

Decision maker:	Cabinet member infrastructure
Decision date:	Friday 29 June 2018
Title of report:	Polytunnels Planning Advice
Report by:	Senior planning officer

Classification

Open

Decision type

Key

This is a key decision because it is likely to be significant in terms of its effect on communities living or working in an area comprising one or more wards in the county. Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Wards affected

(All Wards);

Purpose and summary

This report seeks to approve the application of the development guidance principles contained in the Polytunnels Planning Guide 2018, which brings up to date the previous Polytunnels Supplementary Planning Document (SPD) 2008. This will provide planning guidance to prospective planning applicants, officers and members of the council and other interested parties on the erection of polytunnel structures.

Recommendation

That:

The Polytunnels Planning Guide 2018 at appendix 1 is approved for development management and public use to supplement national and local planning policies; and will constitute a material consideration in the determination of planning applications.

Alternative options

1. Not to use the Polytunnels Guide for planning advice to supplement non-specific national and Core Strategy policies and any polytunnel related policies of adopted Neighbourhood Plans. Since there is no polytunnel-specific planning policy guidance at national or local level, this document is considered to be important in setting out the key considerations used in determining planning applications for this type of development. Soft fruit production in Herefordshire is significant, therefore additional planning guidance is considered to be useful to both the public and officers of the council alike.
2. To prepare a new supplementary planning document in accordance with the Town and Country Planning (Local Planning) Regulations 2012. The advantage of this would be to ensure that there is a formal SPD carrying significant weight as a material consideration in planning applications. The disadvantage would be the significant resource pressure that producing such a document would incur at a time when the Council's priorities are to produce Development Plan Documents.

Key considerations

3. Ten years ago, the increase in use of polytunnels for agricultural soft fruit production led Herefordshire Council to prepare an SPD. This was brought into effect in December 2008, in line with the then adopted policies of the Herefordshire Unitary Development Plan (UDP). It provided help to potential applicants and agents in the preparation of planning applications and gave useful information to officers, members and other interested parties (such as local residents) on the types of structures which require planning permission and how the council expected planning issues to be addressed satisfactorily when determining such planning applications. The former SPD 2008 can be viewed at https://www.herefordshire.gov.uk/downloads/download/247/polytunnels_spd_-_archived
4. With the adoption of the Core Strategy, the policies in the UDP are no longer material considerations in the planning decision making process (bar those specifically saved) however, the Polytunnels SPD still provides the most relevant detailed guidance on their development. There are no Core Strategy policies pertaining specifically to polytunnels. However, a small number of rural communities have included such guidance in their neighbourhood development plan documents. These have been written in accordance with Core Strategy policies and form part of the formal planning framework for those areas. However, for those parts of the county where there are no neighbourhood plans (NPs) in place (or where the NP contains no specifically related policies), there is no local planning guidance related solely to this type of development. For these areas, the more general Core Strategy policy RA6 – *Rural economy* sets out a range of criteria that will need to be met to ensure that resulting developments are of an appropriate scale and location and do not significantly impact upon the environmental quality of the area
5. A council motion in September 2016 resolved that consideration was to be given to re-instating the former SPD on polytunnels working with officers to ensure that the policy is still fit for purpose, up to date and policy compliant. Subsequent briefing and discussion with the cabinet member for infrastructure informed the development of the response to the council motion.
6. The 2008 Poly tunnels SPD has been updated in line with relevant national and local planning policies. During this process, internal and external consultees have commented on its content and amendments made. However, the revised document has not been through the regulatory process for producing formal supplementary planning guidance. It

is therefore produced as a planning guidance document for use by both officers of the council and the public. It remains a material consideration, but with more limited weight than an SPD, during the determination of planning applications.

7. The Polytunnels Planning Guide 2018 provides a wealth of information and guidance on the types of structures which require planning permission, the common planning issues arising from such development, the requirements for planning applications (e.g. design and access statements, landscape impact, economic, flood risk, ecological and nature conservation assessments and water resources studies and whole farm plans). The planning issues addressed include:
 - economic need and impact;
 - landscape and visual impacts;
 - residential amenity;
 - highway matters;
 - water;
 - archaeology; and
 - biodiversity
8. The Polytunnels Planning Guide will be published on the council's website and emailed to appropriate internal officers. To ensure that it is proving to be an effective planning tool for development management purposes, internal discussions will be held between officers and, as elements of the Local Plan are reviewed, this will indicate whether there is a necessity to revise the guide.

Community impact

9. The principal aim of the Polytunnels Planning Guide 2018 is to ensure that a sustainable balance can be struck between the need to support the growth of the rural economy and to ensure that the scale and location of the development proposed does not significantly impact upon the environmental quality of the area.
10. Continuing to provide a polytunnels advice document for development management purposes will ensure that advice is comprehensive and allows for a consistent approach across the county and will help secure the delivery of the sustainable economic growth and diversification of rural businesses, in accordance with the Corporate Plan priority of supporting the growth of the rural economy.

Equality duty

11. There are no implications in the report.

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
12. The Public Sector Equality Duty (Specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision about advice and guidance, we do not believe that it will have an impact on our Equality duty.

Resource implications

13. The process of undertaking the production of a Supplementary Planning Document would require the setting up of a robust consultation methodology, significant staff time to carry this out, deal with representations, amend the document and potentially a re-run the consultation. In addition this would necessitate a comprehensive sustainability appraisal and Habitats Regulations Assessment process being carried out. Such a process would take significant staff time and potentially financial resources, as it could take over two years to produce such an SPD in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. The priorities of the council are to get the remaining elements of the Herefordshire Local Plan in place, therefore the focus has been on producing development plan documents.

Legal implications

14. The Polytunnels Planning Guide 2018 has not been prepared as a supplementary planning document in accordance with the Town and Country Planning (Local Planning) Regulations 2012. Therefore, it does not have the same weight as an SPD, but can be considered as a material consideration, under section 38 of the Compulsory Purchase Act 2004 (as amended).
15. Decisions on planning applications will be made against the NPPF and the policies of the adopted Core Strategy, with the Polytunnels Guide used to inform them. The risk of the lack of formal SPD status being a problematic issue is therefore mitigated.

Risk management

16. By producing an up to date planning advice document on polytunnels for development management purposes, the Council will enable officers to apply a consistent planning approach which is well understood by applicants and interested parties alike. This may help to avoid planning appeals on such decisions.
17. There is a risk that the use of this document in making planning decisions could be legally challenged, since it is not a formal SPD and has not been through the statutory process. However, since planning applications are determined against adopted national and local policies, decisions which are solely informed by the polytunnels guide should not be open to legal challenge.

Consultees

18. During the process of producing the Polytunnels Planning Guide, consultation took place with internal consultees from: development management, neighbourhood planning, conservation, planning enforcement and land drainage (BBLP). In addition, external

organisations with an interest in this topic were also consulted: National Farmers' Union, Country Landowners Association and British Summer Fruits.

19. The responses received were considered and, where appropriate, their comments were incorporated into the planning guide.

Appendices

Appendix 1: Polytunnels Guide 2018.

Appendix 2: Consultation Responses Summary

Appendix 3: Political group representation and officer response

Background papers

None.