

REPORT TO:	ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	20 APRIL 2022	CATEGORY: (See Notes) DELEGATED or RECOMMENDED
REPORT FROM:	STRATEGIC DIRECTOR - SERVICE DELIVERY	OPEN
MEMBERS' CONTACT POINT:	KAREN BEAVIN 07501 698400 karen.beavin@southderbyshire.gov.uk	DOC:
SUBJECT:	DRAFT PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT - CONSULTATION	
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: EDS03

1.0 Recommendations

- 1.1 That the Committee approves the draft Planning Obligations Supplementary Planning Document (the SPD) (at Appendix 1) for consultation.

2.0 Purpose of the Report

- 2.1 To seek authorisation to consult on the draft Planning Obligations SPD in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, together with the Council's Statement of Community Involvement (2018).

3.0 Background

- 3.1 SPDs build on and provide more detailed advice and guidance on policies in an adopted local plan. As SPDs do not form part of the development plan, they cannot introduce new planning policies into the development plan. They are, however, a material consideration in decision-making. SPDs should not add unnecessarily to the financial burdens on development. Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for producing SPDs. ¹
- 3.2 The adopted Local Plan Part 1 includes in Policy INF1: Infrastructure and Developer Contributions an undertaking that the Council will revise its Planning Obligations SPD to cover infrastructure and service requirements to be delivered through Section 106 agreements.
- 3.3 The SPD at Appendix 1 seeks to update the current 'Section 106 Agreements – A Guide for Developers (April 2010)' to ensure that the latest evidenced costings can

¹ Paraphrased from Planning Practice Guidance Paragraph: 008 Reference ID: 61-008-20190315

be used when securing planning obligations to mitigate the impact of new development in the District.

4.0 Detail

- 4.1 Planning obligations, also known as Section 106 (S106) agreements or developer contributions, are legal obligations entered into to mitigate the impacts of a development proposal. This can be via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990, by a person with an interest in the land and the local planning authority or via a unilateral undertaking, entered into by a person with an interest in the land without the local planning authority. Planning obligations run with the land, are legally binding and enforceable. A unilateral undertaking cannot bind the local planning authority because they are not party to it.²
- 4.2 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms, however, there are three tests that an obligation must meet for it to constitute a reason for granting planning permission. These tests are set out both as statutory tests in regulation 122 of the Community Infrastructure Regulations 2010 (as amended) and as policy tests in the National Planning Policy Framework (NPPF); planning obligations must be:
- a) necessary to make the development acceptable in planning terms
 - b) directly related to the development and
 - c) fairly and reasonably related in scale and kind to the development.
- 4.3 Revising the existing S106 Guide for Developers to produce the SPD will result in an increase in the levies that can be applied for infrastructure such as open space, built facilities and outdoor recreation when determining planning applications. Furthermore, the SPD includes the stipulation that the required contributions will increase in accordance with the Retail Prices Index at the start of each financial year. As and when any evidence underpinning the required planning obligations set out in the SPD is updated, the SPD itself can be updated accordingly.
- 4.4 The SPD will be revised as necessary following a period of public consultation prior to being brought back to this Committee for consideration prior to adoption.

5.0 Financial Implications

- 5.1 Any costs associated with a public consultation will be met through existing budgets.

6.0 Corporate Implications

Employment Implications

- 6.1 None directly arising from this report.

Legal Implications

- 6.2 None directly arising from this report.

² Paraphrased from Planning Practice Guidance Paragraph: 001 Reference ID: 23b-001-20190315

Corporate Plan Implications

- 6.3 Delivery of appropriate infrastructure, including for that supporting strategic development within the Local Plan, will assist in delivering objectives within the Corporate Plan.

Risk Impact

- 6.4 Failure to review the S106 Guide for Developers risks planning obligations being insufficient to cover the costs of necessary mitigating infrastructure.

7.0 Community Impact

Consultation

- 7.1 The SPD will be subject to a period of public consultation for a minimum of four weeks that will be carried out in accordance with the Council's Statement of Community Involvement.

Equality and Diversity Impact

- 7.2 None directly arising from this report.

Social Value Impact

- 7.3 A revised Planning Obligations SPD will directly lead to benefits for communities in the District.

Environmental Sustainability

- 7.4 A sustainability appraisal will not be required in the production of the SPD.

8.0 Conclusions

- 8.1 The Council has undertaken, through the Local Plan, to revise its Planning Obligations SPD in order to sufficiently mitigate the impact of new development within the District. A formal process of public consultation will be undertaken prior to the SPD being finalised and brought back to this Committee for consideration and adoption.

9.0 Appendices

- 9.1 Appendix 1 – Draft Planning Obligations Supplementary Planning Document