

**Meeting of the Cabinet – 11<sup>th</sup> March 2015**

**Report of the Acting Strategic Director of Environment, Economy & Housing**

**Approval for consultation of the draft revised Planning Obligations  
Supplementary Planning Document (SPD)**

**Purpose of Report**

1. To seek Cabinet approval for the draft review of the “Planning Obligations SPD” to be used as a basis for public consultation commencing on 13<sup>th</sup> March 2015 for a period of six weeks.

**Background**

2. The Council's Planning Obligations Supplementary Planning Document (SPD) sets out detailed guidance on Dudley Council's requirements for planning obligations for all those involved in the submission and determination of planning applications as appropriate.
3. Following adoption of the initial Planning Obligations SPD in December 2007, a number of reviews have taken place in line with good practice to ensure that the required planning obligations continued to remain consistent with national guidance and be realistic and reasonable in light of economic circumstances. The last review was in 2011.
4. In line with good practice and due to a changing planning policy context for the Borough, this review is required for the following reasons:
  - To reflect the adoption of a Community Infrastructure levy (CIL) Charging Schedule.
  - To reflect changes to planning obligations which are effective from April 2015, as a result of the 2010 CIL Regulations (as amended) which limit the pooling of planning obligations (S106 agreements); and scale back the use of planning obligations to Affordable Housing and those matters that are directly related to a specific site to make a development acceptable in planning terms.
  - To reflect changes to national policy which:
    - Exempts small scale development (of less than 11 dwellings or 1000sqm) from the requirement to contribute towards affordable housing and other tariff style contributions.

- Alters the way affordable housing contributions are calculated by offering developers financial credit equivalent to existing floor space of vacant buildings on site.
    - To provide detail on how infrastructure relating to any retail expansion of Merry Hill and the Waterfront will be delivered through the use of Legal Agreements.
5. A summary of the key amendments made to the SPD are set out in the table in Appendix 1.
  6. The review of the SPD has been prepared in consultation with other Council Services particularly those that implement planning obligation spend. It is proposed that the period of consultation on the draft SPD will run from Friday 13<sup>th</sup> March to Friday 24<sup>th</sup> April 2015. During that time, the document will be able to be viewed at the reception area at 4 Ednam Road, Dudley and Dudley Council Plus, as well as at all main libraries and on the Council's website. Notification of the consultation will be sent to statutory consultees and key stakeholders who have expressed a wish to be involved. The document is also available on the Committee Management Information system and a paper copy is in the Member's Room. A drop in session for Members will also be arranged and the date will be confirmed in due course.
  7. Any representations received during the consultation period will be considered and, where appropriate, will be incorporated into the final SPD which will be presented to Cabinet in the summer of 2015 for adoption. The reviewed SPD will then become a material consideration in the determination of planning applications.

## **Finance**

8. The preparation of the document will be funded from existing budgets and resources dedicated to the production of Development Plan Documents and other statutory planning documents. The cost of monitoring and managing the monies received through Planning Obligations is met by applicants.

## **Law**

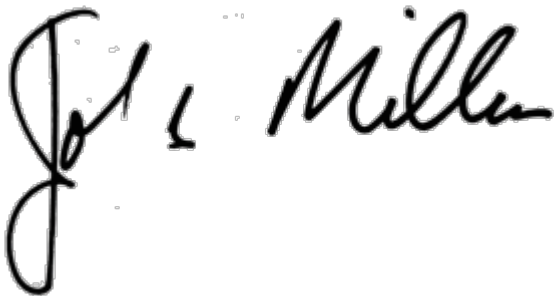
9. Following consultation and adoption, the revised Planning Obligations SPD will become a material consideration in the determination of planning applications. The review of the SPD is being prepared under the provisions of the Planning and Compulsory Purchase Act (2004), the Town and Country Planning (Local Development) (England) Regulations 2004 (amended 2008) and the Community Infrastructure Levy Regulations (2010) as amended.

### **Equality Impact**

10. The proposals take into account the Council's Policy on Equality and Diversity. The adoption by the Local Planning Authority of a CIL regime and amended Planning Obligations SPD will ensure that the mitigation and benefits of development are addressed across the Borough. This will include meeting the needs of children and young people by seeking to provide sufficient facilities for them as well as having a positive effect for future generations.
11. Planning obligations relate to the provision of affordable homes, access to jobs, services and the infrastructure that is necessary to support them, whilst protecting and enhancing the natural and built environment. The SPD therefore seeks to promote sustainable development and ensure that the infrastructure necessary to support future residential and commercial growth is delivered.

### **Recommendation**

12. That Cabinet approves the Draft review of the Planning Obligations SPD to be used as a basis for public consultation commencing on 13<sup>th</sup> March 2015 for a period of six weeks.

A handwritten signature in black ink, appearing to read 'John Millar'. The signature is fluid and cursive, with a large initial 'J' and 'M'.

**John Millar**

**Acting Strategic Director of Environment, Economy & Housing**

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## List of Background Papers

Appendix 1 – Table of amendments made to the Planning Obligations SPD

*Draft Revised Planning Obligations SPD (March 2015)*

*Planning Obligations SPD (September 2011)*

*Community Infrastructure Draft Charging Schedule (July 2014)*

*Infrastructure Delivery Plan (August 2013)*

*CIL Viability Assessment (August 2013)*

## Appendix 1 to Cabinet Report-Main Proposed Changes to Draft Revised Planning Obligation SPD

Section	Proposed Change	Reason for Change
Obligations Grid	Removed from SPD	Planning obligations will now be determined on a site by site basis where on site mitigation is required. The only exceptions to this are affordable housing and open space obligations.  There are now national thresholds

		in place for tariff based planning obligations.
Chapter 1 – changes to regulations and national policy	Further detail has been provided in relation to CIL, the national thresholds for planning obligations and the CIL Regulation 123 list; (the list of projects the Council may spend CIL monies on)..	To provide more clarity within the document and explain how planning obligations and CIL will operate alongside each other
Chapter 1 – Local Policy	Reference to related Plans and Strategies has been updated	To ensure the SPD is up to date
Chapter 2 – Monitoring, Enforcement and Spend	Updated to incorporate detail on pooling restrictions and specific spend requirements for any financial S106 contributions	To reflect changes in national policy and regulations.
Chapter 3 – Types of Planning Obligations that may be sought	The following types of formula-based infrastructure requirements have been removed from the SPD:	
	<ul style="list-style-type: none"> <li>Libraries</li> <li>Transport Infrastructure Improvements</li> <li>Open Space, Sport</li> </ul>	In line with the 2010 CIL Regulations (as amended) the use of planning obligations will be scaled back from April 2015. As such it will no longer possible for

	and Recreation (on sites of less than 80 dwellings)	<p>the Council to secure a generalised tariff based contribution for Library provision or Transport Infrastructure Improvements.</p> <p>It is intended that generalised infrastructure contributions from developers will be secured through CIL instead.</p>
	<ul style="list-style-type: none"> <li>• Economic and Community Benefits</li> <li>• Nature Conservation Enhancements</li> <li>• Public Art</li> <li>• Public Realm</li> </ul>	<p>In line with the 2010 CIL Regulations (as amended) it is no longer appropriate for these types of infrastructure to be delivered through the use of planning obligations.</p> <p>The need for these types of infrastructure will be considered as part of the development management process on a site by site basis. Where required infrastructure is identified it will be secured through the use of planning conditions, supported by a range of policies within the Local Plan ( including the Black Country Core Strategy, Area Action Plans and the emerging Borough Development Strategy)</p>
Chapter 3 – Affordable Housing	Detail on the Vacant Building Credit has been incorporated.	To reflect changes in national policy

Chapter 3 – Education	<p>The costs for Nursery, Primary, Secondary and post 16 school places have been updated where required.</p> <p>The evidence base has been moved to new Appendix 4</p>	To ensure the SPD is up to date
Chapter 3 – Nature Conservation	Removed references to Avoidance and Enhancement and clarified the use of Planning Obligations for Mitigation and Compensation	To reflect changes in national policy.
Chapter 3 – Open Space, Sport and Recreation	<p>Removed references to the use of tariff based formulas for residential developments under 80 dwellings.</p> <p>The evidence base has been moved to new Appendix 4</p>	To reflect changes in national policy.
Chapter 3 – Environmental Protection	Incorporated references to the emerging Renewable Energy SPD and the Black Country Air Quality SPD	To ensure the SPD is up to date

Chapter 3 – Merry Hill and the Waterfront	New section added to explain how infrastructure relating to any retail expansion of Merry Hill and the Waterfront will be delivered through the use of Legal Agreements.	To add clarity, and explain how developer contributions will be secured to deliver the required infrastructure at Merry Hill and the Waterfront to enable retail expansion.
Appendix 1 – Glossary	Updated	To ensure the SPD is up to date
Appendix 2 – Developer Obligations – Relationship between Planning Obligations and CIL	New Appendix to clarify the Council's approach to securing developer obligations through either Planning Obligations or CIL	To aid transparency and clarity
Appendix 3 – Drafting Legal Agreements and Index Linking	New Appendix lifting information from the main document into the appendices.	To add clarity and ease of use of the SPD
Appendix 4 – Evidence Base for Education and Open Space, Sport and Recreation	New Appendix lifting information from the main document into the appendices	To add clarity and ease of use of the SPD