

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Cllr Tim Ball, Cabinet Member for Planning and Licensing	
MEETING/ DECISION DATE:	On or after 26th April 2022	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3342
TITLE:	Planning Obligations Supplementary Planning Document (SPD) Review	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix 1 draft Planning Obligations Supplementary Planning Document		

1 THE ISSUE

- 1.1 To update the current Planning Obligations SPD 2015 to include amendments reflecting the Community Infrastructure Levy Regulations (amendments 2019); provision of additional guidance to support policy updates proposed within the Local Plan Partial Update (including Biodiversity Net Gain, Carbon Offsetting and Transport and Development SPD measures); updates to the affordable housing chapter and education facilities chapter to reflect changes in national policy and more up to date information; and other minor update changes.

2 RECOMMENDATION

The Cabinet member is asked to agree that;

- 2.1 The amended draft Planning Obligations Supplementary Planning Document (Appendix 1) for public consultation is issued for statutory consultation under Regulation 12(b) of the Town and Country Planning (Local Planning) (England) Regulations 2012; and
- 2.2 The Head of Planning has delegated authority to make any necessary editorial changes, in consultation with the Cabinet Member for Planning and Licensing, prior to consultation on the draft Planning Obligations SPD.

3 THE REPORT

- 3.1 Supplementary planning documents (SPDs) build upon and provide more detailed advice or guidance on policies in an adopted local plan (Core Strategy and Placemaking Plan).
- 3.2 The current adopted Planning Obligations Supplementary Planning Document (SPD) supplements the Core Strategy policy CP13 “Infrastructure Provision” and the Placemaking Plan, that was adopted in 2015. The SPD sets out the Council’s requirements on developer contributions related to new development and is a material consideration in decision-making. The adopted SPD was prepared and introduced at the same time as the Community Infrastructure Levy (CIL) charging schedule, and took into account the CIL Regulations, which at the time required the scaling back of Section 106 agreements.
- 3.3 S106 agreements are designed to mitigate the specific impacts of that individual development while CIL is a tool to fund the development of infrastructure needed to deliver the Core Strategy objectives. Planning obligations are required to meet legal tests: the planning obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. A planning obligation must meet these legal tests otherwise no weight can be given to that planning obligation in the decision whether or not to grant planning. Strategic CIL can only fund infrastructure and cannot contribute to affordable housing or non-infrastructure items such as targeted recruitment and training contributions.
- 3.4 The SPD is proposed to be amended for a number of reasons and key amendments are:
 - i) The introduction sections have been amended to reflect the updated CIL Regulations. The CIL Regulations 2010 (as amended) were amended in 2019 to remove section 106 pooling restrictions and enable more flexibility in funding infrastructure.
 - ii) The revised SPD reflects the fixed fee for the monitoring of s.106 agreements which was implemented by the council in December 2020.
 - iii) The SPD has been reviewed against and to helps deliver the policies in the draft Local Plan Partial Update (LPPU) which is currently subject to examination. This includes updated and new policies on Biodiversity Net Gain, Carbon Offsetting, and new sustainable transport measures, having regard to the Climate and Ecological Emergency. Further guidance is contained in the draft Transport and Development SPD (to be adopted alongside the LPPU) and an emerging Biodiversity Net Gain guidance note /SPD. The draft Sustainable Construction Checklist SPD sets out key information on energy supply. The updated draft Checklist SPD will be subject to public consultation at the same time as this Planning Obligations SPD following the Single Member Decision process (Ref: E 3341).
 - iv) The SPD amendments reflect policy changes on accessibility standards in affordable housing. In addition, there have been changes nationally to the implementation of affordable housing which require non-material detailed changes to the Affordable Housing chapter. As the SPD does not form part of the development plan, it cannot introduce new planning policies into the

- development plan relating to new types of affordable housing, however it can and does update the mechanism for securing affordable housing.
- v) There are changes required to the education facilities chapter to incorporate up to date costs for new build whole primary schools and extensions. In addition, previously Secondary School places were funded by CIL only. There is a need to incorporate the costs of secondary school places as large developments and may have an impact on secondary schools that needs mitigating via S106 to make development acceptable in planning terms subject to the S106 tests. The contribution sought from developers will be used to mitigate the direct impact of the development and not to address any existing shortfall.
 - vi) There are changes to the Targeted Training and Recruitment section to clarify that these planning obligations will be secured from extra care/care homes (C2 use) and purpose-built student accommodation in addition to general residential development (C3 use).
 - vii) There are various other minor changes to the SPD including to the tree planting section, and incorporating indexed greenspace costs based on the Green Space Strategy
- 3.5 In line with Our Neighbourhood Planning Protocol (the Council's Statement of Community Involvement), we will consult on the Draft Planning Obligations Review SPD for 6 weeks, to take into account feedback in the preparation of the SPD. A consultation report including setting out who was consulted, how they were consulted, and a schedule of comments made during the consultation will be prepared, together with the Council's response to the issues raised.

4 STATUTORY CONSIDERATIONS

- 4.1 The legislative basis for the Planning Obligations SPD and Section 106 planning obligations is contained within the Town and Country Planning Act 1990 (as amended) and the CIL Regulations 2010 (as amended) Regulation 122.
- 4.2 Town and Country Planning (Local Planning) (England) Regulations 2012 Regulations 11 to 16 set out the requirements for preparing Supplementary Planning Documents.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 The preparation of the amendments to the Planning Obligations SPD for consultation and consideration of the issues raised will be undertaken by the Planning Policy Team and the costs covered within the existing salary budget and the Council's LDF budget.
- 5.2 It is anticipated that the level of Section 106 income will increase. We have in place arrangements for the collection, monitoring and spending of contributions arising from Planning Obligations and that these arrangements remain valid for administering the increased level of income.
- 5.3 The scope of the educational facilities planning obligations has been amended to enable contributions to mitigate the impact on secondary schools, and the scope of the targeted recruitment targeted recruitment and training contributions have been expanded to include Purpose Built Student Accommodation and Extra Care/ Care homes C2

facilities. The amendments to the tree replacement costs, and Green Space provision /enhancement costs, as set out in the SPD reflect updated costs. The proposed amendments also formalise the fixed fee for the monitoring of s.106.

6 RISK MANAGEMENT

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

7 EQUALITIES

7.1 Pursuant to the public sector equality duty, an Equality Impact Assessment (EqIA) has been carried out for the Planning Obligations SPD. The key findings are summarised as:

7.2 The intention of the SPD is to encourage and maintain balanced and mixed communities that support the needs of all groups in society. Promoting a more balanced community, and providing community facilities, green space, and improved transport infrastructure (eg pedestrian and walking links) will help to improve people's quality of life.

7.3 The SPD does not directly address equalities groups such as age, race, sex, sexual orientation, gender reassignment, religion / belief, marriage/civil partnership, as the objective of the SPD is to contribute to sustainable communities and have benefits for all groups in society.

7.4 However certain protected groups, such as Socio-economically disadvantaged will benefit from updated affordable housing requirements, and disabled groups will benefit from increased housing accessibility standards.

8 CLIMATE CHANGE

8.1 One of the main reasons for partially updating the Local Plan is to ensure that the Council's planning policies are amended to better contribute towards achieving carbon neutrality by 2030, in response to the declaration of a Climate Emergency and to help address the Ecological Emergency. The SPD provides detail on the implementation of the Sustainable Construction policies, the Biodiversity Net Gain policy, and the Sustainable Transport policies. It also allows for S106 contributions for offsetting funds, if it is not possible to achieve on-site Biodiversity Net Gain of 10% or achieve zero carbon – (where onsite renewable generation does not match energy consumption).

9 OTHER OPTIONS CONSIDERED

9.1 None. The SPD mainly provides guidance on development plan policy requirements and national policy and does not create policy.

10 CONSULTATION

10.1 The preparation of the SPD was undertaken in consultation with Council Services including the Housing, Schools, Economic Development, Environment, Transport, Sustainability and Development Management teams.

10.2 This report recommends approval to undertake Statutory consultation under Regulation 12 (b) of the Town and Country Planning (Local Planning) (England)

Regulations 2012 for 6 weeks between 5th May and 16th June. A consultation statement will then be prepared setting out the details of the consultation, a summary of the responses received, and Council comments on each of the key issues raised.

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Background papers	Equality Impact Assessment Strategic Environmental Assessment Screening Report
Please contact the report author if you need to access this report in an alternative format	