

6. DEVELOPMENT INFRASTRUCTURE AND CONTRIBUTIONS, AFFORDABLE HOUSING AND VIABILITY SUPPLEMENTARY PLANNING DOCUMENTS

REPORT OF: DIVISIONAL LEADER FOR PLANNING AND ECONOMY
Contact Officer: Lois Partridge
Email: lois.partridge@midsussex.gov.uk Tel: 01444 477322
Wards Affected: All
Key Decision: Yes
Report to: Scrutiny Committee for Communities, Housing and Planning
Date of meeting: 21st March 2018

Purpose of Report

1. The purpose of this report is to ask the Committee to consider three draft Supplementary Planning Documents (SPD) intended to replace the adopted Developer and Infrastructure SPD, which was adopted in 2006.
2. Subject to the above consideration, the Committee is asked to recommend the Cabinet Member for Housing and Planning approves the three documents as suitable for public consultation.

Summary

3. This report:
 - a) Describes the Council's existing Developer Contributions SPD, which provides guidance on the Council's requirements for developer contributions, to mitigate the impact of proposed new development;
 - b) Outlines the changes to Government guidance and to the local planning policy context which have taken place since the current SPD was adopted in 2006;
 - c) Identifies the reasons why the existing SPD is being refreshed, and the proposal to replace it with three separate but linked documents; and
 - d) Set out details of the proposed consultation arrangements on the three draft documents.

Recommendations

4. **That the Scrutiny Committee:**
 - (i) Considers the three Development and Infrastructure, Viability and Affordable Housing SPD documents; and**
 - (ii) Recommends that the Cabinet Member for Housing and Planning approves the three documents as suitable for public consultation.**
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Background

5. The 2006 SPD was informed by guidance and policy which is now out of date. It was prepared in accordance with the Planning and Compulsory Purchase Act 2004 and the Planning Policy Statement 12. The Development Plan documents to which it relates are the Mid Sussex Local Plan 2004 and the West Sussex Structure Plan 2001-2016.
6. Since the 2006 SPD was prepared, the policy context and Government guidance on developer contributions has changed considerably. The Government has published the National Planning Policy Framework (NPPF), replacing Planning Policy Statements. In addition, National Planning Practice Guidance, and the Community Infrastructure Levy Regulations (2010, as amended) have also been published. Together, these provide a new policy context and regulatory framework, for the management and collection of developer contributions.
7. MSDC has been preparing a new District Plan 2031; it is anticipated that the District Plan 2031 will be adopted in Spring 2018.
8. The 2017 Mid Sussex District Council Local Development Scheme (LDS) notes that the adopted Local Plan 2004, and the adopted Development and Infrastructure SPD 2006 will cease to form part of the Development Plan when the District Plan 2031 is adopted. The LDS sets out the Council's commitment to revise the Development and Infrastructure and Development Viability SPD, to ensure that it complies with the policies in the District Plan 2031.
9. The SPDs are therefore currently being refreshed, in order to:
 - ensure that the new SPD comply with all relevant and current national planning policy and guidance;
 - ensure compliance with the relevant policies in the District Plan 2031;
 - update the requirements for each type of contribution, and the costs of those contributions; and
 - provide guidance which is fit for purpose and which will support the District Plan over the Plan period.
10. The 2006 SPD is a large and unwieldy document that includes information relating to developer contributions, affordable housing provision, and viability.
11. The Government has recently begun a consultation on its document 'Supporting housing delivery through developer contributions', which outlines its proposals to reform developer contributions to affordable housing and infrastructure. Among the aims set out in the document is a requirement to reduce complexity and increase certainty for local authorities, developers and communities. The refreshed SPDs seek to address this aim, as set out below.

Draft Documents

12. In updating the SPD, officers have separated out the three main areas it addresses, to create three documents. It is hoped that this will provide more detailed information, improve accessibility to the documents and better facilitate ease of update when required. Each document can be read independently, but the reader is encouraged to refer to all three documents, which are linked and provide consistent information.

13. The three SPD documents are:
- A Development Infrastructure and Contributions SPD, which sets out the overall framework for the management of planning obligations;
 - An Affordable Housing SPD which provides detailed information on the requirements for on-site and off-site affordable housing provision, and
 - A Viability SPD which provides information on the viability assessment process.
14. The Development and Infrastructure SPD provides an explanation of the types and range of contributions the Council will require, and sets out the procedures for negotiating and securing planning obligations. It also provides indicative costs for the infrastructure required, or signposts developers to where indicative costs can be found. The key issues in the revised SPD are:
- The SPD requires that contributions are made on residential sites of five or more dwellings – this has been reduced from a six dwelling threshold in the adopted SPD, to reflect revised national planning practice guidance and the inclusion of sites which have capacity for five or more dwellings in the Site Allocations DPD;
 - Describes the mechanisms for collection of obligations, including the potential to use the Community Infrastructure Levy in the future;
 - Affordable Housing contributions are required on all residential developments of 11 or more or with a maximum combined gross floorspace of more than 1000m² and, also in the High Weald AONB, on sites of 6-10 dwellings, to reflect revised advice from Government;
 - Section 3 of the SPD provides a summary table of the infrastructure requirements, the mechanism by which contributions will be collected, the threshold for development contributions, and the policy to which the contribution relates;
 - Sets out the accessibility standards required;
 - Criteria against which proposed extra care schemes are assessed to be either Use Class C2 or C3, so that it can be determined whether they should make provision for affordable housing;
 - Provides updated costs to current levels, to inform consultations; and
 - Signposts developers to the Council's Infrastructure Delivery Programme, which sets out the key infrastructure requirements required to support the District Plan and subsequent development plans.
15. Key issues in the Affordable Housing SPD are:
- The affordable housing requirement of housing units will be rounded up if it does not result in a whole number;
 - Housing schemes will be expected to make effective use of land and not be deliberately sub-divided to avoid making affordable housing contributions;
 - Developers must enter into a contract with the affordable housing provider before starting work on site;

- Where the proposed development is considered to be policy compliant, developers must submit an affordable housing statement which confirms this, in order to ensure validation of a planning application;
 - Developers should take into account the policy requirements for affordable housing when agreeing a purchase price for the land;
 - Vacant building credit to offset affordable housing contributions will not be applicable in most circumstances;
 - Rural exception sites should be brought forward in partnership with parish councils and the enabling team;
 - Self-build housing will be encouraged, but in addition to rather than in lieu of on-site affordable housing;
 - All affordable housing will require a nomination agreement in a standard format.
16. The Development Viability SPD sets out the Council's requirements in terms of the submission of Viability Assessments, the information which should be included in Viability Assessments, and guidance on future viability review mechanisms. Key issues it covers are:
- In order to ensure validation of a planning application, developers must submit a Viability Assessment with a planning application if the proposal is not policy compliant;
 - The Viability Assessment will be scrutinised by the Council, with advice from a suitability qualified external consultant;
 - The applicant will pay for the Council's review of the Viability Assessments and any related costs in advance of the work taking place;
 - All viability information will be put in the public domain on the public planning register and redaction of information will only be allowed in exceptional circumstances;
 - Developers should take abnormal costs and the full range of infrastructure requirements into account when agreeing a purchase price for their land;
 - Section 3 of the SPD sets out the information requirements which should be submitted in the Viability Assessment;
 - The Council will require viability reviews and potential affordable units to be identified through Section 106 agreements.

Consultation Arrangements and Next Steps

17. Informal consultation on the three SPDs has already taken place with key stakeholders who have provided updated information on the costs of infrastructure. For example, other services within the Council have been consulted on open space standards, and colleagues in the Housing team have been involved in drafting the Affordable Housing SPD and RP's in the district have been invited to feed in their comments. In addition, West Sussex County Council officers, the Clinical Commissioning Group and the Police have also been asked to provide updated information on their requirements.

18. The Council is required to carry out at least four weeks public consultation under Regulation 12 of the Town and Country Planning (Local Planning) (England) Regulations 2012 before adopting supplementary planning documents. It is proposed that a six week consultation is carried out from 9 April 2018 for a period of 6 weeks, to 21 May 2018.
19. Following the adoption of the District Plan, the 2006 SPD will no longer have formal status as a material consideration. However, the draft SPDs which have yet to be consulted on have no weight at his stage, and therefore in the interim period until the new SPDs are adopted, the 2006 document will continue to guide Development Management officers in their negotiation on developer contributions.
20. Following the consultation, the comments received will be reviewed by officers, and incorporated into the SPDs where relevant. The final draft versions of the documents will then be brought back to the Committee for approval, before being submitted to full Council, for approval for the documents to be adopted as SPDs.
21. It is anticipated that the SPDs will be adopted in summer 2018.

Other Options Considered

22. Another option would be to not update the existing guidance. However, this would mean that the SPD would not refer to current policy and guidance, and costs would not be updated to reflect inflation and other increases.

Financial Implications

23. The three SPD documents will provide a robust framework, based on up to date policy, which will enable the Council to secure the infrastructure required to mitigate the impacts of proposed development.

Risk Management Implications

24. Without up to date guidance on securing developer contributions, the Council would not be able to secure the infrastructure required to mitigate the impacts of new development.
25. This could mean that the Council does not deliver the number of new, affordable homes required, and that infrastructure is not provided, so that increased strain is placed on existing infrastructure, to the detriment of the quality of life of new and existing residents.

Equality and Customer Service Implications

26. It is important that the Council is able to secure infrastructure to ensure that all members of society can benefit from amenities and services.

Other Material Implications

27. There are no other material implications.

Appendix 1: Development Infrastructure and Contributions SPD

Appendix 2: Viability SPD

Appendix 3: Affordable Housing SPD