

Dudley Metropolitan Borough Council

Cabinet - 13th June, 2007

Report of the Director of the Urban Environment

**Approval for Public Consultation of the Draft 'Planning Obligations'
Supplementary Planning Document**

Purpose of Report

1. The purpose of the report is to seek Cabinet approval for the Draft Planning Obligations Supplementary Planning Document (SPD) for public consultation.

Background

2. Planning Obligations (otherwise known as "S.106 Agreements") are defined within Circular 05/2005 'Planning Obligations' (Annex B, Paragraph B3) as:

"...private agreements negotiated, usually in the context of planning applications, between local planning authorities and persons with an interest in a piece of land (or "developers"), and intended to make acceptable development which would otherwise be unacceptable in planning terms ..."

3. Guidance within Circular 05/2005 (Annex B, Paragraph B5) requires that planning obligations are only sought where they meet all of the following tests:

"A planning obligation 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 aspects."*

4. Where there is a clearly identified impact arising from a development proposal, the Council will assess the type and level of measures necessary to mitigate planning loss and will negotiate an appropriate planning obligation. The following list outlines the types of obligation that may be sought or required by the Council;

Affordable Housing
Economic Well Being
Traffic and Transportation
Historic Environment
Nature Conservation
Public Art
Travel Plans

Education
Environmental Protection
Highway Infrastructure Works
Libraries
Open Space, Sport and Recreation
Public Realm
Site Specific Measures

This list is not exhaustive, as other obligations may be sought or required depending upon the individual characteristics of a development proposal.

5. The aim of this SPD is therefore to set out detailed guidance on the way the Council expects planning obligations to be secured when planning approval is being granted. The SPD is based on the Unitary Development Plan (UDP) but it will provide greater clarity to developers, the community and the Council regarding the basis for negotiating Planning Obligations. It will also be used to inform the operation of the Development Control Process, and to provide a guide for developers and land owners about the principles applicable to planning obligations and how these are considered through the planning process.
6. The key objectives of the SPD are as follows:
 - To set out the principles that guide the Council's approach to planning obligations based on the policies in the approved Unitary Development Plan (UDP)
 - To set out a scale of standard formulae and charges for a profile of needs that may be generated by a development and to explain these formulae and charges.
 - To set out the policy basis for a full range of planning obligations to give clarity to developers.
7. The SPD has not been prepared in isolation; rather it has been prepared within the context of a range of existing and emerging plans, policies and programmes. As well as the Unitary Development Plan (UDP), the SPD is in conformity with national guidance, the Regional Spatial Strategy, the Council Plan and the Dudley Borough Challenge (Community Strategy).
8. The SPD must be accompanied by a Sustainability Appraisal and a Statement of Consultation. The purpose of the Sustainability Appraisal is to promote sustainable development through better integration of social, economic and environmental issues into planning policy and to assess the sustainability implications of development plan documents.
9. The Council has produced an overarching Statement of Community Involvement which explains how local communities and stakeholders can be involved in the production of the SPD. In addition to this a Statement of Consultation has been produced to accompany the SPD which sets out how consultation will take place, who is being consulted and at what stages in the process this will occur. Effective consultation is a key objective of the new planning system in order to strengthen community involvement.

10. In accordance with the Council's Local Development Scheme the SPD is programmed for public consultation for a six week period from the 6th July 2007 to the 17th August 2007. During this time the SPD will be available for public inspection at Council Offices and on the DUE webpage. The main focus of consultation will be key stakeholders and potential SPD users such as developers and planning consultants. Following comments and representations received, the finalised SPD will be presented to Cabinet for approval of adoption in December 2007.
11. The Planning Obligations SPD, Sustainability Appraisal and Statement of Community Consultation are available for inspection in the Members Room and available on CMIS.

Finance

12. There will be no further financial implications of adoption of the SPD over and above normal policy and development control costs which are met from existing budgets.

Law

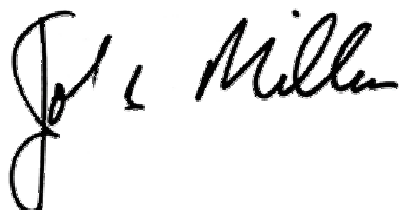
13. When adopted the SPD will become a material consideration in the determination of planning applications. The SPD is being prepared under the new planning system enacted by the Planning and Compulsory Purchase Act 2004. Work on the SPDs has been undertaken in line with the Town and Country Planning (Local Development) (England) Regulations 2004.

Equality Impact

14. The preparation of this SPD has been undertaken in accordance with the Council's Equality and Diversity Policy. Planning Obligations are concerned with the protection and enhancement of the natural and built environment. Furthermore they are concerned with the provision of affordable homes, access to jobs, goods and services (including training, education and recreational facilities) and the infrastructure that is necessary to support them. The Planning Obligations SPD therefore seeks to provide sustainable development in the Borough for the benefit of adults, children and young people alike, therefore promoting equal opportunities for all.

Recommendation

15. Cabinet Members are asked to approve the Draft Planning Obligations Supplementary Planning Document for publication for a statutory public consultation period of six weeks.



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List of Background Papers

Draft Dudley MBC Planning Obligations Supplementary Planning Document (SPD)

Draft Dudley MBC Planning Obligations SPD: Sustainability Appraisal

Draft Dudley MBC Planning Obligations SPD: Statement of Consultation