

**CABINET**  
**31 January 2023**

**\*PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: DRAFT DEVELOPER CONTRIBUTIONS SPD**

REPORT OF: IAN FULLSTONE, SERVICE DIRECTOR - REGULATORY

EXECUTIVE MEMBER: CLLR. RUTH BROWN, EXECUTIVE MEMBER FOR PLANNING & TRANSPORT

COUNCIL PRIORITY: PEOPLE FIRST / SUSTAINABILITY / A BRIGHTER FUTURE TOGETHER

**1. EXECUTIVE SUMMARY**

- 1.1 The Council has adopted a new Local Plan which shapes development in the District to 2031. To provide additional detail on planning policies and sites, the Council can produce Supplementary Planning Documents (SPD) to provide clarity to applicants and case officers when determining planning applications.
- 1.2 Cabinet has previously made decisions relating to
  - i) the nature of the SPDs that shall be produced to support the new Local Plan; and
  - ii) the future approach to seeking developer contributions from new developments towards affordable housing, infrastructure and other matters.
- 1.3 The Developer Contributions SPD is the first of the proposed SPDs supporting the Local Plan. A consultation draft was approved by Cabinet in September 2022. Cabinet is asked to adopt the final version of the SPD (as updated).

**2. RECOMMENDATIONS**

- 2.1. That the Developer Contributions SPD, attached as Appendix A to this report, be adopted.
- 2.2 That the 2006 Planning Obligations SPD be revoked.
- 2.3 That delegated authority is granted to the Service Director – Regulatory in consultation with the Executive Member for Planning and Transport to make any minor non-material corrections (including but not limited to cosmetic additions or presentational alterations) to the adopted Developer Contributions SPD as considered necessary for publication and publicity in accordance with the relevant regulations.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1. To allow the Developer Contributions SPD to be adopted so that it can support the delivery of the policies in the recently adopted Local Plan and ensure an efficient process to securing developer contributions across the District.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. None. The SPD has been consulted upon following Cabinet's September 2022 resolution, amended where appropriate in response and is ready for adoption in line with the relevant regulations.

#### **5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1. The Executive Member and Deputy for Planning and Transport has been briefed on the matters set out above.
- 5.3. Internal and external consultation with relevant officers across Council departments, Hertfordshire County Council and the NHS have been involved in developing the SPD, including in relation to the most recent updates.
- 5.4. An initial public consultation on the SPD was carried out between February and March 2020, followed by a further consultation between October and November 2022.

#### **6. FORWARD PLAN**

- 6.1. This report relates to a key decision that was first notified to the public in the Forward Plan on 7 October 2022.

#### **7. BACKGROUND**

- 7.1. The background and timeframe for the production of the Developer Contributions SPD was set out in the 13 September 2022 Cabinet report (please see link to this report at Section 18 of this report).
- 7.2. In 2022, the SPD was updated, which involved liaison with internal and external stakeholders and the key changes comprised the following:
- Inclusion of the Council's position on the delivery of First Homes as agreed at Cabinet in March 2022;
  - Reference to the ongoing update to the Strategic Housing Market Assessment Volume II;
  - The use of the Fields in Trust Standards to determine open space requirements;
  - Updates to the approach to the management and maintenance of open space to reflect the most recent Green Spaces Strategy ;
  - Updates to the biodiversity section due to the increased prominence of Biodiversity Net Gain;
  - Updated procedural guidance; and
  - Wider updates to reflect changes in national planning policy and guidance as well as the Levelling-up and Regeneration Bill.
- 7.3. The SPD was consulted upon again between 13 October and 16 November 2022. Any necessary updates to the SPD following this latest consultation have been incorporated. It is proposed that the SPD will now be adopted.

## **8. RELEVANT CONSIDERATIONS**

- 8.1. The Local Plan contains a series of policies with implications for affordable housing and other infrastructure requirements, which will be secured via planning conditions or legal agreements. The main policy 'hook' that links to the ability for the Council to seek developer contributions is in Local Plan Policy SP7: Infrastructure requirements and developer contributions.
- 8.2. The consultation held between 13 October and 16 November 2022 yielded responses from 24 consultees. These responses have been carefully considered and the decision on whether to incorporate changes can be found in the Regulation 12 Consultation Statement, attached as Appendix C. The main issues raised during the consultation were as follows:
- Requests for greater clarification/certainty/transparency over the scale of contributions required and dependent on the type/size of development.
  - Impact of contributions on viability and deliverability.
  - Level of detail on biodiversity net gain with some messages of support, however many suggest that the level of detail at present is too great and should be slimmed down. It was also raised that a balance needs to be struck in filling the policy void until the formal enactment of legislation.
  - Comments relating to the delivery of affordable housing for sites East of Luton
  - Request for further detail on contributions towards heritage assets.
  - Need for updated Town Strategies to be taken forward/ indication of scale of contributions sought for Town Centres would be beneficial.
  - Impact of market downturns should be acknowledged.
  - Signatories to S106 agreements and the potential risk of delays/unnecessary signatories
  - Suggestion for use of a standard toolkit for viability appraisals
  - Minor contextual references, additions for consistency, clarifications and to reflect that the Local Plan has been adopted since the consultation on the SPD was launched
- 8.3. The document has also undergone Strategic Environmental Assessment (SEA) Screening and the relevant statutory consultees (Natural England, Historic England and Environment Agency) have concurred that an SEA is not required.
- 8.4. The SPD is attached at Appendix A and the accompanying SEA Screening Determination at Appendix B.
- 8.5. Subject to approval by Cabinet, the SPD will be adopted, the existing Planning Obligations SPD from 2006 revoked and the Council's webpage updated accordingly.

## **9. LEGAL IMPLICATIONS**

- 9.1. Under the Terms of Reference for Cabinet, Paragraph 5.6.18 of the Constitution states that the Cabinet should exercise the Council's functions as Local Planning Authority except where functions are reserved by law to the responsibility of the Council or delegated to the Service Director: Regulatory. Unlike the Local Plan, SPDs are not part of the Policy Framework which must be adopted by Full Council

- 9.2. The statutory basis for Supplementary Planning Documents and their preparation is set out by a range of acts and associated regulations including the Planning and Compulsory Purchase Act 2004 (as amended) and the Localism Act 2011. Detailed requirements for the preparation of SPDs, including requirements for consultation, are stipulated in the Town and Country Planning (Local Planning) (England) Regulations 2012) (as amended).
- 9.3. The provisions for planning obligations are set out under Section 106 of the Town and Country Planning Act 1990. Detailed requirements are contained in the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).

## **10. FINANCIAL IMPLICATIONS**

- 10.1. The general costs of preparing Supplementary Planning Documents are met through existing revenue budgets.
- 10.2. The SPD will ensure that developers make a fair contribution to infrastructure costs that would otherwise fall wholly on the public sector, including North Hertfordshire Council.

## **11. RISK IMPLICATIONS**

- 11.1. The adoption of the Developer Contributions SPD will manage a number of risks to the Council. These risks include:
- lack of clarity and uncertainty to case officers and applicants when negotiating and determining planning applications;
  - lack of consistency with the Local Plan as well as national planning policy and guidance; and
  - a risk of not securing the maximum range and / or amount of contributions possible within the parameters of the CIL regulations.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. There are not considered to be any direct equality issues arising from this report. Future individual schemes or considerations may well be subject to appropriate review to ensure they comply with latest equality legislative need. Any risks and opportunities identified will also be subject to assessment for impact on those that share a protected characteristic.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1. The Social Value Act and “go local” requirements do not apply to this report.

## **14. ENVIRONMENTAL IMPLICATIONS**

- 14.1. The SPD will have positive environmental implications, securing contributions for a range of measures including, but not limited to:
- biodiversity net gain,
  - sustainable travel,
  - renewable energy and
  - climate change adaptations and mitigations.

## **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1 There are no new human resource implications arising from the contents of this report.

## **16. APPENDICES**

- 16.1 Appendix A – Developer Contributions SPD
- 16.2 Appendix B – SEA Screening Determination
- 16.3 Appendix C – Regulation 12 Consultation Statement

## **17. CONTACT OFFICERS**

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## **18. BACKGROUND PAPERS**

- [18.1 Draft Developer Contributions SPD report to Cabinet, 13 September 2022](#)