input from Natural England, the Environment Agency, Derbyshire County Council, Severn Trent Water and Nestle Waters. A full public consultation is now proposed. Following a review of responses, the Council will then be able to consider the adoption of the SPD. The document will become a material consideration to relevant planning applications in the Buxton area.

#### 4. **How this report links to Corporate Priorities**

4.1 The protection of water quality and supply links to Corporate Plan Aim 4: Protect and improve the environment including responding to the climate emergency.

#### 5. **Alternative Options**

5.1 This report does not seek a decision from the Economy and Growth Select Committee. As such, there are no alternative options to consider.

#### 6. **Implications**

##### 6.1 Community Safety - (Crime and Disorder Act 1998)

None direct

##### 6.2 Workforce

Officer time allocated towards the preparation of the SPD.

##### 6.3 Equality and Diversity/Equality Impact Assessment

None direct

##### 6.4 Financial Considerations

Consultants have been appointed to prepare the document working with the Council. The cost has been met from the Crescent Risk Management budget, assisted by a grant from the Council's Risk Management Group.

##### 6.5 Legal

The Planning and Compulsory Purchase Act 2004 makes provision for the preparation of Supplementary Planning Documents.

Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 set out the procedural requirements for their preparation and adoption. As updated by the Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020.

The Water Framework Directive, the Groundwater Directive, Habitats Directive, Flood and Water Management Act 2010 and the Natural mineral water, spring water and bottled drinking water (England) (Amendment) Regulations 2018 are also of relevance and are considered in the draft Supplementary Planning Document.

#### 6.6 Climate Change

Policy EQ1 (Climate Change) of the High Peak Local Plan provides for increased water efficiency in new housing reflecting the need to support measures that help to reduce phosphate loading in the River Wye and more broadly, support sustainable use of water resources.

This policy is one of two in the Local Plan which underpin the Supplementary Planning Document.

#### 6.7 Consultation

A period of public consultation is proposed in accordance with the Council's Statement of Community Involvement and sections 12 and 13 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 extend the period within which paper copies of consultation documents are not required to be made available at the Councils principal office until 31 December 2021.

#### 6.8 Risk Assessment

The need for guidance to ensure that policies in the Local Plan to protect the quality and quantity of mineral waters in Buxton are effectively applied was identified by the Buxton Water risk group– an officer led risk management group.

The Supplementary Planning Document will provide information and guidance to developers, members of the public and officers that supplement local plan policy and reduces the risk that development in the Buxton area may compromise the quality and quantity of mineral waters in the Buxton area and adversely effect water quality in the River Wye SSSI which is a component of the Peak District Dales Special Area of Conservation (SAC).

Neil W. Rodgers  
**Executive Director (Place)**

## Web Links and Background Papers

High Peak Local Plan -  
[https://www.highpeak.gov.uk/media/160/The-High-Peak-Local-Plan-Adopted-April-2016/pdf/The\\_High\\_Peak\\_Local\\_Plan\\_Adopted\\_April\\_2016.pdf?m=1514473710280](https://www.highpeak.gov.uk/media/160/The-High-Peak-Local-Plan-Adopted-April-2016/pdf/The_High_Peak_Local_Plan_Adopted_April_2016.pdf?m=1514473710280)

High Peak Statement of Community Involvement -  
[https://www.highpeak.gov.uk/media/4047/High-Peak-SCI-adopted-February-2019/pdf/High\\_Peak\\_SCI\\_adopted\\_February\\_2019.pdf?m=1553776998070](https://www.highpeak.gov.uk/media/4047/High-Peak-SCI-adopted-February-2019/pdf/High_Peak_SCI_adopted_February_2019.pdf?m=1553776998070)

Local Plan Habitat Regulations Assessment -  
[https://www.highpeak.gov.uk/media/961/Habitats-regulation-assessment-March-2014/pdf/Habitats\\_Regulation\\_Assessment\\_March\\_2014.pdf?m=1480336771423](https://www.highpeak.gov.uk/media/961/Habitats-regulation-assessment-March-2014/pdf/Habitats_Regulation_Assessment_March_2014.pdf?m=1480336771423)

National Planning Policy Framework –  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

The Town and Country Planning (Local Planning) (England) Regulations 2012 -  
<http://www.legislation.gov.uk/uksi/2012/767/part/5/made>

The Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 -  
<https://www.legislation.gov.uk/uksi/2020/731/introduction/made>

## Contact details

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## 7. Detail

### Background

- 7.1 Supplementary Planning Documents (SPD) can be prepared by local planning authorities to provide guidance to developers, land owners, planning agents and the Council on specific planning policies. SPDs are capable of being material considerations in the determination of planning applications but they do not form part of the statutory development plan. As such, they cannot be used to introduce new policies. Outside of the Peak District National Park, the statutory development plan in High Peak consists of the adopted High Peak Local Plan (2016), the Chapel-en-le-Frith Neighbourhood Plan and the minerals and waste plans prepared by Derbyshire County Council.
- 7.2 The Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for the preparation of SPDs. The National Planning Policy Framework and associated guidance acknowledge the role of SPDs in providing further guidance for local policies. Regulation 8 (3) states that; “*Any policies contained in a supplementary planning document must not conflict*”

*with the adopted development plan*". It is also made clear in the national planning practice guidance that SPDs should not add unnecessarily to the financial burdens on development.

### Purpose and scope of the Supplementary Planning Document

- 7.3 The SPD will provide further guidance on two water related constraints identified in the Local Plan which are specific to the Buxton area:
- a. The protection of the quality and quantity of mineral water sources in Buxton
  - b. The need to minimise phosphate levels in River Wye which forms part of the Peak District Dales Special Area of Conservation (SAC)
- 7.4 Local Plan Policy S7 (Buxton Sub-Area Strategy) and Policy EQ1 (Climate Change) establish the broad policy requirements for these two constraints that SPD is seeking to elaborate on. Relevant extracts from these two policies are provided below. If a Neighbourhood Plan for Buxton is taken forward, it must be in general conformity with the strategic policies of the Local Plan, including the following which underpin the proposed SPD.

#### **Policy S7 (Buxton Sub-Area Strategy)**

Policy S7 seeks to "establish Buxton as England's leading spa town and consolidate its role as the principal service centre for the Peak District by" (amongst other proposals):

*"Protecting the quality and supply of natural mineral water. Development, including proposals for Sustainable Drainage Systems (SuDS) should have regard to the Buxton Mineral Water Catchment Area, and Nitrate Vulnerable and Groundwater Source Protection Zones in terms of their impact on water quality and quantity;*

*Requiring new development to demonstrate compliance with Policy EQ1 in relation to the adoption of high water efficiency standards and measures to recycle and minimise water consumption;*

*Working with partner organisations through the River Wye Water Pollution Plan to protect water quality on the River Wye SSSI which is a component of the Peak District Dales Special Area of Conservation (SAC)."*

#### **Policy EQ1 (Climate Change)**

Policy EQ 1 sets out the Council's overarching approach for mitigating and adapting to climate change. This includes the following requirement:

*"Applications for new build residential development in the Buxton Sub-Area should meet the optional national technical requirement for water efficiency of 110 litres per person per day to minimise the phosphate load to the River Wye via discharges from the Buxton Sewage Treatment Works, unless it can be*

*demonstrated that doing so would adversely impact on a scheme's viability; and*

*“Supporting high water efficiency standards and measures to recycle and minimise water consumption.”*

- 7.5 Policy EQ1 also seeks the achievement of good BREEAM standards in non-residential development over 1,000m<sup>2</sup> unless it can be demonstrated that it is not technical feasibility or financially viable. BREEAM incorporates measures of water efficiency in non-residential development.
- 7.6 In relation to the requirement to protect the quality and quantity of mineral water sources in Buxton, this policy is longstanding and also featured in the previous Local Plans given the importance of the waters to the identity of Buxton, the new spa hotel and the local economy. However, the Local Plan does not provide any detail on what measures should be taken to protect the water quality and supply through the development and planning process.
- 7.7 Furthermore, recent work related to the Crescent has increased our understanding of the physical location of areas in Buxton at greater risk of potential mechanical disruption or contamination of source waters. In 2017 the Council undertook a water risk management review to look at ways to improve the risk management of the thermal waters. Part of that project looked at planning policy and implementation in High Peak. It was determined that further guidance by way of an SPD should be provided to planners and to developers to assist them to comply with policy and ultimately to protect all mineral water sources in Buxton.
- 7.8 The draft SPD (Appendix 1) includes the following to inform the consideration of potential impacts on water sources and minimise associated risks:
- Identification of relevant legislation and policies, including, the Water Framework Directive, the Habitats Directive, water and Flood management Act 2010, Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018, local and national planning policy
  - Highlighting the Environment Agency's Source Protection Zones (SPZs) which are used to identify and protection sources of drinking water and the Buxton Mineral Water Catchment Zone (as identified on the Local Plan Policies Map)
  - Identification of a Core Protection Area and an Extended Protection Area to help determine whether the application needs greater consideration<sup>1</sup>
  - Requiring risk assessments and method statements for bore holes, shallow excavations, excavation of basement extensions or developments including subterranean basements by way of conditions on planning consents where necessary
  - Requirements for Sustainable Urban Drainage Systems and septic tanks
  - Encouragement for developers to engage at the pre-application stage. In particular, within the Core and Extended Protection Areas advice from a hydrogeologist may be helpful as a preliminary step. For significant proposals,

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<sup>1</sup> These protection areas, when considered in combination with the SPZs, are considered to form a more accurate and current understanding of the geological position than the Buxton Mineral Water Catchment Zone which is based on historical data

consultation with Natural England and the Environment Agency (EA) prior to the submission of a planning application is also advised

- Highlighting instances where planning consent may not be required but where works could still pose a risk to water quality and supply. This includes ground source heating and cooling systems for which developers are advised to refer to relevant guidance issued by the Environment Agency.

7.9 The issue of phosphate levels in the River Wye is a more recent consideration which was identified during the preparation of the 2016 High Peak Local Plan in consultation with Natural England, the Environment Agency and Severn Trent Water. The Habitats Regulations Assessment report which informed the Local Plan identified the potential for adverse effects from development on the Peak District Dales Special Area of Conservation (SAC) as a result of increasing the total phosphate load to the River Wye via discharges from the Buxton Sewage Treatment Works. However further investigation of the issue has enabled Natural England to be confident that the Sewage Treatment facility at Buxton has the ability to deliver the current water quality target for phosphate within the headroom in the existing Severn Trent Water licence.

7.10 Nevertheless, in order to preserve that headroom, the Local Plan seeks to apply the optional national technical requirement for water efficiency of 110 litres per person per day from new residential developments to reduce the load into the River Wye. It is expected that this would achieve around a 20% reduction in the amount of water discharged to wastewater treatment works compared to the average water efficiency of around 143 litres per person per day. This requirement is subject to the viability of development. The draft SPD provides specific guidance on how the standards could be met, including:

- Integration of water efficient appliances in residential developments (e.g. water efficient shower heads, reduced capacity baths, lower flow taps, low flush toilets, water efficiency dishwashers and washing machines)
- Water sensitive gardens which reduce the need for hosepipe use and maximise water retention
- Rainwater harvesting and “greywater” use measures. Rainwater and wastewater from washing machines, baths and sinks can be put to appropriate re-use

7.11 The above measures will be secured through planning conditions, including reference to the need to meet regulation 36(2)(b) of Part G2 of the Building Regulations 2015 (as amended).

### Process

7.12 The Council has appointed Wood PLC to prepare the SPD and to provide planning support with the consultation. Hydrogeological support has also been sought from Wood’s hydrogeologist, who has been involved in the Crescent development work, to assist with the technical guidance given in the Codes of Practice for drilling and excavations, appended to the draft SPD. To inform the SPD to date, a stakeholder meeting has been held between the

Council, Wood PLC, Natural England, the Environment Agency, Severn Trent Water and Nestle Waters UK to discuss the issues and potential measures for inclusion in the document. These stakeholders have been identified as being particularly critical to the SPD given their respective responsibilities for and interest in the protection of water quality in the Buxton area.

- 7.13 The draft SPD that has now been prepared is supported by a Strategic Environmental Assessment (SEA) screening statement (Appendix 2). Unlike Local Plans, SPDs do not require a Sustainability Appraisal. However, in exceptional circumstances they may require an SEA unless it is considered likely that there will be significant environmental effects. The screening determines if such effects are likely and therefore if a SEA is necessary in consultation with the statutory bodies, namely; Natural England, the Environment Agency and Historic England.
- 7.14 The SEA screening report concludes that an SEA will not be necessary to support the SPD *“because no significant environmental, social or economic effects arising from its implementation have been identified, as it seeks only to expand upon and provide guidance for the effective and consistent implementation of Local Plan policies”* The SEA Screening will now be subject to consultation in order to confirm its conclusions.
- 7.15 Regulation 12 (b) (ii) of The Town and Country Planning (Local Planning) (England) Regulations 2012 requires that public consultation is undertaken on SPDs for a period not less than four weeks. Regulation 35 requires that consultation documents are made available at the Council’s principal office and other relevant locations and published on the Council’s website. However, in light of the current Covid-19 related restrictions, the Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 removed the requirement to make hard copies available for a temporary period up until 31 December 2020. This period has now been extended until 31 December 2021.
- 7.16 Proposals for consultation should also be in accordance with the Council’s own policies for consultation on planning. This is set out in the High Peak Statement of Community Involvement (SCI) which was adopted February 2019. In relation to consultation on SPDs, the SCI sets out the following:



Stage	Preparation	Who	How
Preparation	Evidence gathering Preparing Draft SPD	Any of the specific and general consultation bodies that the Council considers may have an interest in the subject of the proposed plan or otherwise considers appropriate.  Residents or other persons carrying on business in the area from which the Council considers it appropriate to invite representations.	The following methods of raising awareness / consultation will be used in so far as they are appropriate:  Web-site, letter, e-mail, social media, on-line portal, meetings as appropriate
Public participation (Regulations 12 and 13)	Consult on Draft SPD	Specific and general consultation bodies  Those who have participated in the earlier stages of plan preparation.  Any other residents or other persons carrying on business in the area from which the Council considers it appropriate to invite representations.	Web-site, letter, e-mail, press release, social media, deposit at Council buildings
Adoption (Regulation 14)	Adoption of the plan by the Borough Council	Any person who has asked to be notified of adoption.	Web-site, letter, e-mail, social media, deposit at Council buildings
Monitoring (Regulation 34)	Following adoption of the Plan	Any interested party.	Web-site, deposit at Council buildings

7.17 Regarding the deposit of paper copies of consultation documents, the SCI states:

*“Paper copies of consultation documents will be available to view at Council Offices and libraries in line with Regulations. The scope of some documents may be restricted to specific parts of the Borough and in these cases only appropriately located venues will be used.”* (Table 3: Methods the Council will use to Engage with the Community)

7.18 As the Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 removes the requirement for the deposit of hard copies of documents up to December 2021, it is considered that public consultation on the SPD can proceed without any revisions to the SCI.

7.19 The SPD is now approaching the “public participation” stage. As stated above, to date there has been stakeholder engagement to inform the preparation of the draft SPD. Due to the technical nature of the document, only targeted engagement was undertaken in the preparation phase.

7.20 Subject to approval by the Executive, public consultation will commence shortly in accordance with the SCI for a period of four weeks. Contacts on the Council’s planning policy consultation database will be notified of the consultation with an emphasis on residents, businesses and stakeholders in the Buxton area plus relevant organisations located further afield. A press

release and social media will also be used to raise awareness of the consultation. Details will be published on the Council's website and at Buxton Library (subject to availability). Hard copies of the document will also be available on request.

- 7.21 The Council and its consultants will then review the consultation responses to determine if any amendments to the SPD are required. A summary of those individuals consulted, issues raised and how they have been addressed will be set out in a "consultation statement". Councillors will then be asked to consider any changes to be made and the adoption of the SPD at a full Council meeting. Following adoption, the SPD and an "adoption statement" will be published. The SPD will become a material consideration in the determination of relevant planning applications in the Buxton area.

#### Summary of key stages

- a. Council considers document for approval for public consultation: February 2021
- b. Public consultation: March – April 2021
- c. Consideration of consultation feedback, preparation of "consultation statement" and revisions made to SPD if necessary: Spring / Summer 2021
- d. Council considers adoption of SPD: Spring / Summer 2021
- e. Publication of SPD and "adoption statement" – SPD becomes a material consideration to relevant planning applications in the Buxton area: Spring / Summer 2021