

DEVELOPER CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)

REPORT TO THE EXECUTIVE



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PORTFOLIO	Economy and Growth
REPORT AUTHOR	Kate Ingram/Elizabeth Murphy
TEL NO	Ext 7286
EMAIL	kingram@burnley.gov.uk emurphy@burnley.gov.uk

PURPOSE

1. The purpose of this report is to seek approval to undertake formal public consultation on a draft Developer Contributions Supplementary Planning Document (SPD).
2. The draft SPD (attached at Appendix A) has been prepared to support the implementation of Burnley's Local Plan. Once adopted, it will be a material consideration to be used in the determination of relevant applications.

RECOMMENDATION

3.
 - (1) That Executive approve the draft Developer Contributions SPD for public consultation for an eight-week consultation period commencing in January 2020.
 - (2) That, up to the start of the consultation period, the Strategic Head of Economy and Growth be authorised by the Executive to make minor changes to the wording or layout of the draft SPD, provided that the changes do not materially change the meaning of the consultation document.

REASONS FOR RECOMMENDATION

4. To meet the Council's commitment to prepare a Developer Contributions SPD as set out in Burnley's Local Plan and the Council's Local Development Scheme (LDS); and to seek comments on a draft of the document in accordance with the relevant legislation and commitments in the Council's Statement of Community Involvement (SCI).

SUMMARY OF KEY POINTS

Early Consultation

5. During the preparation of the draft SPD, early and informal consultation took place on its scope and content with internal officers, specifically those whose work relates to the issues within the document e.g. open spaces; and also with Lancashire County Council Schools Planning Team. Whilst the document was refined to take into account the internal comments/advice received, effective engagement with the County Council Schools Planning team was difficult. The County Council will of course be formally consulted on the draft SPD. It is understood that the County Council is to review its own non-statutory policy on developer contributions “Infrastructure and Planning” to take into account legislative and national policy changes, and will no doubt will consult the borough council on a revised draft in due course. Informal discussion has also taken place with the East Lancashire Clinic Commissioning Group (CCG). Both the CCG and the East Lancashire Hospitals Trust (ELHT) are looking at developing a policy on developer contributions which may then be requested towards the cost of additional health infrastructure, including e.g. the expansion of primary care (GP) services. The current position is set out in section 11.4 of the draft SPD.

Strategic Environmental Assessment

6. SPDs no longer require Sustainability Appraisal (SA) but can require Strategic Environmental Assessment under Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (‘the SEA Directive’) and through UK legislation through the Environmental Assessment of Plans and Programmes Regulations 2004 (‘the SEA Regulations’).
7. Councils must carry out a screening process to determine whether relevant plans or programmes are likely to have significant environmental effects, and hence whether SEA is required. Where the Council determines that SEA is not required, it must prepare a statement setting out the reasons for this determination. Before coming to a conclusion on this matter, the Council is required to consult with three specific consultation bodies, namely: Historic England, Natural England and the Environment Agency. The three bodies have confirmed their agreement with the Council’s conclusion and the Council made a formal determination on 11 December 2018 that SEA is not required for this SPD.

Overview of the SPD

8. The SPD covers contributions towards:
 - Infrastructure;
 - Affordable Housing; and
 - Other matters.
9. Policy HS2 of the Local Plan sets out the policy on affordable housing provision for sites of over 10 dwellings. The SPD is intended to provide supplementary guidance on this policy, including indicative percentages of affordable housing required for mainstream housing sites by type and location.
10. Policy IC5 of the Local Plan requires the provision of new social and community infrastructure where a development would increase demand for it beyond its current capacity, or generate a newly arising need. Policy IC5 sets out the policy for seeking planning contributions. It lists a number of matters for which contributions may be sought, but makes clear that the list is not exhaustive. It requires development to provide or

contribute towards the provision of the infrastructure needed to support it. It sets out that planning contributions will be sought where development creates a requirement for additional or improved services and infrastructure and/or to address the off-site impact of development so as to satisfy other policy requirements. It sets out that contributions may be sought to fund a single item of infrastructure or to fund part of an infrastructure item or service; and that contributions may be sought for the initial provision and/or ongoing running and maintenance costs of services and facilities. It sets out that viability may be considered.

11. The draft SPD is underpinned by the Local Plan Viability Assessment of March 2017 which has been used to set both the percentages of affordable housing and a series of contribution 'ceilings' above the levels of which schemes would generally not be viable. The ceilings would only take effect where the requests for appropriate contributions exceeded the ceiling. Should an applicant wish to demonstrate that a particular scheme could not make provide affordable housing at the level set and/or make contributions (if required) up to the ceiling, they would need to submit their own viability assessment in line with Policy IC4 clause 7.
12. The SPD divides contributions into the categorises:
 - **Necessary and critical** - these are contributions which must be provided for a scheme to be approved. Viability cannot be taken into account.
 - **Necessary and important** (including affordable housing and education contributions) - these are contributions which must be provided for a scheme to be approved if viable. Viability can be taken into account.
 - **Desirable** - these are contributions which can weigh in favour of a scheme in the planning balance but are not essential in terms of specific Local Plan policy requirements. Viability can be taken into account.

(For fuller explanation see Table 1, page 15 of the draft SPD)

13. The SPD also takes account of recent changes to legislation and national policy including a key change which means that Section 106 Agreement contributions from any number of schemes may once again be 'pooled' towards the cost of a piece of infrastructure; subject still to the requirement for each contribution to satisfy the relevant statutory and national policy tests (as set out in the SPD - Section 4) and reflected in the Local Plan.

Proposed Consultation

14. Under the Town and Country Planning (England) Regulations 2012 there is a requirement for a minimum of four weeks public consultation on all SPDs. The Council's adopted Statement of Community Involvement (SCI) however, extends this period to six weeks. Due to the complexity of the issues within the SPD it is proposed to extend this to an 8 week period on this occasion.
15. The consultation will include notification to all those required to be notified by legislation and all others on the Local Plan consultation database, together with advertisement on social media and the Council's website. The document will also be made available at the Contact Centre and main libraries.
16. A revised SPD will then be prepared taking into account the consultation responses received and will be presented to Executive for formal adoption in Spring/Summer 2020.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

17. The work will be completed within existing officer resources and the costs associated with consultation and production will be met within existing budgets. The SPD is presented as a draft for consultation. As such there are no financial implications directly associated with this report.

POLICY IMPLICATIONS

18. Once adopted, the SPD will be a material consideration when considering relevant applications. Its production fulfils existing commitments in Burnley's Local Plan and the Council's LDS.

DETAILS OF CONSULTATION

19. As outlined in the Report.

BACKGROUND PAPERS

20. [Burnley's Local Plan 2012-2032 \(Adopted 31 July 2018\)](#)

FURTHER INFORMATION

PLEASE CONTACT:

Kate Ingram

ALSO:

Elizabeth Murphy