

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

20 DECEMBER 2007

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET/COUNCIL DECISION

Regeneration and Transport – Lead Cabinet Member – Councillor Cook

PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)

1. Summary.

This report relates to the adoption of the Planning Obligations Supplementary Planning Document (SPD) Sustainability Appraisal and Consultation Statement, attached as Appendix A, B and C respectively.

SPDs are documents intended to expand on existing higher-level policies, such as those in the Adopted Local Plan, Alteration Number 1, and be consistent with national and regional policies. Policy within this SPD is also based on circular 05/05 which states that when a Council has a gap in planning policy an SPD can be based on advice within that document. SPDs do not form part of the statutory development plan, but they are a material consideration in determining planning applications.

The SPD aims to provide clarity to developers, development control officers, stakeholders and local residents as to the Council's expectations concerning developer contributions in appropriate circumstances. Areas where it is intended to seek obligations are affordable housing, education, employment and skills, open space and recreation, landscape, biodiversity, highways and transport, social and community infrastructure. However, it must be noted the list is not exhaustive, and there may be circumstances where other provisions are sought.

2. Recommendations

Members are recommended to: -

1. Note the contents of this report.
2. Agree the Planning Obligations SPD and its associated sustainability appraisal for adoption, subject to any amendments from internal consultees.
3. Delegate to Officers minor amendments to the contents of the document prior to adoption of the document.

3. Reasons for the Recommendations/Decision(s)

Members will be aware that the draft SPD and its associated documents were approved for consultation by Planning Committee and Cabinet earlier this year. This consultation took place between the 30th July and the 10th September 2007.

A number of comments were received from interested parties including amongst others, public bodies (Natural England, Sport England etc), representatives of developers (Home

Builders Federation, Consultants). The attached consultation statement provides a list of comments received, the Council's response and notes on any changes made to the document.

Since the end of the consultation period Council officers have been preparing changes to the document. The majority of these changes involve minor wording and amendments however, the most significant change involves the removal of the 'two strand approach' from the Highways and Transportation section and the inclusion of an appendix relating to public realm contributions. The Sustainability appraisal has been amended to reflect these changes and has also been updated in light of responses from the consultation.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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SUMMARY

This report informs Cabinet on the content of the draft Planning Obligations Supplementary Planning Document, which forms part of the Local Development Framework. The SPD aims to provide developers, Council officers, and the general public information and guidance concerning the Council's approach towards securing planning obligations (also known as section 106 agreements) associated with development within the Borough. The SPD is the first planning obligations policy document produced by the Borough Council, and as such draws on existing best practice and recent Government guidance. As new policies and strategies emerge through higher-level plans, such as the Core Strategy and the Regeneration Development Plan Documents (DPD), the SPD will be reviewed and amended as necessary.

RECOMMENDATIONS

Members are recommended to: -

1. Note the contents of this report.
2. Agree the Planning Obligations SPD and its associated sustainability appraisal for adoption, subject to any amendments from internal consultees.
3. Delegate to Officers minor amendments to the contents of the document prior to the adoption of the document.

DETAIL

1. The Council's Local Development Scheme (LDS) requires the production of a Planning Obligations Supplementary Planning Document (SPD). The purpose of the Supplementary Planning Document (SPD) is to set out the Council's approach to Planning Obligations (also known as S 106 agreements) within the Borough. Government Guidance (Circular 05/2005 'Planning Obligations') states that Planning Obligations are 'intended to make acceptable development which would otherwise be unacceptable in planning terms.'
2. SPDs are documents intended to expand on existing higher-level policies, such as those in the Adopted Local Plan, Alteration Number 1, and be consistent with national and regional policies. Policy within this SPD is also based on circular 05/05 which states that when a Council has a gap in planning policy an SPD can be based on advice within that document. SPDs do not form part of the statutory development plan, but they are a material consideration in determining planning applications.
3. A planning obligation may:
 - Be prescriptive i.e. require the developer to provide x amount of affordable housing;

- Secure a financial contribution from a developer to compensate for loss or damage as a result of the proposal i.e. the loss of open space; or
 - Ensure the developments impacts are mitigated, i.e. through a travel plan, increased public transport, etc.
4. Government guidance (Circular 05/2005 'Planning Obligations') sets out five tests for a planning obligation to satisfy. They must be:
 - Relevant to planning;
 - Necessary to make the proposed development acceptable in planning terms;
 - Directly related to the proposed development;
 - Fairly and reasonably related in scale and kind to the proposed development; and
 - Reasonable in all other respects.
 5. The guidance also describes how it is not *'legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.'*
 6. Typically, obligations are secured through negotiation between the developer and the Council; however, developers may wish to submit a 'Unilateral Undertaking' alongside a planning application. This is an obligation offered by the applicant in support of an application (or appeal), as opposed to agreeing an obligation following negotiation with the Council.
 7. The SPD aims to provide clarity to developers, development control officers, stakeholders and local residents as to the Council's expectations concerning developer contributions in appropriate circumstances. Areas where it is intended to seek obligations are affordable housing, education, employment and skills, open space and recreation, landscape, biodiversity, highways and transport, social and community infrastructure. However, it must be noted the list is not exhaustive, and there may be circumstances where other provisions are sought.
 8. Members will be aware that the draft SPD and its associated documents were approved for consultation by Planning Committee and Cabinet earlier this year. This consultation took place between the 30th July and the 10th September 2007.
 9. A number of comments were received from interested parties including amongst others, public bodies (Natural England, Sport England etc), representatives of developers (Home Builders Federation, Consultants). The attached consultation statement provides a list of comments received, the Council's response and notes on any changes made to the document.
 10. Since the end of the consultation period Council officers have been preparing changes to the document. The majority of the changes involve minor wording changes with the most significant change involving the removal of the 'two strand approach' from the Highways and Transportation section and the inclusion of an appendix relating to public realm contributions. One further change to the document which requires confirmation relates to paragraph 8.9 where the percentages quoted may be subject to change. Officers will be able to report the final agreed change verbally to members at the planning committee meeting.

FINANCIAL IMPLICATIONS

11. The production of the document can be made within existing budgetary provisions.

LEGAL IMPLICATIONS

12. Section 106 of the Town and Country Planning Act as substituted by the Planning and Compensation Act 1991 provides the legal basis for planning obligations. Circular 05/2005 provides revised guidance to local authorities on the use of planning obligations under these Acts.

RISK ASSESSMENT

13. This (subject matter of report) is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

COMMUNITY STRATEGY IMPLICATIONS.

Environment

14. The guidance contained within the SPD is aimed at ensuring development makes a positive contribution to sustainable development within the Borough of Stockton-on-Tees. The guidance also seeks to enhance the quality of the Borough's natural and built environment.

Community Safety and Well-Being.

15. The guidance within the SPD also aims to ensure development can make a positive impact to the safety and well being of the Borough's residents.

Health.

16. No direct implications.

Economic Regeneration.

17. The guidance is intended to support higher-level policies in the emerging Core Strategy that support the economic regeneration of the Borough.

Education and Lifelong Learning

18. Within the SPD there are specific sections on Education obligations and Employment and Training obligations. Through providing opportunities for people to learn new skills (especially in construction), their long-term employment prospects are improved.

Arts and Culture

19. The guidance encourages developers to provide contributions to public art schemes where their delivery is realistic and practicable.

EQUALITIES IMPACT ASSESSMENT

20. The document scored 62 in the Equalities Impact Assessment and it is considered that it will have a neutral impact on the delivery of diversity aims and objectives. This is because the aim of the document is to act as a mechanism to seek planning obligations when a development has an impact on the Boroughs infrastructure i.e. highway network, open spaces, school places etc. The only significant impact the document has on the population relates to employment and training where the Council seeks a % of a construction workforce to be long-term unemployed or young people. A copy of this document can be found in the members library or on the Council website.

CONSULTATION INCLUDING WARD/COUNCILLORS

21. As this is a Borough wide document, it is not possible to identify specific wards or ward councillors for consultation. The documents were the subject of a full public consultation over a period of six weeks.

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Background Papers

Adopted Local Plan (1997).
Adopted Local Plan Alteration Number 1 (2006).
Circular 05/2005 'Planning Obligations'
Planning Obligations: Practice Guidance
Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 12: Local Development Frameworks

Ward(s) and Ward Councillors:

N/A.

Property.

N/A.