

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Cllr Tim Ball, Cabinet Member for Planning and Licensing	
MEETING/ DECISION DATE:	On or after 5 th January 2023	EXECUTIVE FORWARD PLAN REFERENCE:
		E3399
TITLE:	Adoption of Planning Obligations Supplementary Planning Document (SPD) Review	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1 Planning Obligations Supplementary Planning Document (SPD) (for Adoption)		
Appendix 2 Consultation Statement		

1 THE ISSUE

- 1.1 The Planning Obligations SPD 2015 has been updated to include amendments reflecting the Community Infrastructure Levy Regulations (amendments 2019); provision of additional guidance to support policy updates within the Local Plan Partial Update (including Biodiversity Net Gain, Carbon Offsetting and updated Housing Accessibility Standards, in relation to the Affordable Housing section, 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 relating to the implementation of policies relating to planning obligations.
- 1.2 A Draft Planning Obligations Review SPD was consulted on for 6 weeks (6 May - 17 June 2022) in accordance with Our Neighbourhood Planning Protocol (the Council's Statement of Community Involvement) and the Town and Country Planning (Local Planning) (England) Regulations 2012. Following a review of the Consultation responses to the SPD, a Consultation Statement has been prepared setting out the issues raised and the Council's response including where relevant, changes made (refer to Appendix 2). As a result minor amendments have been made to the Draft Planning Obligations SPD Review, which is now proposed for adoption.
- 1.3 The proposal is to approve the SPD in advance of adoption of the Local Plan Partial Update (LPPU), as many of the changes relate to the implementation of the original Core Strategy policies, in particular the delivery of Affordable

Housing, Green Infrastructure and schools infrastructure where applicable. However, the planning obligations relating to policies which are being introduced or updated in the LPPU will only come into force and apply to applications that are determined following adoption of the LPPU. The LPPU is at an advanced stage as the Council has recently received the Inspector's Final Report for the LPPU and the policies (subject to Main Modifications) have been found sound. Adoption of the LPPU is due to be considered at a meeting of full Council in January 2023.

2 RECOMMENDATION

The Cabinet member is asked to agree that;

- 2.1 The amended draft Planning Obligations Supplementary Planning Document (Appendix 1) is adopted .
- 2.2 The Head of Planning has delegated authority to make any necessary minor editorial changes, in consultation with the Cabinet Member for Planning and Licensing, prior to publication of the adoption of the Planning Obligations SPD.
- 2.3 The Head of Planning has delegated authority to remove text in the SPD which will be superseded on the adoption of the LPPU. The text in question will make clear that the planning obligations which relate to LPPU policies – including policies SCR6, SCR7 relating to carbon offsetting requirements, NE3A Biodiversity Net Gain and updated policy H7 as concerning Housing accessibility standards in Affordable Housing, will only be applied to applications determined on or after the date of the adoption of the LPPU.

3 THE REPORT

- 3.1 This Planning Obligations Supplementary Planning Document (SPD) Review 2022 supplements Core Strategy policy CP13 “Infrastructure Provision”, other Core Strategy policies and various Placemaking Plan policies, together with the LPPU to be adopted. The SPD sets out the Council's requirements on developer contributions related to new development and is a material consideration in decision-making.
- 3.2 A Draft Planning Obligations SPD Review was consulted on for 6 weeks from 6 May to 17 June 2022.
- 3.3 In line with Our Neighbourhood Planning Protocol, and the Town and Country Planning (Local Planning) (England) Regulations 2012, a consultation report including setting out who was consulted, how they were consulted and a schedule of the issues raised during the consultation has been prepared, together with the Council's response to the issues raised and resultant changes to the SPD.
- 3.4 The proposed key changes to the SPD are set out below in two sections. The first section describes changes that will apply as soon as the SPD is adopted, providing updated guidance to the current policy Core Strategy/ Placemaking Plan policies.
- 3.5 The second section describes changes that will only apply once the Local Plan Partial Update has been adopted, providing guidance to support policies in the LPPU.

Guidance that will apply as soon as the SPD is adopted

3.6 This included changes to take into account the following key points:

- i) The introduction sections have been amended to reflect the updated CIL Regulations 2010 (as amended) were amended in 2019 to remove section 106 pooling restrictions and enable more flexibility in funding infrastructure.
- ii) The SPD refers to the Planning Practice Guidance on viability standardised inputs and approach.
- iii) The revised SPD reflects the fixed fee approach for the monitoring of s.106 agreements which was implemented by the council in December 2020.
- iv) There have been changes nationally to the implementation of affordable housing and changes in relation to the NPPF 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 in the education facilities chapter to incorporate up to date costs for new build whole primary schools and extensions. The SPD also incorporates the costs of secondary school places as large developments 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.

Guidance that will apply following the adoption of the Local Plan Partial Update

3.7 The SPD helps deliver the policies in the LPPU that has been found sound, subject to Main Modifications, following an examination by an independent Inspector. These relate to:

- viii) Biodiversity Net Gain policies relating to LPPU policy NE3A – Changes have been made to the SPD since the consultation draft to take into account that minor developments and householder developments are not required to provide a minimum of 10% net gain, however, are required to incorporate a measurable gain.

- ix) Carbon Offsetting relating to policies SCR6 and SCR7. The SPD includes a formula for calculating offsetting charges where the circumstances are agreed for offsetting. The draft Sustainable Construction Checklist SPD which is also proceeding to adoption following consultation (Single Member Decision Reference E3398), sets out key information on energy supply.
- x) Housing accessibility standards in affordable housing have been amended in the LPPU. The SPD Affordable Housing section refers to the draft updated policy H7 which will take effect on the adoption of the LPPU.
- xi) Sustainable transport measures – relevant to the LPPU Sustainable Transport policy amendments and the Transport and Development SPD also to be approved by a Single Member Decision (Reference E3400).

3.8 A number of changes have also been made to further clarify certain points, since the consultation of the SPD.

4 STATUTORY CONSIDERATIONS

4.1 Planning legislation provides the basis for the Planning Obligations SPD and Section 106 planning obligations.

4.2 Town and Country Planning (Local Planning) (England) Regulations 2012 Regulations 11 to 16 set out the requirements for preparing Supplementary Planning Documents. The Planning Obligations SPD has been prepared in accordance with the Regulations and it does not conflict with policies in the adopted Development Plan. Accordingly, both this Single Member Decision Report and the Planning Obligations (2022 Review) SPD itself make it clear which elements of the SPD apply or come into force upon adoption of the SPD and those elements which only apply or come into force in respect of applications determined following the adoption of the LPPU.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 The preparation of the Planning Obligations SPD has been undertaken by the Planning Policy Team and the costs have been 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. Arrangements are already in place for the collection, monitoring and spending of contributions arising from Planning Obligations and these arrangements remain valid for administering the increased level of income.

5.3 The scope of the planning obligations has been expanded to include carbon offsetting and biodiversity net gain offsetting funds where on site mitigation is not possible. 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.

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 (see background paper.
- 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 affordable housing, community facilities, green space, and improved transport infrastructure (e.g. 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 in the context of affordable housing.

8 CLIMATE CHANGE

- 8.1 One of the main reasons for partially updating the Local Plan was 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 off setting 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 There is no other legislative mechanism to make SPDs and to not adopt the SPD will leave standing policy requirements absent of additional detail. The SPD provides guidance on the implementation of development plan policy requirements.

10 CONSULTATION

- 10.1 The Planning Obligations SPD was consulted on for 6 weeks from 6 May and 17 June 2022, in accordance with the Council's Statement of Community Involvement. A consultation statement has been prepared setting out the

details of the consultation, a summary of the responses received, and Council comments on each of the key issues raised (Appendix 2).

Contact person	Richard Daone, Deputy Head of Planning and Catherine Parker, Planning Officer
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	