



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Separation Distances and Amenity SPD for Adoption	To be marked with an 'X' by Democratic Services after report has been presented
Meeting of:	Corporate Management Team 14 th August, 2024	X
	Pre Cabinet 22 nd August, 2024	X
	Leader's / Leader of the Opposition's Advisory Group 4 th September, 2024	X
	Cabinet 16 th September, 2024	
	Audit Committee [DATE] / Scrutiny Regeneration, Development and Market Hall Committee [DATE] / Scrutiny Health and Well Being Committee [DATE] / Scrutiny Climate Change and Environment Committee / Scrutiny Value for Money Council Committee [DATE]	



<p>Is this an Executive Decision:</p>	<p>YES</p>	<p>Is this a Key Decision:</p>	<p>NO</p>
<p>Is this in the Forward Plan:</p>	<p>YES</p>	<p>Does this report contain Confidential or Exempt Information:</p> <p>If the report Contains Confidential Information, please provide reason.</p> <p>If the report contains Exempt Information, please state relevant paragraph from Schedule 12A LGA 1972:</p>	<p>NO</p> <p>N/A</p> <p>N/A</p>

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE



Monitoring Officer: **John Teasdale**

Date Signature

Chief Finance Officer: **Lloyd Haynes**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Cabinet

Date: 16th September, 2024

REPORT TITLE: Separation Distances and Amenity SPD 2024 for Adoption

PORTFOLIO: Planning

CHIEF OFFICER: Thomas Deery

CONTACT OFFICER: Naomi Perry **Ext. No. x1611**

WARD(S) AFFECTED: All

1. Purpose of the Report

- 1.1. To present new and amended design guidance relating to the Separation Distance and Amenity and to recommend the adoption of the Supplementary Planning Document (SPD) as revised.
- 1.2. To recommend revocation of the existing Separation Distances and Amenity SPD 2019.

2. Executive Summary

- 2.1. East Staffordshire Borough Council adopted the Separation Distances and Amenity SPD on 14th October 2019. The SPD sets out where reduced distances may be acceptable and clearly set out it is for the applicant to demonstrate the impact of such.
- 2.2. The need to review the document arose following a recommendation from the Local Government Ombudsman which asked for a revision to the Guidance for detailed assessment of how to undertake daylighting assessments. The review presented an opportunity to refresh other areas of the guidance to ensure decision making is robust.

- 2.3. Consultation has taken place in accordance with the Regulations and representations have been received, these are summarised at Appendix 1. The document has been reviewed and the representations taken into account in preparing the final version of the document at Appendix 2.
- 2.4. The adoption of the SPD will require the current SPD to be revoked.

3. Background

- 3.1. Residential amenity is at the heart of decision taking when it comes to new residential development. It's about making sure that development considers the privacy and outlook of both existing and new occupiers. Policies SP24 and DP3 of the adopted Local Plan sets out criteria for the assessment of new residential development.
- 3.2. The purpose of the Separation Distances and Amenity SPD is to improve the overall space standards for new residential developments to ensure that existing and future residents have a good level of amenity and privacy to enjoy the place where they live.
- 3.3. The provision of adequate space between dwellings is an important element in achieving a high standard of design and layout and provides:
- adequate daylight and sunlight to rooms and rear gardens;
 - reasonable privacy for dwellings within their proposed layout and to protect the privacy of existing dwellings;
 - a satisfactory level of outlook, within new development and in relation to existing development;
 - a reasonable area of private amenity space to allow such uses as drying washing, gardening and children's play, together with space for garden sheds, greenhouses and future adaptations to the dwelling;
- 3.4. A case was referred to the Local Government Ombudsman who asked for a revision to the Guidance for detailed assessment of how to undertake daylighting assessments. The consultation version of the SPD included revisions to comply with the Ombudsman decision.

4. Contribution to Corporate Priorities

- 4.1. This paper supports PES15, 'Delivering a high quality planning service – improve on the percentage of non-major applications determined with statutory timeframes against a 2023 baseline (42.32%)

5. Main Body of Report

- 5.1. An SPD is a document which adds further detail to the policies in a Local Plan. SPDs can amount to a material consideration in planning decisions. In this case, an SPD can be developed to provide further guidance on particular issues such as separation distances and amenity standards.

- 5.2. This review of the SPD was necessitated following the decision of the Local Government Ombudsman in March 2024. The Ombudsman asked for amendments to the Council's guidance for detailed assessment of daylighting to principal windows where this relates to sky lights and use of the '45 degree and 25 degree rule'. Greater clarity within the SPD will assist in supporting the delivery of a high quality planning service by providing greater certainty to applicants, agents and neighbours.
- 5.3. The opportunity was undertaken to consider other changes which have arisen since its implementation in 2019.
- 5.4. The revisions include:
- Updates to help assess material loss of light to all types of principal windows of adjacent dwellings, including rooflights, directional windows, high level windows
 - The use of the '45 degree code' and the introduction of the '25 degree code'
 - Overshadowing and overlooking and the use of architectural design solutions rather than opaque glazing in certain circumstances
 - Correction to an omission on the size of an open plan combined kitchen/dining/living area for 4 bedroom/ 5 person or more properties
 - Correction of an omission in relation to 1 bedroom houses and a minimum garden space to provide guidance in accordance with DP3 bullet point 4.
- 5.5. Consultation took place in accordance with Regulations and the Council's Statement of Community Involvement. The consultation ran for 6 weeks from 7th June 2024 to 19th July, 2024. During this time we asked all those on the Planning Policy database, statutory consultees, Parish Councils and those who had commented previously on the SPD for comment. The consultation was placed on the Councils website and a copy of the document was available to be viewed by appointment at the Town Hall offices.
- 5.6. Thirteen responses were received and these are summarised in Appendix 1. Responses were received from Parishes, Tamworth Borough Council, Historic England, National Forest, planning agents and an individual. An officer response to each representation and how the SPD has been changed in response to the representation has been included within the Appendix 1. Other changes to reflect the process followed have been included. The changes proposed to the SPD are highlighted within the document at Appendix 2 and the changes proposed following the consultation are shown in red in the document at Appendix 2.
- 5.7. The revised SPD based on these comments can be found in Appendix 2. Minor changes referred to in the representations to the illustrations and to the text are required to reflect the procedures followed, remove highlights, change the colour of the text and add the future adoption date of the SPD following further legal procedures will be required and will form the adopted version of the SPD.

6. **Financial Considerations**

This section has been approved by the following member of the Financial Management Unit: [NL/AB/ Daniel Binks]

6.1. There are no financial issues arising from this Report.

Revenue	2023/24	2024/25	2025/26
N/A			

Capital	2023/24	2024/25	2025/26
N/A			

7. **Risk Assessment and Management**

7.1. The main risks to this Report and the Council achieving its objectives are as follows:

7.2. **Positive** (Opportunities/Benefits):

- Complying with the recommendation of the Ombudsman supports sound decision making and reduces the risk of the Council being found at fault by the Ombudsman.

7.3. **Negative** (Threats):

- Not complying with a recommendation from the Ombudsman would be contrary to the decision already made by the Council to undertake service improvements to account for situations like this arising in the future.
- Not complying with a recommendation from the Ombudsman would not sound decision making and increases the risk of the Council being found at fault by the Ombudsman.

7.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

8. **Legal Considerations**

This section has been approved by the following member of the Legal Team: John Teasdale

8.1. The main legal issues arising from this Report are as follows.

8.2. The preparation and adoption of an SPD is governed primarily by the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (“the 2012 Regulations”).

8.3. The review of the SPD has complied with the 2012 Regulations, as amended, and the Council's Statement of Community Involvement. Further legal processes will need to be undertaken to formally adopt the document and replace the existing SPD.

9. Equalities and Health

9.1. **Equality impacts:** The subject of this Report is revised guidance and it is not considered that an equality and health impact assessment is required / attached.

Is it a Health or Equality action?	Issue/impact identified	Recommendation/Action required	Lead officer and timescale	Resource allocation

10. Data Protection Implications – Data Protection Impact Assessment (DPIA)

10.1. A DPIA must be completed where there are plans to:

- use systematic and extensive profiling with significant effects;
- process special category or criminal offence data on a large scale; or
- systematically monitor publicly accessible places on a large scale
- use new technologies;
- use profiling or special category data to decide on access to services;
- profile individuals on a large scale;
- process biometric data;
- process genetic data;
- match data or combine datasets from different sources;
- collect personal data from a source other than the individual without providing them with a privacy notice ('invisible processing');
- track individuals' location or behaviour;
- profile children or target marketing or online services at them; or
- process data that might endanger the individual's physical health or safety in the event of a security breach

10.2 Following consideration of the above, there are no Data Protection implications arising from this report which would require a DPIA.

11. Human Rights

- 11.1. The main Human Rights issues arising from this Report are as follows.
- 11.2. The right to light is a legal right which one property may acquire over the land of another. If a structure is erected which reduces the light to an unobstructed property to below sufficient levels, this right is infringed and planning permission does not override this.

12. Environmental Impacts

- 12.1. Consider impacts related to the Climate Change & Nature Strategy aims:
 - Reducing greenhouse gas emissions (climate change mitigation)
 - Preparing for future climate change (adaptation)
 - Protecting and enhancing nature
 - Using resources wisely and minimising waste and pollution
- 12.2. Does the proposal have any positive or negative environmental impacts? No
- 12.3. If so, are these impacts **significant**? No

13. Recommendation(s)

- 13.1. The Separation Distances and Amenity SPD post consultation version July 2024 is adopted. (Appendix 2)
- 13.2. Minor revisions including minor reviews of illustrative diagrams and date references to the Separation Distances and Amenity SPD post consultation version July 2024 are delegated to the Portfolioholder.
- 13.3. Any necessary steps to replace the existing adopted Separation Distances and Amenity SPD with the Separation Distances and Amenity SPD in Appendix 2 are undertaken.

14. Background Papers

- 14.1. Separation Distances and Amenity SPD 14.10.2019

15. Appendices

- 15.1. Appendix 1: Summary of Representations and officer response
- 15.2. Appendix 2: Separation Distances and Amenity SPD post consultation 2024