



***Draft Developer Contributions Supplementary
Planning Document (SPD)***

Statement of Consultation

June 2020

1. Introduction

- 1.1. This consultation statement has been prepared in accordance with Regulation 12 of The Town and Country Planning (Local Planning) (England) Regulations 2012. The statement sets out who was consulted when preparing the Draft Developer Contributions Supplementary Planning Document (SPD), when and how they have been consulted, and summarises the representations received and how they have influenced the SPD.
- 1.2. The document consulted upon is named the Developer Contributions Supplementary Planning Document (SPD).
- 1.3. This SPD sets out detailed guidance on the type and scale of developer contributions that will be sought to support new development in our area.
- 1.4. The aim of the document is to assist Council Officers, applicants, agents and Members through the planning application process in a fair, transparent and consistent way.
- 1.5. A significant number of planning policies within the Proposed Submission Local Plan 2011-2031 are relevant to the infrastructure delivery in the sense that compensation may be required to mitigate impacts relevant to those policies. The main policy “hook” for infrastructure contributions is policy SP7: Infrastructure Requirements and Developer Contributions.

2. Preparation of the Draft Developer Contributions SPD

- 2.1. In preparing the Draft Developer Contributions SPD consultation was targeted towards those organisations with an interest in the delivery of infrastructure. The list below provides an overview of the types of organisation consulted. A collaborative approach has been taken to the preparation of the SPD; relevant internal colleagues have been directly involved in contributing to and reviewing the draft.
- 2.2. A member workshop was held for all locally elected members in February 2019. Feedback was provided on the day, as well as some written feedback from specific members. The issues raised included viability issues, off-site affordable housing, phasing and timing of contributions and whether smaller sites could contribute to infrastructure requirements. These points were largely resolved within the meeting, and some have been integrated into the draft SPD.
- 2.3. The draft SPD has been prepared in consultation internally within NHDC with the Housing Development Team; Planning Policy; Economic Development; Legal Services; Environmental Health; Development Management; Resources; Policy and Community Engagement; Monitoring; Grounds Services; Urban Design Officer; colleagues from Hertfordshire County Council in respect of Growth and Infrastructure; as well as relevant NHS Clinical Commissioning Groups, in order to make it as usable and accurate as possible in draft form. The consultations were sent by email to relevant parties in February 2019.

- 2.4. The 19 responses received were informative, and the draft Developer Contributions SPD now being consulted more widely has evolved as a result of the comments received. The comments received which have informed the resultant draft were both procedural as well as substantive, resulting in improvements to the SPD in regards to clarity and adding information that was otherwise absent. There were some occasions where the comments have not informed the draft SPD. The occasions by which the comments have not informed the draft were by reason of conflict between parties in regards to the same points, or avoiding overly prescriptive or descriptive requirements.
- 2.5. The draft SPD was approved for consultation at Cabinet on 28 January 2020.
- 2.6. The draft SPD has been reviewed against the European Directive relating to Strategic Environmental Assessments 2001/42/EC. This screening exercise has shown that this draft SPD does not require an SEA to be undertaken. This report is to be made available alongside this round of consultation for this draft SPD.

3. Consultation Methodology

- 3.1. A wider public consultation has now taken place on the draft Developer Contributions SPD.
- 3.2. Notifications has been sent to a wide range of statutory and non-statutory consultees, developers, parish and town councils, landowners, and those who have registered interest in relevant policies in the consultation of the Proposed Submission Local Plan 2011-2031 by letter. The consultation has been published on the North Hertfordshire District Council website.
- 3.3. A six-week consultation period of the draft Developer Contributions SPD has taken place between:

09:00 on 12 February 2020 to 17:00 on 24 March 2020

- 3.4. The draft Developer Contributions SPD has been available to view: on our website: <https://www.north-herts.gov.uk/home/planning/planning-applications/planning-obligations/guidance-planning-obligations-supplementary>; and at the Council Offices during normal opening hours.
- 3.5. Sixteen representations have been received in response to the consultation, made through the website, and via email and letter.

4. Issues Raised

- 4.1. Following the close of consultation, the key issues raised by respondents is summarised in this updated document, including details of how the issue was dealt with.

- 4.2. The below table outlines and summarises comments made from respondents, and how issues raised have been dealt with in forming the final draft of the SPD.

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Subsection	Comment ID's	Summary of comments	Actions
Section 1 - Introduction			
Generic	8428; 8437; 8425; 8359	Outside of support and requests for continued updates, requests are made for clarity regarding the nature of development contributions which may be sought and what the term 'correct at the time of writing' means. A further specific request has been made to re-term parts of the flowchart on the final page (from 'completion' to 'agreed form').	References to 'correct at time of writing' deleted and replaced left as 'subject to change'. Wording of flowchart adapted as per suggestion.
1.3	8430; 8428	Request for formulaic approach to contributions. Comment that the document fails to address the relationship between contributions and CIL, and when and whether CIL will be introduced. A further request made to repeat the tests of obligations in paragraph 1.3.5	No action on formulaic contributions. CIL is currently being researched and will be reported on in the future, the SPD cannot predict the outcome of this process. Tests of obligations re-referenced in 1.3.5.
1.5	8438; 8431	SPD should not be adopted until after adoption of ELP. SPD should confirm a case by case basis is adopted to the applicability of the current SPD and any HCC documents as and when they are adopted.	We will review the options for adoption of the SPD based on progress of the ELP. The weight applied to HCC documents will be based on their progress. No action required in SPD document itself.
1.6	8437; 8431	Welcomes CIL. Suggests SPD should emphasise there is no scope for developers with existing S106 to be asked to make CIL payments as well.	The technical application of CIL will be examined as and when it is considered for adoption by the Council following a forthcoming recommendation. No action required in the SPD.
1.9	8430; 8360; 8427; 8429; 8433; 8437; 8438.	£150,000 limit contradicts 7.4.4. Police and Crime Commissioner for Hertfordshire could be added to list of providers. Clarity requested on third party signatories, collection, distribution and return of unspent contributions	Figure corrected to £250,000. Clarity added in section 1.9.1, 1.9.2 and 1.9.3.
1.10	8430	Clarity on when the Infrastructure Development Plan will be updated with a timetable	No action required.
1.11	8430; 8426; 8433; 8438	Re-wording, partial deletion, further explanation requested	Partially actioned to add some clarity to the purpose of the section (1.11.2)
Section 2 – Process, Procedure and Management			
2.1	8444; 8448; 8450; 8463; 8471;	Suggested additional providers, re-wording requested to put responsibility for HoT on the Council, suggesting draft viability appraisal not always possible at pre-app stage and is not a land use issue.	Amendments made to provide clarity and loosen wording where required to resolve issues raised. (2.1.2 & 2.1.3)
2.2	8471; 8470; 8463; 8450; 8448;	Contradiction raised with 2.1.3, requirement for agreeing terms of S106 before committee impractical, formulaic approach re-iterated, obligations must meet tests, amendments requested for clarity, County Councils legal costs should be covered.	Contradiction resolved, section added regarding tests of conditions, amendments for clarity added. County Council costs request added. (2.2.2, 2.2.3 & 2.2.8)
2.3	8457; 8450; 8448	Should viability data be public, comments made on factors of viability, circumstances are flexible and changeable.	Clarity on why viability public added. (2.3.5). No other action required.

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2.4	8457; 8450	Methodology and triggers should be clear in the SPD, inappropriate to use review mechanism on small and medium sized developments	Addition to state mechanisms by their nature bespoke to the circumstances of the viability issue in each development. (2.4.3) No other action required.
2.5	8457; 8450; 8448	HCC contributions represent priority matters to make development acceptable, policies are the basis of contributions, contributions need to be fair.	No action required.
2.6	8470	County Council legal fees also payable.	Amended to account for this (2.6.1)
2.7	8450	Monitoring costs should be published at an hourly rate, report to Area Committee should include unspent contributions.	No action required, many different skills and skill levels may be required in monitoring, and report will be based on and include regulatory and legislative requirements in place at the time of the report.
2.8	8471;	Suggested re-wording of 2.8.1.	No action required, re-wording more vague and confusing, no harm resultant from existing wording.
Section 3 – Economy and Town Centres			
3.2	8439; 8458	Clarity on what is larger sites, document should recognise that economic appraisal may be required where development would harm local economy	No action required, definition of larger sites present, harm is a policy issue, not related to contributions.
3.3	8445; 8451; 8464	Criteria for schemes to contribute to public realm, how can the applicant complete works outside of their control, contributions need to meet tests of conditions, town centre developments should have lesser contributions than out-of-centre developments, contributions should be sought for policing works to ensure security.	Minor clarification made to 3.3.4. No other action required.
Section 4 - Transport			
Generic	8424	Please add DFT Circular 02/2013 to the opening table at chapter 4 Transport, under other relevant Strategies & Guidance	Actioned.
4.1	8440; 8466	Herts Highways not consulted on all applications, if sustainable transport contributions render a scheme unviable, such developments should not go ahead	'for which contributions may be required' added for Herts Highways consultation (4.1.3). No other action required.
4.2	8472; 8466; 8459; 8452	Requests made should be reasonable and not impact on delivery, engagement of all parties early on should be reiterated, HCC guide to developer contributions not yet final, transition period suggested, HCC should be identifying schemes, not developers, S278 can be used in combination with grampion condition as well as in conjunction with S106, Roads in Herts suggested to be re-referenced in the SPD, clarification on non-financial contributions, all obligations should meet the tests of obligations	Change in reference to Roads in Hertfordshire actioned (4.2.2). Clarification added on use of S278 with Grampion conditions (4.2.3). Reference to CPZ in non-financial obligations removed as required financial contributions (4.2.6). No other action required.
Section 5 - Housing			
5.2	8460; 8453; 8441	Increased off-site provision could incentivise the Council to agree. Location of donor sites may not be feasible or desirable in rural areas. BPC object to case-by-case approach for affordable	Clarity added on endeavours to spend commuted sums close to sites contributing (5.2.33)

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		housing occupation restrictions. Details of commuted sum calculation required. Why commuted sum based on 2-bedroom houses. Costs related to C2 provision higher and could impact viability. Commuted sums should be spent in area collected. All affordable housing should be social rent. LGC Housing Needs Survey should be included. Reference to existing circumstances could cause later confusion. M4 (2 & 3) accommodation should be provided across tenures. Question validity of 5.2.65. LHF request more stringent prioritising of LGC residents. There is no justification for rounding up to the nearest whole figure. No precise policy justification for higher affordable housing provision required where provided off-site. No reference in Local Plan to it being necessary to introduce rental caps below 80%. 65:35 split for affordable housing is a starting point for negotiation in the policy.	Word requires changed to expects (5.2.42) to reflect main modifications on ELP. Explanatory paragraph added (5.2.55) showing how existing circumstances may change and enforcing the point the SHMA is a starting point, not definitive. M4(2) will be distributed across all tenures. M4(3) should only be housing where DC responsible for nominating tenant for reasons set out in LP. Partial deletion of 5.2.60 for clarity. 5.2.64 – sentence added for clarity of equal distribution of AH along phases. No other changes required.
5.3	8473; 8453	Mechanisms should also be in place to prevent these plots to be sold for speculative development. Further mechanisms should prioritise marketing to local people. Question the need to restrict palette choice as this may restrict innovation. Flexibility in allowing all self build plots to be made available by 50% completion on-site. Protect developers against partially built self-build.	No changes required. Wording already very flexible, no reference to 50% trigger point.
Section 6 - Design			
6.3	8454; 8461	Materials should be sourced from sustainable materials. Conditions and obligations should meet relevant tests.	Added to 6.3.1. No other change as cannot repeat tests ad-infinity
6.6	8468	The last sentence of paragraph 6.6.4 makes reference to Hertfordshire Waste Recycling Centres. These should be called Household Waste Recycling Centres (not Hertfordshire).	6.6.4 changed to reflect.
Section 7 – Healthy Communities			
7.1	8455	Include North Herts College as key stakeholder. no provision to require developers to contribute to training and apprenticeship programmes. The current text places a reliance on Youth Connections, should in the future this no longer exist, an alternative mechanism should be in place.	No changes required. No reference to Youth Connections found. Apprenticeships within the build out referenced earlier in the SPD.
7.2	8447; 8467; 8475	Suggested amendments – the provision and/or contributions towards the serviced land may also be required, to be determined on a case by case basis. “Education and early childcare facilities”. Instead this should read “Education and early childcare years facilities”. “...the demand for school and nursery places...”. This should read “...the demand for school and nursery early years places...”.	7.2.2 partially changed in light of this request. 7.2 title changed to reflect. Amendment made to 7.2.1. Amendment made to 7.2.2. 7.2.3 already covers this point, no amendments required.

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		<p>“...be it expansion to an existing school or a new school, then serviced land will also be required.” This should have the following added and read; “...be it expansion to an existing school or a new school, then serviced land will also be required, which will be expected to adhere to Hertfordshire County Councils land specification.”</p> <p>Developers may be liable to contribute land as well as financial contributions. This approach is unreasonable, and should be reviewed. The developer is entirely within their right to recover relevant land value for alternative purposes associated with infrastructure that is not solely required in respect of their site.</p>	
7.3	8467	<p>The youth section needs a paragraph referring to HCC as has been included within other sections. ‘Discussions should be undertaken at an early stage with Hertfordshire county Council to ensure that there is sufficient capacity of youth facilities to mitigate the implications of the proposed development. This includes having regard to the Hertfordshire County Council Guide to Developer Infrastructure Contributions to determine the level of contributions expected to be provided from the proposed development.’ [footnote reference URL]</p>	Added at 7.3.2
7.4	8475; 8462; 8455	<p>Referring to the current edition will cause confusion at later date. Object to the use of developer contributions to fund record digitisation. Evidence of the expenditure of any health contributions should be provided to an applicant for the purposes of transparency and accountability. What is meant by 'largest developments'? Occupiers may be already be resident within the Health Authority area, so no additional burden. Emphasise the tests of obligations.</p>	<p>Definition of 'larger sites' added (7.4.1)</p> <p>Correct at time of writing changed to details subject to change over time (7.4.2)</p> <p>No other change required</p>
7.5	8361; 8362	<p>Section 7.5 does not provide any detailed guidance to provide clarity and transparency on the Council's approach to securing developer contributions for indoor sports facilities. It is therefore requested that the section is amended to provide more detailed advice covering the matters identified in the comments.</p>	No change implemented.
7.6	8455; 8467	<p>Include a reference to contributions to enhance and expand existing facilities, should this be appropriate. The reason for this is because new finds of significant archaeological material may not be sufficient on their own to warrant a new facility and may put enormous pressure on existing facilities. Request for reasonable to be added to 7.6.4.</p>	<p>To enhance and/or expand existing facilities added (7.6.3)</p> <p>Reasonable added to 7.6.4</p>

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7.8	8455; 8442	the proposals for developer support of ongoing management arrangements, for example for community hubs is far too vague. As with the proposals in 8.2.4 the commitment to ongoing management should be for 10 years, or more. Not support the freehold transfer of community buildings on its development site.	In most instances added to secure that not transfer not a blanket requirement (7.8.4) Section added to 7.8.4 to make it incumbent on the developer to evidence management arrangements are proportionate and sustainable in the long term.
7.9	8455; 8446	It is not the role of the planning system to secure policing numbers. {NEW} Police services are provided through the Office of The Police and Crime Commissioner for Hertfordshire and contribute to the overall well – being of local communities. Police infrastructure comprises fixed property and technology assets; and human resources, which includes Local Community Policing, victim support, and crime reduction initiatives such as use of CCTV. These can arise either locally, or as a result of cross – boundary considerations where scale and efficiency of operation require policing facilities to be located out with the boundaries of the local authority. The Council will therefore require development, where required and appropriate, to contribute towards the delivery of policing infrastructure to serve new developments and mitigate against their impact upon existing police resources. {END} To assist with the proper design of new communities, and in addition to the wider range of policing infrastructure, HC are able to advise on design. This is in line with Local Plan Policy D1 Sustainable Design, and applicants should demonstrate that opportunities for crime and anti-social behaviour have been designed-out. Hertfordshire Constabulary will be consulted on planning applications where it is considered that there may be an impact in terms of community safety.	New paragraph added as provides clarity on reasons for contributions (7.9.7)
7.10	8447; 8455; 8467	This paragraph ought to go further referencing Full Fibre and Gigabit Capable coverage which would be in line with new Government targets. Should be all new major development. Contributions for boosting high-speed communication coverage is not supported by a policy and offers lack of clarity associated with what may be sought or the scale of the contribution.	'All' added instead of 'most large' (7.10.2)
Generic	8467	HFRS should be included in SPD as capacity is affected by additional development demands.	Paragraph 7.9.6 added.
Section 8 – Natural Environment			
8.2	8456; 8447	Clarity should be provided as to which requirements can be dealt with by way of condition and by legal obligation. This should specifically mention the requirement for developments to achieve biodiversity net-gain, with a	Clarification added 8.2.2. Reference to net gain added to 8.2.1.

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		hierarchical approach, with on-site mitigation a priority, and off-site compensation/contribution a last resort.	
8.3	8469	The SPD document should include measures to conserve and enhance the historic as well as the natural environment of this site. Note that Therfield Heath is an archaeological site.	No change required.
8.4	8476; 8465; 8456; 8443; 8366; 8365; 8364; 8447	<p>Paragraphs 8.4.14-8.4.18 only provide limited guidance to provide clarity and transparency on the Council's approach to securing developer contributions for outdoor sports facilities. Objection is made to the proposal in paragraph 8.4.4 to all schemes having regard to a standard of 1.6 hectares per 1000 population for outdoor sport which would be used for quantifying provision in new development. However, the use of this standard is not consistent with the Council's Playing Pitch Strategy which also forms part of the Council's local plan evidence base, and which did not advocate the use of a generic outdoor sports standard for applying to new development. It is therefore requested that the standard is removed from the SPD and replaced with amended guidance.</p> <p>No standards are being set for the protection of green corridors which are to be considered on a case by case basis. A clearer commitment is needed with regards the standards review. The provision of strategic open space should attract contributions from projects across the area as it will be accessible to all. Examples of exemption cases should be provided. Clarification should be provided as to the role Section 106 agreements can play in securing aspirations. Table to be amended to show the units of measurement and annotate or remove the footnote. 'For larger or strategic sites, the ten-year timeframe will also apply', provides certainty by deleting may be extended.</p> <p>Suggest developers use Biodiversity Metric 2.0 to quantify biodiversity net-gain.</p>	<p>Units of measurement added in 8.4.2</p> <p>Clarity added to 8.4.18</p> <p>Clarity on S106 role added to 8.4.21 and 8.4.23</p>
8.6	8447	Would like a policy for large scale re-wilding schemes, chalk stream restoration, and natural flood management.	No change required, SPD not appropriate for specifying projects, case-by-case.
8.8	8423; 8447	<p>It is therefore proposed that para 8.8.4 is amended as follows: '8.8.4 Mechanisms for delivering any necessary new or improved water and/ or wastewater infrastructure, including foul water treatment and drainage disposal, may be required via planning conditions and/or legal agreement in accordance with Local Plan Policy NE10 Water Conservation and wastewater infrastructure.'</p> <p>Contributions could be sought for water companies to undertake habitat restoration and other measures to improve ecology.</p>	<p>8.8.4 altered to align with proposed new wording.</p> <p>Habitat restoration and ecology improvements are covered by earlier sections.</p>

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8.10	8456	Any LPA requirements must reasonably relate to a proposal to secure legal compliance.	No change required, no repetition of Obligation requirements.
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5. Recommendation

- 5.1. Following formal consultation, all recommendations have been fully considered. Some have been actioned to take account of discrepancies within the original document, others to provide clarity on the intention of a particular section. Where not pertinent to the specific aims of the SPD, or where requests for alterations were too specific for the broad nature and remit of the SPD, the proposed modifications have not been actioned.
- 5.2. Following a wide consultation and review of representations, it is recommended that the SPD, as modified under the powers of S23(1) of the Planning and Compulsory Purchase Act 2004 (as amended), is presented to Cabinet with a resolution to adopt upon adoption of the ELP, so long as the ELP is adopted within 12 months of the date of the Cabinet meeting.