

16 December 2019

Report of	Assistant Director of Policy and Corporate	Author	Laura Chase
Title	Planning Obligations Supplementary Planning Document		☎ 01206 282473
Wards affected	All		

1. Executive Summary

- 1.1 Councils are able to require planning applicants to provide financial contributions to mitigate development impacts under Section 106 of the Town and County Planning Act 1990. The National Planning Policy Framework ensures that the collection of such contributions is confined to measures that are required to mitigate the impact of development.
- 1.2 To ensure consistent and effective guidance to collecting contributions, the Council has prepared a Supplementary Planning Document (SPD) on Planning Obligations. It is intended to consult on the SPD for a six-week period prior to incorporation of consultation comments and its return to the Local Plan Committee for adoption.
- 1.3 The SPD covers a range of topic areas including housing, sustainable transport, flood protection and water management; sports, recreation and leisure; green infrastructure; natural environment mitigation; historic environment and community infrastructure. More detailed guidance on Affordable Housing, and on Self and Custom and Specialist Housing is provided in two separate SPDs considered elsewhere on this Committee's agenda.

2. Recommended Decision

- 2.1 To approve publication of a Planning Obligations Supplementary Planning Document (SPD) for a six-week consultation period from 24 January – 6 March 2020.
- 2.2 For the Committee to delegate authority to the Planning & Housing Manager to make minor revisions to the document prior to publication.

3. Reason for Recommended Decision

- 3.1 The adoption of this guidance will help ensure a consistent approach to securing planning obligations needed to mitigate the effects of development. It will be used as a material consideration in the determination of any planning application submitted within the Borough.

4. Alternative Options

- 4.1 The alternative would be not to adopt more detailed guidance, however this would limit the Council's ability to secure necessary funds to mitigate planning impacts and ensure sustainable, high-quality development.

5. Background Information

- 5.1 Supplementary Planning Documents (SPDs) cannot set out new policy, but instead expand upon how Local Plan policies should be applied. In this case, the Planning Obligations SPD provides detail on Local Plan policies concerning requirements for planning obligations. The approach of this SPD is considered to be compatible with policies in both the adopted and emerging Local Plans, allowing for adoption of this SPD in the transitional period between submission of the emerging plan and its adoption.
- 5.2 General provisions for local authorities and applicants to enter into planning obligations requiring planning applicants to provide contributions to mitigate development impact are set out in Section 106 of the Town and Country Planning Act 1990, as amended. The National Planning Policy Framework (NPPF, para 56) requires that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 5.3 The SPD explains that Colchester assesses requirements for planning obligations in line with its evidence base of infrastructure requirements and agreed processes for setting contributions through the planning application process. These processes are intended to ensure that, in line with national policy, all planning obligations meet the tests of being necessary; directly related to the development; and fairly and reasonably related in scale and kind. This means that all planning obligations will be justified based on the circumstances of each case and will be required to mitigate and/or address specific infrastructure needs and impacts arising from a development.
- 5.4 The Council's Development Management team encourages all applicants to contact it in the early stages of development proposals for pre-application advice. Consideration of appropriate planning obligations through the pre-application and application process involves an assessment by the Council of the potential impact of a proposal on relevant infrastructure and constraints. The Council's adopted Supplementary Planning Documents on Community Facilities (2013), Open Space, Sport and Recreation Facilities (2006, charging schedule update 2017) and Affordable Housing (2011) have been used to guide requests, but given the age of these documents, an updated consolidated approach to advice is required and is presented in the new SPD.
- 5.5 The scope of planning obligations covers both local and strategic projects, with the proviso that contributions to any strategic project will need to provide essential mitigation for the impact of the proposed development in order for the scheme to be acceptable. The evidence-based package of proposed planning obligations then forms the basis for negotiating the final package of obligation requests
- 5.6 The SPD sets out a range of obligation types which may be required as part of any Planning Obligation Agreement. Each section sets out the policy background to requiring such obligations, the relevant points at which they might be required, when the obligation is expected to be provided, any exceptions and any other relevant information.
- 5.7 Topic areas include:
 - Housing
 - Sustainable Transport, including Travel Planning
 - Flood Protection and Water Management
 - Sports, Recreation and Leisure
 - Green Infrastructure and Open Space
 - Natural Environmental Mitigation including RAMs and Biodiversity
 - Historic Environment

- Community Infrastructure
 - Early Years, Childcare, Education
 - Health and Social Wellbeing
 - Social and Community Facilities
- CCTV

5.8 Where appropriate, more detailed information is contained in the following subsidiary SPDs or appendices:

SPDs

- Affordable Housing SPD and Self and Custom and Specialist Housing SPD (covered by a separate report on the agenda for this Committee)
- Recreational Disturbance, Avoidance and Mitigation Strategy SPD (considered at February 2019 Local Plan Committee)

Appendices

For the following areas, appendices to this SPD contain formulae to facilitate a per unit charge:

- Community Facilities
- Sports, Recreation and Leisure
- Town Centre

This is on the basis that these are categories where there is a demonstrable link between population increase and pressure to expand facilities. The pressure is considered to arise at both local and strategic level, leading to the division for project funding of 35% for Borough-wide projects and 65% for local projects. Projects are identified through a range of evidence as appropriate, including consultant studies, facility audits, and feasibility studies/business cases.

- 5.9 The need for additional detailed reports for other areas will be monitored. Review or addition of appendices containing formulae will be brought to Local Plan Committee for approval, while topics meriting a SPD will also be subject to a formal consultation period.
- 5.10 The SPD highlights and cross-references to requests from other authorities for development contributions to ensure that CBC requests are considered in the context of all other relevant requests. In particular, Essex County Council is updating their guidance on planning obligations and have carried out a consultation on a draft ECC Developers' Guide to Infrastructure Contributions.
- 5.11 A Sustainability Appraisal (SA) Report has been prepared for the Local Plan which appraises the policies this supplementary guidance relates to. This can be viewed online. A SEA Screening Opinion and Habitats Regulations Screening has been undertaken for this SPD and will be made available as part of the consultation.

6. Equality, Diversity and Human Rights implications

- 6.1 An Equality Impact Assessment has been prepared for the Local Plan, and is available to view by clicking on this link:- <http://www.colchester.gov.uk/article/12745/Policy-and-Corporate>
- 6.2 The adoption of guidance on planning obligations will not have an adverse impact on equality, diversity and human rights.

7. Strategic Plan References

- 7.1 Securing planning contributions to support growth addresses all of the GROW objectives of the Strategic Plan as it they will add to funding for required infrastructure and well-

being initiatives across the Borough needed to help make Colchester an even better place to live, work and visit.

8. Environmental and Carbon Implications

- 8.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030.
- 8.2 The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.
- 8.3 This report/consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that the report demonstrates that a robust process for securing planning obligations can contribute to achieving sustainable development

9. Consultation

- 9.1 Consultation on the SPD will be carried out in accordance with the Council's adopted guidance on consultation, which is contained in its [Statement of Community Involvement](#). This provides that SPDs will be consulted on for a 6-week period, with consultees to include statutory consultees, general consultees on our database, and other relevant stakeholders. It is intended to consult on this SPD, along with the Affordable Housing and Self and Custom and Specialist Housing SPDs, for a 6-week period from 24 January – 6 March 2020. Consultation responses will inform the final version of the SPD which will be submitted to the Local Plan Committee for approval.

10. Publicity Considerations

- 10.1 The Council and its Communication team will proactively manage the SPD and consultation on it to ensure developers and the general public are aware of the benefits of developing a clear and consistent approach to the collection of planning obligations.

11. Financial implications

- 11.1 Adoption of clear and consistent guidance to secure planning contributions to mitigate the impact of future development will help the Council fund the delivery of required infrastructure and strengthen its ability to secure match funding from other sources.

12. Health, Wellbeing and Community Safety Implications

- 12.1 Adoption of clear and consistent guidance to secure planning contributions to mitigate the impact of future development will help promote positive health and community safety benefits to our residents.

13. Health and Safety Implications

- 13.1 NA

14. Risk Management Implications

- 14.1 The adoption of Supplementary Planning Documents is intended to support adopted planning policies and reduce the risk of inappropriate development. The Plan provides consistent advice to landowners, developers, officers, Councillors and members of the public.

Appendix

Draft Planning Obligations Supplementary Planning Document