

**Meeting** Executive  
**Portfolio Area** Environment and Regeneration  
**Date** 10 March 2021



## THE SBC DEVELOPER CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT 2021: ADOPTION

### KEY DECISION

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### 1 PURPOSE

- 1.1 To provide Members with an overview of the consultation responses to the Draft Developer Contributions Supplementary Planning Document (SPD) between November 2020 and January 2021.
- 1.2 To provide Members with an overview of the changes made to the Draft Developer Contributions SPD taking account of consultation responses.
- 1.3 To seek Members' approval to adopt the SBC Developer Contributions SPD 2021 (Appendix A).

### 2 RECOMMENDATIONS

- 2.1 That the outcomes of the Draft Developer Contributions SPD consultation be noted.

- 2.2 That delegated powers be granted to the Assistant Director: Planning and Regulation, following consultation with the Portfolio Holder for Environment and Regeneration, to make minor amendments as necessary in the final preparation of the SBC Developer Contributions SPD 2021 prior to its adoption.
- 2.3 That the Executive approve the adoption of the SBC Developer Contributions SPD 2021 as a material consideration for planning applications.

### **3 BACKGROUND**

#### *SBC Developer Contributions SPD*

- 3.1 Supplementary Planning Documents (SPDs) are produced to add detail to the policies included in an adopted Local Plan. They are used to provide further guidance for development on specific sites or on particular issues. Whilst SPDs are not part of the Development Plan for an area, and cannot add unnecessarily to the financial burdens on development, the contents of a SPD are a material consideration when determining a planning application.
- 3.2 Developer contributions are provided by developers of proposed built developments which have been granted planning permission. They are intended to mitigate against the impacts that the development will cause. They can be provided by direct provision, by financial contribution or by land transfer.
- 3.3 Developer contributions are negotiated and agreed as part of planning applications. They can be a vital part of any planning permission being granted and, where needed, a Decision Notice confirming that planning permission has been granted for a proposal will not be issued by the Council until an agreed legal agreement with the details of the developer contributions, commonly known as a Section 106 agreement (S106), has been signed.
- 3.4 The Council has not previously had a SPD related to developer contributions.
- 3.5 In January 2020, the Council adopted a Community Infrastructure Levy (CIL), which came into effect on 01 April 2020. CIL is a form of developer contribution which is calculated simply based on the location, size and type of development. It is non-negotiable and isn't subject to the same negotiation, scrutiny and planning considerations as specific contributions through S106 agreements.
- 3.6 CIL replaces the need for S106 agreements in many instances. However, in some cases, as well as paying a CIL charge, the Council may consider that a developer should also enter into a S106 with the Council to provide for site-specific mitigation required by their development. These instances include when a development cannot deliver what is required by Local Plan policy on site, such as open space, or where site-specific impacts of a development have been identified and mitigation is required to make a proposal acceptable in planning terms.

- 3.7 The Council committed to producing a Developer Contributions SPD to provide certainty to developers of what financial obligations they may be expected to provide through S106 contributions in addition to a CIL charge.
- Consultation*
- 3.8 In November 2020, the Executive approved the publication of a Draft Developer Contributions SPD for consultation.
- 3.9 The Draft SPD was published on the Council's webpages and consultation portal. A link to the Draft Developer Contributions SPD was sent to every individual or group on the Council's planning consultee register along with an explanation of the document and how to submit any comments about it.
- 3.10 The planning consultee register contains all statutory consultees and Duty to Cooperate bodies, as required by Regulations, as well as individuals and/or groups who have either signed up to the register or responded to previous Local Plan consultations. This totals over 2,500 consultees.
- 3.11 The majority of consultees were contacted by email and approximately 200 letters were sent to individuals who had not provided an email address.
- 3.12 In addition, the consultation document was advertised on the Council website, on social media and in the Chronicle magazine which is delivered to all houses in the borough. In accordance with Covid-19 restrictions, hard copies were made available at the Council and Customer Service Centre.
- 3.13 The draft SPD was also presented to Planning and Development Committee and the final version will also be presented to Planning and Development Committee to instruct Councillors on the Committee of its contents and how it affects their role in Decision Making.

#### **4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS**

##### **Recommendation 2.1: That the outcomes of the Draft Developer Contributions SPD consultation be noted.**

- 4.1 Consultation on the draft Developer Contributions SPD was held between 30 November 2020 and 25 January 2021, meeting the requirements stipulated for SPD consultations in the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 4.2 A total of 33 representations were received from a number of key consultees. As a consultation document focussed on a very technical aspect of the planning system, a high response rate was never expected.
- 4.3 Responses were received from a number of key infrastructure stakeholders:
- Hertfordshire County Council,
  - North Herts District Council,
  - Sport England,
  - Highways England,
  - Inspired Villages, and
  - Anglian Water.

- 4.4 Comments were also received from several SBC Committees:
- The Executive
  - Planning and Development Committee
  - Overview and Scrutiny Committee
- 4.5 In addition, a small number of calls were received from residents on the consultation database following the initial publication. These calls offered general support for the SPD, particularly the requirement for developers to provide much needed infrastructure in the town.
- 4.6 A full summary of responses is provided in Appendix B together with officer responses to each comment as well as a description of any amendments made to the SPD as a result of the submitted comment.
- 4.7 The key responses and amendments to the Draft Developer Contributions SPD are summarised in Table 1 and throughout the rest of this section:

**Table 1 – List of Key Amendments**

Amendment	Reasons for Amendment
References to cross-boundary infrastructure funding / provision	To ensure that developers are aware they may need to contribute towards infrastructure outside of the borough.
More detail about Viability Studies	To ensure a few key concepts are incorporated into Viability Studies.
State that SBC will seek advice from consultees	To highlight the role of consultees (such as Highways England & HCC) in the process.
More detail about sewerage companies	To differentiate between their need for conditions/contributions and how they usually obtain charges directly from developments
Affordable Housing provision	To ensure consideration is given to the level of contributions required for schemes providing non-standard housing and to ensure socially-rented accommodation meets accessibility criteria
HCC's Guide to Developer Contributions	Updated reference to HCC's emerging guide
Clarity regarding circumstances where HCC will seek S106	Removed potential uncertainty regarding when HCC might seek S106 payments and removed old terminology
Sustainable Transport	Referenced updated guidance and stated the importance of providing solutions for most vulnerable pedestrians

#### *Collaboration for cross-boundary infrastructure provision*

- 4.8 North Hertfordshire District Council (NHDC) commented that there will be instances where developer contributions are required to fund infrastructure across district boundaries. This may be particularly relevant for a number of sites in the emerging North Herts Local Plan which lie close to the Stevenage boundary and would essentially be extensions to the town of Stevenage if developed.
- 4.9 As such, NHDC requested that spending priorities for infrastructure provision, to be funded by developer contributions, are developed collaboratively and that greater mention of the need to collect contributions for cross-boundary infrastructure is included in the final SPD.
- 4.10 The Council is happy to continue to work in partnership with its neighbouring authorities, recognising the fact that infrastructure requirement is not limited to being within authority boundaries and that residents or visitors to a town use infrastructure in numerous locations.
- 4.11 Text was included in the final version of the SPD to make it clear to developers that the Council may request contributions to out-of-borough infrastructure (and vice versa). The Council also commits to engaging with NHDC when determining its spending priorities and governance for the expenditure of Community Infrastructure Levy receipts.

#### *Include more detail about Viability Assessments and Reviews*

- 4.12 In line with current planning practice guidance, the Draft SPD included a need for developers to provide open-book viability assessments if they claim that a development is unable to make policy-compliant contributions to infrastructure. The Draft SPD also stipulated that where a developer demonstrates that scheme unviability prevents them from contributing sought requirements, they agree to undertake a viability review at a later date (to be agreed through the S106 legal agreement) and if an uplift in viability is demonstrated, they subsequently increase the level of contributions.
- 4.13 Hertfordshire County Council (HCC) requested that more detail was included in the SPD about the form that Viability Assessments took. The final SPD includes more detail about the use of the Existing Use Values Plus concept when determining land values and gives more detail about the use of Standardised Inputs as the core data of the Assessment.

#### *Wording amendments to tighten the SPD's intentions*

- 4.14 HCC also requested wording changes to a number of elements within the document, some related to their own services and responsibilities, and some related to the cross-over between the use of S106 and CIL.
- 4.15 The Council has been content to agree with most of the suggested changes proposed by HCC and has worked with HC officers to strengthen the wording relating to the County Council's right to seek contributions.
- 4.16 The Council was not willing however to amend wording included in the draft SPD which seeks to prioritise the provision of Affordable Housing, ahead of infrastructure funding, in instances where a Viability Review has demonstrated that the viability of the scheme being delivered has been

improved during the course of implementation. This is because the Council's policy on Affordable Housing, as set out in the Local Plan, will take priority over the provision of infrastructure in circumstances when the level of infrastructure provision has already been agreed. Accordingly, and where schemes allow, the SPD will prioritise the provision of additional Affordable Housing.

*Include more detail on Stevenage Works involvement*

- 4.17 The draft SPD introduced a requirement for major developments<sup>1</sup> to provide a portion of on-site construction jobs for Stevenage residents and apprenticeship opportunities for Stevenage residents or students. Where sufficient opportunities could not be offered, the draft SPD introduced a requirement for a financial obligation towards a fund that the Council or the Stevenage Works partnership could make available for local education or employment opportunities. The draft SPD encouraged developers to engage with the Stevenage Works partnership when arranging employment/apprenticeship opportunities but comments at an internal Councillor Committee suggested that additional wording be included.
- 4.18 Wording has been added to explain that Stevenage Works, a partnership between the Council, Job Centre Plus and North Herts College, has committed to maintain a database of suitable candidates for such opportunities and will field responses to any requests from developers. A requirement for an administrative fee has also been included within the SPD to fund the management of Stevenage Works. In addition, more detail has been included on the awarding of grants for education or employment opportunities from the money collected by the Council.

*Use of Unilateral Agreements*

- 4.19 Although not mentioned in any formal representations, the Council has added a reference in the SPD to state that where the drafting and agreement of a S106 agreement would likely add an unnecessary cost or delay to a project, the Council will look to secure contributions through the use of a Unilateral Agreement instead of a S106 agreement. This is likely to be in instances where there are only a small number of financial obligations or where the overall amount of financial contributions is relatively small. In practice, for example, this could be for developments which are only providing biodiversity net gain contributions or apprenticeship opportunities.

**Recommendation 2.2: That delegated powers be granted to the Assistant Director: Planning and Regulation, following consultation with the Portfolio Holder for Environment and Regeneration, to make minor amendments as necessary in the final preparation of the SBC Developer Contributions SPD 2021 prior to its adoption.**

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<sup>1</sup> The threshold for a major development is any application that involves mineral extraction, waste development, the provision of 10+ residential dwellings, a site area over 0.5 Hectares or a floorspace of over 1,000sqm / an area of 1 hectare.

- 4.20 The SBC Developer Contributions SPD 2021 is included in Appendix A (with changes from the draft version of the SPD highlighted in yellow). It may be necessary to make minor changes prior to its adoption. This might include cosmetic adjustments, the correction of typographical errors and any minor factual changes.
- 4.21 It is recommended that any such amendments be approved via delegated powers.

**Recommendation 2.3: That the Executive approve the adoption of the SBC Developer Contributions SPD 2021 as a material consideration for planning applications.**

- 4.22 The procedure to adopt a new SPD is set out in Regulation 14 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 4.23 Now that consultation has been completed, the Council must make the SPD document available together with an adoption statement, and send a copy of the adoption statement to each of the bodies who asked to be notified of the adoption of the SPD.
- 4.24 In line with Regulation 12, the Council will also need to provide a statement setting out the persons consulted when preparing the SPD and a summary of the main issues raised by those persons and how those issues have been addressed in the adopted SPD document. This statement is included as Appendix B to this report.

## **5 IMPLICATIONS**

### **Financial Implications**

- 5.1 The costs associated with adopting the SBC Developer Contributions SPD 2021 will be met from the agreed departmental budget.
- 5.2 The aim of the SPD is to gain provision of, financial and/or land contributions towards identified infrastructure or service needs so the adoption of a Developer Contributions SPD should have positive financial implications for infrastructure provision.

### **Legal Implications**

- 5.3 Adoption of the SBC Developer Contributions SPD 2021 will be undertaken in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, specifically Regulations 12, 14 and 15. There are no further direct legal implications associated with adopting the SPD.
- 5.4 The legal ramifications of any developments will need to be considered at the point of planning and delivery.

### **Risk Implications**

- 5.5 There are no significant risks associated with adopting the SBC Developer Contributions SPD 2021.

### **Policy Implications**

- 5.6 The SBC Developer Contributions SPD 2021 accords with, and has been produced to supplement policies in, the adopted Stevenage Borough Local Plan (2019).

### **Planning Implications**

- 5.7 The SBC Developer Contributions SPD 2021 will supplement the recently adopted Stevenage Borough Local Plan (2019).
- 5.8 The document will not form part of the Development Plan for Stevenage. However, it will be a material consideration for planning applications.

### **Climate Change Implications**

- 5.9 The SBC Developer Contributions SPD 2021 has the potential to have a positive impact on climate change, by securing developer contributions, either through direct provision or financial obligations, for infrastructure requirements including but not limited to sustainable transport, open spaces and biodiversity net gain.

### **Equalities and Diversity Implications**

- 5.10 The SBC Developer Contributions SPD 2021 does not have any direct equality or diversity implications. When implementing any of the contents of the SPD, the delivery body will need to consider the potential impacts on different community groups, in particular those who are less mobile or disabled.



## **Community Safety Implications**

- 5.11 Whilst the SBC Developer Contributions SPD 2021 does not have any direct community safety implications itself, when implementing any of the proposals the delivery body will need to consider the potential impacts on community safety.

## **BACKGROUND DOCUMENTS**

- BD1 [Stevenage Borough Local Plan, 2011-2031](#)  
BD2 [Draft Developer Contributions Supplementary Planning Document 2020](#)

## **APPENDICES**

- A SBC Developer Contributions Supplementary Planning Document, 2021 (changes from Draft Developer Contributions Supplementary Planning Document, 2020 highlighted in yellow)  
B Draft SBC Developer Contributions Supplementary Planning Document, 2020 - Consultation Statement  
C SBC Developer Contributions Supplementary Planning Document, 2021 – Strategic Environmental Assessment Screening Statement