

Infrastructure and Developer Contributions Supplementary Planning Document

Report of the Planning Portfolio Holder

Recommended:

- 1. That the Infrastructure and Developer Contributions Supplementary Planning Document, attached as at Annex 1 to the report, be adopted and replace the Infrastructure and Developer Contributions Supplementary Planning Document 2009.**
- 2. That the Head of Planning Policy and Economic Development be given delegated authority in consultation with the Planning Portfolio Holder, to make changes of a minor nature prior to publication.**

SUMMARY:

- The Infrastructure and Developer Contributions document is recommended for adoption as a Supplementary Planning Document (SPD). The SPD provides a basis for securing infrastructure and financial contributions through developer obligations. It will primarily be used as a tool by developers and the Development Management Service to secure planning obligations to mitigate the impact of development.
- The SPD has been prepared to replace the existing SPD (adopted in 2009) taking account of relevant legislation and evidence on securing infrastructure and developer contributions.
- The options under consideration are whether or not to adopt the recommended SPD.

1 Introduction

- 1.1 This report is proposing that the appended Infrastructure and Developer Contributions Supplementary Planning Document (SPD) is adopted. When adopted, the SPD will provide an updated framework for securing infrastructure and developer contributions to mitigate the impact of development. The new SPD will replace the adopted Infrastructure and Developer Contributions SPD (2009).

2 Background

- 2.1 The Infrastructure and Developer Contributions Supplementary Planning Document (SPD) sets out detailed requirements for securing infrastructure and developer contributions based on policies and requirements in the Adopted Local Plan 2016 (RLP 2016) in particular Policy COM15: Infrastructure which requires infrastructure to be secured as part of new developments. Other RLP 2016 policies are also relevant as each topic in the SPD correlates with a policy.

- 2.2 An SPD is defined in the NPPF (2021) as *“Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.”* Therefore Supplementary Planning Documents must be in accordance with the Adopted Local Plan which forms part of the development plan.
- 2.3 The SPD sets out the type of infrastructure and developer contributions which are generally secured through legal agreements as part of the planning process. This includes new residential and commercial development. The SPD is split into the topics covering the various types of infrastructure including public open space, education, healthcare, community facilities, biodiversity enhancements and economic skills plans. The Council’s approach to securing these is set out, along with an explanation for the justification and evidence behind that contribution.
- 2.4 The document will be especially relevant to new developments in the borough which are nil-rated for the Community Infrastructure Levy (CIL). Infrastructure and developer contributions will be secured through legal agreements in these cases (such as the strategic allocation of Whitenap in Romsey). The SPD has been updated to reflect the Council’s current requirements and expectations. It takes into account the relevant evidence base, Council processes and legislation.
- 2.5 The nature of infrastructure delivery has evolved since the adoption of the existing SPD in 2009. The Council adopted a CIL Charging Schedule in 2016 which levies CIL for certain developments and the SPD addresses the addition of CIL along with specific requirements for developer contributions (Regulation 122 of the Community Infrastructure Regulations, 2010 which set out the requirements for securing developer contributions). The Council has also been undertaking a review of the New Neighbourhoods which have been provided in the Borough. The findings from this work have informed the content of the document, for example the inclusion of a section detailing the role of Community Development Workers.
- 2.6 Infrastructure is delivered by a range of providers which the Council works in partnership with. For example Hampshire County Council has a responsibility as the Highways Authority for highway infrastructure and the Hampshire and Isle of Wight Integrated Care Board has a responsibility for healthcare facilities. Engagement with these providers is important in ensuring the delivery of infrastructure which is needed in the Borough. The Council supports these providers in the delivery of necessary infrastructure as much as possible, however is reliant on these providers to deliver the appropriate infrastructure, which can be out of the Council’s control. A collaborative approach has been therefore taken with engagement with other services within the Council and organisations to draft the SPD. This has involved reviewing the adopted SPD’s requirements and our existing processes.

- 2.7 The SPD is different to the existing document as new items of infrastructure have been included to reflect additional evidence of need. This has included a new section on healthcare facilities and reference to national requirements related to the protection of sensitive habitats and species (such as nutrient neutrality). We have streamlined the document and ensured there is a clear link to the relevant Local Plan policy. Changes from the adopted SPD include:
- (a) Removal of Archaeology section
 - (b) Addition of requirements related to the protection of habitats and species (such as nutrient neutrality requirements)
 - (c) Requirements related to Community Development Workers
 - (d) Requirements related to commercial and non-commercial facilities
 - (e) Requirements related to healthcare facilities
 - (f) Requirements related to Employment and Skills Plans
- 2.8 The Council is currently in the process of drafting the Local Plan 2040. The production of the new Local Plan (2040) provides an opportunity to review viability and the range of infrastructure/ mitigation required. There is potential for the draft SPD to be updated following the adoption of the Local Plan 2040, to reflect its policies.
- 2.9 It should be noted that Hampshire County Council (HCC) undertook public consultation in February and March of 2023 on a draft Infrastructure and Planning Obligations guidance document. The document includes topics which aren't covered in the TVBC Infrastructure and Developer Contributions SPD such as libraries and archive provision, adult services & supported/extra care housing, waste management, public health, countryside and public rights of way and flood water management/Sustainable Urban Drainage Systems (SUDs). The topics in the HCC documents are at various stages of the development in their evidence base. Through consultation with HCC, the SPD makes reference to public rights of way and SUDs in relevant sections of the SPD, while liaison continues on the most appropriate way to address the other topics (e.g. through the emerging Local Plan 2040).

3 Corporate Objectives and Priorities

- 3.1 The Council's Corporate Plan 2023 - 2027 sets out five strategic priorities, relating to sustainability, connections, inclusion, environment and prosperity. This matter relates to all five priorities as it provides a mechanism for securing developer contributions and infrastructure on a range of topics including environmental enhancements, community facilities and recreational spaces. The SPD can support the overarching intentions of the Corporate Plan in ensuring the provision of Infrastructure to improve the lives of residents, enhance and protect the environment and support communities by meeting their needs.

4 Consultations

- 4.1 In accordance with (The Town and Country Planning (Local Planning) (England) Regulations 2012, Part 5 Regulation 12(b)) and the Council's Statement of Community Involvement consultation on the draft SPD took place for 6 weeks from Friday 4 November to Friday 16 December 2022. There were a total number of 27 responses to the public consultation. A summary of consultation comments and officer responses is appended to this report in Annex 2.
- 4.2 The consultation demonstrated support for clarification on the approach to securing infrastructure and developer contributions, particularly with regard to how on-site infrastructure will be secured. Support for reference and details of the requirements of other infrastructure providers and statutory organisations such as the Integrated Care Board (ICB) and Hampshire County Council were met with a positive response.
- 4.3 The key issues and concerns raised are summarised as follows:
- Public art - Introduction of a methodology to calculate financial contributions towards public art and the fact that there is no policy in the adopted Local Plan or policy reference to the requirement for public art in the adopted Local Plan 2040
 - Healthcare infrastructure – reference to introduction of a formulaic approach to calculating a financial contribution to mitigate the impact of development on local health infrastructure
 - Skills and training – concern that the introduction of a methodology to calculate financial contributions to mitigate the impact of large-scale employment development on the local labour market.
- 4.4 The NHS Health Building Note 11 -01 referred to in the SPD is part of a series of nationally set NHS guidance notes used by the local health authorities include the Hampshire and Isle of Wight Integrated Care Board (ICB). It sets out how impact on existing services is assessed and additional capacity is identified and calculated to come up with a quantity of space. It doesn't set out a threshold for development which would trigger a financial contribution or even ascribe costs to the calculation of space, as such Health Building Note 11-01 is not considered to constitute a formulaic approach. Given there is absence of any other guidance for developers about health infrastructure, other than what is in site specific allocation policies and infrastructure policy COM15, keeping reference to Health Building Note 11 – 01 is helpful for the development industry to understand the ICBs starting point for deriving a financial contribution, provided any request for a financial contribution can meet the tests set out in CIL Regulation 122.
- 4.5 With regard to employment and skills, the principle for a financial contribution is already set out in adopted Local Plan Policy ST1 (Skills and Training). While the National Planning Practice Guidance sets out that it isn't appropriate for SPDs to set out new formulaic approaches to securing contributions, the SPD is an appropriate mechanism to make the scale of contribution clearer, given

the requirement is identified in the adopted policy of the 2016 Revised Local Plan. Provided a financial contribution for skills and training can meet the requirements of CIL Regulation 122, it is considered appropriate to set out the methodology for calculating financial contributions towards employment and skills training.

- 4.6 The contribution set out in the appended SPD of £200 per job created multiplied by the employment density has been evidenced through previous planning applications for large scale employment development and is derived from the cost of a training intervention applied to the employment potential of sites and will be secured where there is evidence of impact on local labour market.
- 4.7 With regard to public art, the principle for securing a financial contribution is not set out in any policies in the adopted Local Plan (RLP 2016). The consultation draft SPD included a formulaic approach to securing contributions for public art and would only be sought on developments of greater than 300 dwellings or employment floor space of over 1,000 square metres. However, the National Planning Practice Guidance (NPPG) sets out that SPDs shouldn't seek to introduce formulaic methodologies for developer contributions.
- 4.8 It was considered that as TVBC had been successful in delivering public art and community led public art projects through historic S106 agreements, that this should continue and be tested through public consultation on the draft SPD, serving also as a means of highlighting the importance that TVBC places on the role of public art in place-making and community connections and inclusion. It also indicates the direction of travel through the emerging Local Plan 2040 where there is an opportunity for either a distinct policy on public art or for public art to be a principal element of other policies, such as Design, of the emerging Local Plan 2040.
- 4.9 Given that there is no adopted planning policy enabling financial contributions towards public art to be secured, this section has been amended since the draft SPD was publicly consulted on. This section of the document now focusses on encouraging opportunities to secure and deliver public art as part of Policy E1 (High Quality Development in the Borough) to reflect the fact that public art plays an important role in place-making and inclusion of communities in establishing both new residential and commercial developments. Policy E1 requires development to be of high quality in terms of design and local distinctiveness and public art can play a role in providing interest and enhancing design which is referenced in the supporting text (paragraph 7.14) of Policy E1.
- 4.10 A number of changes have been made to the SPD since the document was publicly consulted on in addition to the omission of the public art section. Changes in response to the representations from public consultation are captured in the schedule of comments and officer responses (Annex 1). This also includes additional information about where a change has been considered appropriate to the document and the specific amendment. Most of these changes are not considered substantive but have been made to provide clarification and/or additional information.

- 4.11 Other changes to the document focus on Section 11 (Sports, Recreation and Open Space) where amendments provide additional clarity to take into consideration during the design and delivery of sporting and recreational open spaces, including the guidance or requirements of sporting/recreational national governing bodies. This section also makes linkages with overlapping topic areas such as the role of the Public Rights of Way network and Sustainable Urban Drainage systems in the design and operation of public spaces.
- 4.12 Additional changes have been made throughout the document to reflect correct terminology, typographical errors, grammatical/punctuation corrections, updated footnotes and amendments to references where documents, legislation and guidance have been updated or changed.

5 Options

- 5.1 There are three options for consideration. 1. To adopt the SPD. 2. To not adopt the SPD. 3. Develop and adopt an alternative to the SPD.
- 5.2 Options appraisal:
- 5.3 The first option is to adopt the SPD to enable the Council to secure contributions towards infrastructure. The second option is to not adopt the new SPD and retain the existing SPD at the risk of not being able to secure the appropriate types and amounts of infrastructure to mitigate the impact of development.
- 5.4 If the draft Infrastructure and Developer Contributions Supplementary Planning Document was adopted, the Council would use the document in the negotiation of planning applications to secure the necessary infrastructure and/or financial contributions to mitigate the impact of individual developments on the local and strategic infrastructure. The document will provide guidance to developers and the public on how the Council, alongside relevant statutory organisations such as Hampshire County Council and the Integrated Care Board, will expect developers to secure and deliver on and off-site mitigation. For this reason, this option (option 1) is recommended.
- 5.5 To not adopt the SPD would mean the Council would rely on the adopted SPD from 2009 which is not based on the policies in the adopted local plan or take account of new national policies such as the requirement for measures to mitigate pollution in the Solent water from nitrates. The SPD also articulates in detail how the Council expects infrastructure such as public open space and community centres to be planned for and delivered as part of the process of securing facilities and spaces. To not adopt the new SPD could lead to poor quality development and harmful impacts on the social, economic and natural environment through the Council not being able to secure the appropriate type, scale and phasing of infrastructure to support development coming forward within the Borough. For these reasons, this option (option 2) is not recommended.

- 5.6 The third option is to develop and adopt an alternative to the SPD, such as a guidance document. The SPD as appended has been drafted with the input of professional officer and informed by representations on public consultation to the draft document. It is considered that the appended SPD is a robust and effective mechanism to secure planning obligations for the purposes of mitigating the impact of development in line with the adopted policies in the Local Plan 2016. For these reasons, option 3 is not recommended.

6 Resource Implications

- 6.1 Implementation of the adopted SPD will be incorporated into the Council's business and statutory responsibilities and can be met within existing resources.

7 Legal Implications

- 7.1 Once adopted as an SPD, the document will form part of the Council's suite of planning documents and would be a material consideration in the determination of planning applications. In order to achieve the status the relevant Regulations have to be complied with.

8 Equality Issues

- 8.1 An EQIA screening has not identified any potential for unlawful discrimination or adverse impact.

9 Other Issues

- 9.1 Community Safety - none

- 9.2 Environmental Health Issues - none

- 9.3 Sustainability and Addressing a Changing Climate – none. The SPD would contribute towards the negotiation and securing of infrastructure and developer contributions to mitigate the impact of new development. This will contribute towards the provision of sustainable new development in the Borough as the infrastructure and developer contributions improves the sustainability of new development.

- 9.4 Property Issues - The Council is a significant landowner within the town centre regeneration areas of Andover and Romsey where this document will be used to secure appropriate infrastructure. As landowner, the Council is also highly likely to be the recipient of community facilities and public open space. The SPD sets out in detail how the Council expects such facilities to be planned for, secured and delivered.

- 9.5 Wards/Communities Affected: All wards

10 Conclusion

- 10.1 The SPD will be used in the negotiation of planning applications to secure the necessary infrastructure and/or financial contributions to mitigate the impact of individual developments on the local and strategic infrastructure. The document will provide guidance to developers and the public on how the Council expects developers to secure and deliver on and off-site mitigation. It is considered that the SPD (Annex 1) should be adopted.

<u>Background Papers (Local Government Act 1972 Section 100D)</u> Revised Local Plan (DPD) Test Valley Borough Council Statement of Community Involvement (SCI) Test Valley Borough Council			
<u>Confidentiality</u> It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	2	File Ref:	N/A
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