

## **HIGH PEAK BOROUGH COUNCIL**

### **Economy and Growth Select Committee**

**2 December 2021**

<b>TITLE:</b>	<b>Water in Buxton Supplementary Planning Document</b>
<b>EXECUTIVE COUNCILLOR:</b>	<b>Councillor Anthony McKeown- Council Leader HPBC</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 - Updated Water in Buxton SPD**

**Appendix 2 - Updated Water in Buxton SPD (Appendix A)**

**Appendix 3 - Updated Water in Buxton SPD (Appendix B)**

**Appendix 4 - Updated Water in Buxton SPD (Appendix D)**

**Appendix 5 – Draft Consultation Statement**

**Appendix 6 – Draft schedule of modifications to the Water in Buxton SPD**

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

- 1.1 To notify Councillors of the responses received to the public consultation on the Water in Buxton Supplementary Planning Document (SPD) and related Strategic Environmental Assessment (SEA) Screening Report. The report and appendices also provide details of suggested responses from the Council to consultation feedback as well as suggested modifications to be made to the SPD. Feedback from Councillors is sought ahead of the consideration of the updated SPD for adoption by the Executive.

#### **2. Recommendation**

- 2.1 That Councillors note the feedback to the public consultation, suggested Council responses and modifications to the SPD.
- 2.2 That Councillors provide feedback on the recommended approach as appropriate.
- 2.3 Councillors are requested to recommend that the Executive adopts the Water in Buxton SPD

### **3. Executive Summary**

- 3.1 A draft Water in Buxton Supplementary Planning Document (SPD) was subject to public consultation during the Summer of 2021. A total of thirteen comments were received. Issues raised included suggestions that the SPD should have a broader scope to address wider ecological and climate change related issues and to address other more specific technical matters such as ground source heat pumps, the historic environment and the storage of potentially harmful liquids and fuels. Officers have recommended responses to consultation feedback and modifications to the document where appropriate. Feedback was also sought on a Strategic Environmental Assessment Screening Report (SEA) which concluded that a detailed SEA would not be required. Two comments were received which did not contest this conclusion.
- 3.2 The SPD seeks to provide additional guidance in support of policies in the adopted High Peak Local Plan 2016 which aim to protect the quality and quantity of water sources in the Buxton area and to minimise phosphate levels in the River Wye and the Peak District Dales Special Area of Conservation (SAC) in particular.
- 3.3 The document will be considered by the Executive for adoption on 9<sup>th</sup> December. If adopted, the document will become a material consideration to the determination of 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 Councillors are requested to recommend approval of the Water in Buxton SPD. 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). (Recommended)
- 5.2 Members decide not to recommend approval of the Water in Buxton SPD. The information and guidance within the document will not be available (Not Recommended).

## 6. Implications

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

No direct implications

### 6.2 Workforce

Officer time allocated towards the preparation and publication of the SPD.

### 6.3 Equality and Diversity/Equality Impact Assessment

No direct implications

### 6.4 Financial Considerations

Consultants were 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

The SPD and SEA Screening report have been subject to public consultation. Details are provided in Appendix 5.

## 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)

Consultation website:  
<https://highpeak-consult.objective.co.uk/kse/event/36235>

### **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 provides 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 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 The SPD (Appendix 1-3) 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, 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.
- 7.6 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

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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

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.

- 7.7 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 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
- 7.8 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).

#### Public consultation and updated SPD

- 7.9 Following consideration by the Economy and Growth Select Committee and the Executive in February 2021, A public consultation was held on the draft SPD between 13th May and 18th June 2021. The consultation documents were published on the Council's website for review.
- 7.10 Comments were also sought on a Strategic Environmental Assessment (SEA) screening statement. 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. The SEA screening report concluded 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”*
- 7.11 Notifications of the consultation were sent by email or letter to relevant contacts on the Council's planning policy consultee database. This included all relevant statutory consultees, local stakeholder organisations and residents and businesses in the Buxton area. Further publicity in the form of a press release and news on the Council's website was also published to raise awareness of the consultation.

- 7.12 A total of 13 comments were submitted in relation to the SPD (3 from members of the public, 10 from organisations). The main issues raised included:
- The SPD should have a broader scope to consider water quality more generally as well as measures to support biodiversity and address climate change
  - Additional references need to consider the implications of ground source heat pumps
  - Consideration should be given to minerals operations (current and former) in the vicinity
  - Reference should be made to the historic environment, including waterlogged archaeology
  - There should be greater emphasis on the storage of liquids and fuels that could potentially impact groundwater
  - The phosphate load produced by household activities will not be reduced through water efficiency measures. What water efficiency does do is reduce the volume of water reaching the wastewater treatment works, thus relieving stress on the sewerage system.
  - Several minor miscellaneous amendments requested for clarification purposes
- 7.13 A further 2 comments were submitted regarding to SEA Screening report. Natural England concurred with the conclusion in the Screening Report that a full SEA is not required. Historic England confirm that they had no further comments to make. As such, it is considered that a SEA is not required for the SPD.
- 7.14 A draft Consultation Statement accompanies this report (Appendix 5). It details each consultation comment and provides an officer response. In light of the feedback, a number of modifications to the SPD are recommended. A schedule of the proposed modifications to the consultation version of the SPD is provided at Appendix 6. Appendix 1-3 provides a copy of the SPD as proposed for adoption which incorporates the identified modifications.
- 7.15 In terms of the wider environmental and climate change related responses raised during the consultation responses, members may wish to consider them further as part of the Local Plan review.

#### Adoption

- 7.16 The Executive will consider the adoption of the SPD on 9 December. If adopted, the SPD, the final Consultation Statement and an “adoption statement” will be published. Interested parties will be notified. Any person with sufficient interest in the decision to adopt the SPD may apply to the High Court for permission to apply for judicial review of that decision within 3 months of the date of adoption.
- 7.17 The SPD will become a material consideration in the determination of relevant planning applications in the Buxton area.



