

HARBOROUGH DISTRICT COUNCIL

REPORT TO THE CABINET MEETING OF 2nd November 2020PUBLIC REPORT: Y / ~~N~~EXEMPT REPORT: ~~Y~~ / N

Report Title	Revisions and Updates to the Planning Obligations Supplementary Planning Document (SPD)
KEY DECISION	N
Report Author	Andrew Tyrer, Planning Obligations Officer
Purpose of Report	To seek approval of the Cabinet for publication of the revisions and updates to the draft Planning Obligation Supplementary Planning Document for public consultation
Reason for Decision	To enable the Cabinet to consider a revised and updated draft Supplementary Planning Document (SPD) – Planning Obligations and to issue it for a period of public consultation.
Portfolio (holder)	Cllr Bateman – Portfolio Holder for Planning and Infrastructure
Corporate Priorities	<p>HDC's ‘Corporate Plan 2019-2021’ and the related ‘Corporate Delivery Plan 2019-2021’ set out the Council’s aspirations for the district over the next three years, what its priorities are and how it will deliver them.</p> <p>There are three priorities:</p> <p><i>The place:</i> An enterprising and vibrant place. CO1, CO3, CO4</p> <p><i>The people:</i> A healthy, inclusive and vibrant community. CO5, CO6, CO7,</p> <p><i>The council:</i> Innovative, proactive and efficient. CO8</p>
Financial Implications	The contributions provide appropriate and necessary mitigation of the impacts of new developments. The contributions/obligations are justified and compliant with the provisions of the Community Infrastructure Levy (CIL) Regulations. The updated and revised Planning Obligations SPD will also ensure that investment priorities are targeted where there is a need for infrastructure.
Risk Management Implications	The risks associated with not having an adopted planning obligations SPD are:-

	<ul style="list-style-type: none"> • Developers will not be sufficiently informed at an early stage in relation to all potential contributions which the Council would seek from a new development; • Developers could challenge the Council in relation to the contributions being sought if they are not based on the latest Government guidance, CIL Regulations and reflect the recently adopted Local Plan policies; • It could have an effect on how the Council seeks contributions to mitigate the impacts of development which could lead to pressures on existing infrastructure as a consequence of capacity issues not being fully addressed <p>Updating and revising the Planning Obligations SPD will ensure the Council helps stakeholders to deliver the right facilities in the right place and residents receive the best possible outcomes in relation to the mitigation of new developments.</p>
Environmental Implications	As this document is supplementary to the Harborough Local Plan (2011-2031) which relates to the spatial and strategic planning of District, the wider environmental implications of development and associated infrastructure were assessed through the Sustainability Appraisal of the Local Plan.
Legal Implications	A Supplementary Planning Document carries significant weight when considering planning proposals and development contributions and planning obligations to mitigate the impacts of a development.
Equality Implications	S106 Planning obligations are necessary to make development acceptable in planning terms, resulting in sustainable development which provides for social, economic and environmental well-being. Planning obligations often provide for community facilities which can benefit the following groups, for example, the vulnerable, senior citizens, children, those caring for others and people with disabilities.
Data Protection Implications	None directly as far as this report is concerned. Public consultation will involve the use of names and addresses of interested parties. All consultations will be carried out in compliance with the provisions of the GDPR and the Data Protection Act 2018. The collection and processing of personal data will be kept to only that which is necessary to carry out the mandated tasks. It will be kept no longer than is necessary and will be subject to a privacy notice at the point of collection. No personal data will be used for

	any other purpose than that specified on the privacy notice. Any processing which is contingent on consent will be explained to each data subject. Consent can be withdrawn at any time. Other Data Subject rights can be found within the Council's privacy notice on the website.
Consultation	Internal consultation with District Council officers have commented on the drafts prepared to date.
Options	<p>The Council could approve revisions to the SPD without consultation. However, this approach would lead to potential legal challenge as some revisions to the SPD could have financial implications, particularly on developers and stakeholders who would not be consulted on the changes.</p> <p>The Council could carry out a public consultation. This would engage the widest audience and would be considered proportionate and appropriate given the updates and revisions would affect developers and some stakeholders/partners.</p>
Background Papers	<p>None.</p> <p>Previous report(s):</p> <p>Proposed Revisions to Planning Obligations SPD Executive 4th December 2017</p> <p>Revisions and Updates to Planning Obligations SPD Executive 9th April 2018</p> <p>Executive Recommendation to Council 18th December 2017 to consult on proposed revisions to Planning Obligations SPD</p>
Recommendation	That Cabinet approve the Draft Supplementary Planning Document, attached as Appendix A, for public and stakeholder consultation.

1 Introduction

- 1.1 The Planning Obligations Supplementary Planning Document (SPD) is intended to inform planning documents and development management decisions by the Council. It is also intended to inform and guide; developers, landowners, infrastructure providers, stakeholders/partners and local communities about the approach Harborough District Council is taking to secure community infrastructure and affordable housing through planning obligations.
- 1.2 In order to ensure the SPD remains relevant and effective, it is important the

document is as up to date as possible. It needs to take into account any changes in legislation, regulations, policies and guidance and changes in circumstances as a consequence, for example, of significant development proposals in the District and in relation to changes in internal practices and procedures.

2. Key Facts

- 2.1 A local planning authority may produce supplementary planning documents to assist in the making, consideration and determination of planning applications. An SPD must comply with the requirements as set out in the Town and Country Planning Regulations 2012 as amended.
- 2.2 The proposed revisions and updates to the existing January 2017 Planning Obligations SPD are, in the main, due to the policy changes within the National Planning Policy Framework 2019 (NPPF), the reforms in the Community Infrastructure Levy Regulations (CIL) (Amendments) (England) 2019 and the adoption of the Harborough Local Plan 2011 – 2031 (2019).
- 2.3 Local Plan Policy IN1 *Infrastructure provision* seeks to facilitate and provide sufficient infrastructure to mitigate the impacts of new development and support sustainable growth of local communities. In addition, Local Plan Policy H2 – *Affordable Housing* supports the development of an appropriate mix of housing including low cost affordable homes to rent through social housing providers which are secured through planning obligations.
- 2.4 A key reform of CIL Regulation 123, lifted the restriction on the pooling of no more than five obligations for the same piece of infrastructure or project. Subject to an obligation meeting the 3 CIL tests set out in CIL Regulation 122, councils can pool contributions to pay for the same piece of infrastructure without limitations on the number of obligations it pools.
- 2.5 In summary, the proposed revisions and updates to the existing SPD take account of and include:-
 - Updates in relation to the Local Plan policies namely IN1 – *Infrastructure provision* which seeks to facilitate and provide sufficient infrastructure to mitigate the impacts of new development and support sustainable growth of local communities;
 - A revision of the affordable housing provision requirements in accordance with the Local Plan Policy H2 – *Affordable Housing* – which supports the development of an appropriate mix of housing including low cost affordable homes to rent through social housing providers which are secured through planning obligations;
 - Updated guidance on developer viability as outlined in National Planning Policy Guidance – viability to be considered upfront as part of the plan-making process clarifying the costs of complying with plan policies as reflected in the land value, rather than an assessment made at the planning application stage;

- Reforms to CIL Regulation 123 and the lifting of restrictions on the pooling of more than five obligations for the same project or type of infrastructure;
- Revision of the monitoring fee to accord with Part 10 of the CIL regulations which confirms a local planning authority may lawfully include a monitoring fee as a planning obligation if it is fairly and reasonably related in scale and kind to the development proposed and does not exceed the local authority's estimate of its cost of monitoring the development over the lifetime of the related planning obligations;
- Inclusion of a proposed indemnity agreement – part of the Council's ongoing enhancement of the audit process, ensuring transparency and accountability: this is considered necessary in relation to the use and spending of developer contributions by external partners;
- A proposed 'End to End' flow chart which visually outlines the planning obligations process and shows the key stages and participants involved in that process.

2.6 The proposed revisions and updates to the SPD will require a period of public consultation to commence soon as practicable for a minimum of 6 weeks. The Consultation will comprise, for example of links on the Council's website and direct email and/or written contact to external partners, stakeholders, landowners, developers, Councils, parish and town councils, local communities and organisations. Appropriate communications will accompany the consultation to ensure it is brought to the attention of the wider community.

3. Next Steps

- 3.1 After the proposed period of consultation, all comments received will be collated and responses prepared and where appropriate, amendments made to the document. It is anticipated that the revised document will then be reported back to Cabinet, in Spring 2021, with a recommendation for Council to subsequently adopt the revised Planning Obligations SPD and to ensure the revised document is made available in accordance with Regulation 35 of the Town and Country Planning Regulations 2012.
- 3.2 A further update of the SPD will be required once the Government's proposals to reform the planning system are known. The recently published *White Paper Planning for the Future*, proposes to replace S106 planning obligations and Community Infrastructure Levy (CIL), with a single Infrastructure Levy – (a response to the Government has been made about those proposed changes) and any subsequent reform or revision of the planning obligations regime will be kept under review by the Council.