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**Development Control Committee – 7<sup>th</sup> April 2015**

**Report of the Acting Strategic Director (Environment, Economy and Housing)**

**Public consultation on the Draft Revised Planning Obligations Supplementary Planning Document (SPD)**

**Purpose of Report**

1. To inform Development Control Committee of Cabinet's approval of the Draft Revised 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.
  - 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 current 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. On the 11<sup>th</sup> March 2015 Cabinet approved the document for consultation and 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 was held at 5pm on 19<sup>th</sup> March, prior to Development Control Committee.
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.

### **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 planning documents.

### **Law**

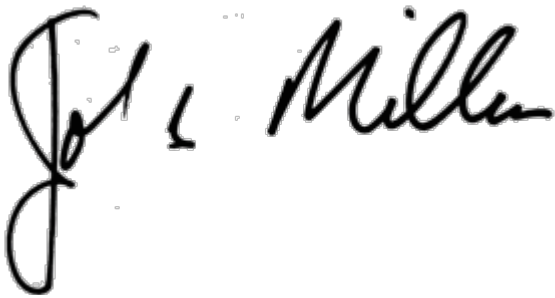
9. Following consultation and adoption, the revised Planning Obligations SPD will become a material consideration in the determination of planning applications. The review of the SPD is being prepared under the provisions of the Planning and Compulsory Purchase Act (2004), the Town and Country Planning (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 Development Control Committee notes Cabinet's decision to approve the Draft Revised 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.



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**J. B. Millar**

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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 (June 2014)*  
*CIL Viability Assessment (June 2014)*

## Appendix 1 to Development Control Committee Report

### Main Proposed Changes to Draft Revised Planning Obligation SPD

| Section  | Proposed Change   | Reason for Change  |
|--|---|--|
| Obligations Grid   | Removed from SPD  | <p>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.</p> <p>There are now national thresholds in place for tariff based planning obligations.</p> |
| 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 and Recreation (on sites of less than 80 dwellings)</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 the Council to secure a generalised tariff based contribution for Library provision or Transport Infrastructure           |

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|  |   | <p>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 | Removed references to the use of tariff based formulas for residential  | To reflect changes in national policy.   |

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|  | <p>developments under 80 dwellings.</p> <p>The evidence base has been moved to new Appendix 4</p>  |   |
| 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   |