


Agenda Item No:	12	
Committee:	Full Council	
Date:	26 February 2015	
Report Title:	Developer Contributions Supplementary Planning Document (SPD)	

Cover sheet:

1 Purpose / Summary

To request the Full Council to adopt the attached 'Developer Contributions' Supplementary Planning Document (SPD)' at this meeting. Any recommendations or changes made by the Cabinet earlier at its meeting will be verbally reported to the Full Council.

2 Key issues

The 'Developer Contributions' Supplementary Planning Document (SPD) has been prepared for the following purposes:

- to support the adopted Local Plan, with the overall aim of delivering infrastructure needed to support growth in Fenland;
- to provide clarity to developers, planning officers, stakeholders and local residents regarding the basis on when developer contributions will be sought and the type of developer contributions that may be required.;

3 Recommendations

That:

1. The Full Council adopt the attached 'Developer Contributions' Supplementary Planning Document (SPD), with it being brought into effect on 6 April 2015.
2. The Full Council revoke two SPGs listed below, effective from 6 April 2015 onward.
 - Play Space Provision SPG (2003)
 - Planning Agreements - Education Provision SPG (2000)

Wards Affected	All Wards
Forward Plan Reference	
Portfolio Holder(s)	Cllr F. Yeulett - Portfolio Holder for Growth Cllr W. Sutton - Portfolio Holder for Neighbourhood Planning
Report Originator(s)	Gary Garford – Corporate Director Harj Kumar – Senior Planner

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Background Paper(s)	Adopted Fenland Local Plan (May 2014)

Report

1 Background / introduction

- 1.1 As you may be aware, Fenland District Council has decided not to introduce a Community Infrastructure Levy (CIL) for the time being. Whilst development in Fenland is viable, the consultants who produced our 'Viability Scoping and Assessment' report concluded that there is not enough 'head room' to introduce CIL charges under the current economic climate.
- 1.2 The SPD details the Council's approach to securing these developer contributions. The SPD will provide clarity to developers, planning officers, stakeholders and local residents regarding the basis on which developer contributions will be sought. The SPD details the type of developer contributions that may be required.
- 1.3 The developer contributions will only be sought from development where there is a need to mitigate adverse negative impact or to secure additional benefits necessary as a result of the development, and/or to make the development acceptable in planning terms. It will also provide greater certainty for residents and developers before a planning application is submitted, or a site purchased, so that the cost implications of likely developer contributions can be taken into account prior to submitting a planning application.
- 1.4 We carried out a six weeks public consultation on the SPD starting on 5 December 2014 and ending on 15 January 2015. During that time the public, developers and stakeholders were invited to comment on the content of the SPD. After the consultation period had finished, all comments received were carefully considered and where appropriate changes were made to the SPD. A summary of the main changes to the SPD is attached at Appendix B. A consultation report will be made available separately on the Council's website following adoption which outlines in detail the comments received, our response to each comment and all the changes made to the SPD in response to comments.

2 Considerations

Local Policy: Fenland Local Plan – May 2014

- 2.2 The Fenland Local Plan was adopted in May 2014. Policies in the adopted Local Plan form the basis for this SPD, such as Policy LP2 (Facilitating Health and Wellbeing of Fenland Residents) which requires good access to health, leisure and recreation facilities. Provision of accessible open space for play, sport, recreation and access to nature are considered as part of good design as set out in Policy LP16 (Delivering and Protecting High Quality Environments across the District).
- 2.3 The Developer Contributions SPD takes its lead mainly from Policy LP13 (see below) of the Local Plan. As a basic principle developers will be expected to meet and pay for the infrastructure need that a proposed development will generate. In part (b) of the policy, the need for developer contributions is referred as well as the need to provide further guidance on where it will be sought, how it will be collected, and how the money collected will be spent. This SPD addresses these issues.

Fenland Local Plan 2014: Policy LP13 – Supporting and Managing the Impact of a Growing District

All new development should be supported by, and have good access to, infrastructure. The Council will consider proposals based on the following:

a) Infrastructure

Planning permission will only be granted if it can be demonstrated that there is, or will be, sufficient infrastructure capacity to support and meet all the requirements arising from the proposed development. Conditions or a

planning obligation are likely to be required for many proposals to ensure that new development meets this principle.

Development proposals must consider all of the infrastructure implications of a scheme; not just those on the site or its immediate vicinity.

Consideration must be given to the likely timing of infrastructure provision. As such, development may need to be phased either spatially or in time to ensure the provision of infrastructure in a timely manner. Conditions or a planning obligation may be used to secure this phasing arrangement.

b) Developer Contributions

Developers will either make direct provision or will contribute towards the provision of local and strategic infrastructure required by the development either alone or cumulatively with other developments. Where a planning obligation is required, in order to meet the above principles of infrastructure provision, this will be negotiated on a site-by-site basis. This will be required in addition to the affordable housing requirement as set out in Policy LP5.

Further guidance on how the Council will implement this policy will be set out in a separate document(s), the content of which will depend on whether the Council prepares and adopts a Community Infrastructure Levy (CIL). Such a document(s), including a Planning Obligations SPD and an IDP, will cover items such as (but not exclusively):

The infrastructure themes where contributions will be sought (e.g. education, open space, carbon offsetting)

How contributions will be collected

How contributions will be spent

Developments - Likely to require a Developer Contributions

- 2.4 Small scale developments such as householder applications for house extensions or a garage, agricultural development, development which can be classed as a community facility itself; and replacement dwellings would not require developer to make a contribution. However, residential developments with a net increase of 5 or more dwellings or a site area of over 0.1ha, will be required to make a developer contribution for certain types of infrastructure or service, where there is an identified need. It should be noted that these thresholds are a guide, and should not be read as an absolute cut off point - a decision will be made on a case-by-case basis as to whether a planning obligation would be appropriate and necessary.
- 2.5 Other types of development (retail, employment, leisure, etc.) may also be required to have a S106 planning obligation agreed between the Council and the applicant, though it is even harder to make generalisations as to what types of schemes will or will not likely require one, other than to say a larger scheme with a greater impact is more likely to require a S106 planning obligation agreement.

Provision of Infrastructure

- 2.6 The general presumption is that infrastructure shall be provided on-site by the developer wherever possible. However, for many types of infrastructure, this may be impractical. If the developer is unable to provide either on or off-site improvements, a financial sum may be paid to the Council or other infrastructure delivery partner to fund its provision.

- 2.7 The Council will carry out a regular review of the existing infrastructure provision in the district to determine where there are gaps in provision and where additional infrastructure is required to support new development. The Council has prepared an Infrastructure Delivery Plan (IDP) to support the Local Plan. This will be kept up-to-date (the next is due early 2015) and will set out where, when and what type of infrastructure needs to be provided.

Community Infrastructure Levy (CIL)

- 2.8 In November 2014, FDC decided not to introduce a CIL for the time being. The district wide viability study carried out by consultants over summer 2014 indicates that there is limited scope to introduce a CIL in Fenland at the present time. This, along with the costs of setting up and administering a CIL makes it an unattractive option for FDC at the present. However, this position will be kept under review (a review is scheduled to commence late 2017) and CIL could be introduced when more favourable conditions arise. If the Council does introduce a CIL, this SPD will be reviewed at the same time.

Pooled Contributions

- 2.9 In the case where the infrastructure provision applies to a distinct collection of developments, the Council may expect a contribution towards a piece of infrastructure from more than one development. This, as outlined in Section 123 of the CIL Regulations, will only apply to a specific piece of infrastructure related to a site or collection of sites, and where delivery of the infrastructure is secured from contributions from no more than five separate developments. This approach will not only be taken for strategic sites but for other sites within the district where it would be appropriate and necessary to deliver needed infrastructure. The IDP will outline projects where pooling may be appropriate.

Viability

- 2.10 Developers will be expected to create a sustainable development in Fenland in that the proposal will minimise any adverse effect on the environment and also provide infrastructure generated by the development. Policy LP 13(a) of the Fenland Local Plan makes it clear that 'Planning permission will only be granted if it can be demonstrated that there is, or will be, sufficient infrastructure capacity to support and meet all the requirements arising from the proposed development'. Where a developer considers that to meet all policy requirements (including infrastructure provision) their scheme would not be viable, they should contact the Council's Development Management team to discuss ways of addressing the viability issues. This should be done at pre-application stage, if possible. The Council will at first seek to test the development viability by seeking other viability enhancements such as deferring or phasing contribution payments. If there are still viability issues, the Council will require the submission of an 'open book' viability appraisal. Once submitted, the viability assessment will be considered and assessed by FDC and an independent viability assessor appointed by FDC, with full costs to be paid by the applicant.

Consultation

- 2.11 In November 2014, the Cabinet approved the draft SPD for a public consultation which started on 5 December 2014 and ended on 15 January 2015. All supporting documents were made available on the website.
- 2.12 Hard copies of the main documents were placed in appropriate locations, including each of the '@ Your Service' outlets, libraries (including the mobile library) and at Business Reception at Fenland Hall.
- 1.1 During the consultation period public and stakeholders were able to submit written comments via both email and post. The consultation period ended on 15 January 2015 and 22 different organisations, stakeholders and individuals commented on the draft

SPD. These included, Highway Agency, Natural England, English Heritage, Cambridgeshire County Council, March and Whittlesey Parish Councils. They made over 148 separate comments on the draft SPD and these are included in the Consultation Report which will be published on our website for all to view. The Consultation Report includes summary of all the comments made and the Council's response to these comment and any changes made to the draft SPD as a result of the comments. A summary of the main changes are included in Appendix B but the full report can be viewed on our website (see link below).

<http://www.fenland.gov.uk/article/9574/Developer-Contributions-and-Community-Infrastructure-Levy-CIL>

Adoption

- 2.14 Unlike the Local Plan, an SPD has a much simpler adoption process. It does not, for example, have public examination by an independent Inspector. Following the consultation period, it can simply be amended and then adopted by the Council as formal Council policy, as the SPD complements the Local Plan.

Transitional Arrangements

- 2.15 Should Members decide to adopt the SPD, it will come into effect on 6th April 2015 when the Government's new regulations commence. In order to move from the existing system to the new system, planning applications which are received before 6th April 2015 will be considered under the Council's existing guidelines. Planning applications received on or after the 6th April 2015 will be considered in accordance with this SPD.

3 Effect on corporate objectives

- 1.2 The 'Developer Contributions' SPD will help the delivery of some of the Council's corporate objectives particularly 'Promote and enable housing growth, economic growth and regeneration across Fenland'.

4 Community impact

- 4.1 Once adopted, the 'Developer Contributions' SPD will have an impact on all communities across Fenland, in terms of providing infrastructure needed to support new communities created by the development.

5 Conclusions

- 5.1 The Full Council is recommended to adopt the attached "Developer Contributions' SPD (attached at Appendix A).



Appendix A - Supplementary Planning Document (please refer to attached)

Developer Contributions Supplementary Planning Document (SPD)

Final Version Recommended for Adoption (February 2015)

Summary of the main changes to Developer Contributions SPD

(Please note policy and paragraph numbering are based on the final version of the SPD -see Appendix A).

Almost all the changes suggested to the draft SPD have been very minor and do not alter the general message of the SPD. Officer have also made minor changes to add clarity to the SPD. We have inserted two new paragraphs (see below) which are introduced as a result of the comments received from Norfolk County Council and English Heritage.

<p>Norfolk County Council</p>	<p>Cross-boundary Working 4.34 Developments that are near or cross the boundary of neighbouring authorities, Fenland District Council will work closely with neighbouring councils to ensure that infrastructure provided meets the needs of all authorities affected by the development. For example, FDC will work closely with Kings Lynn and West Norfolk Borough Council to bring forward the Strategic Allocation in East Wisbech to ensure not only the required infrastructure is provided but also valued assets are preserved in the area in particular open space, biodiversity and high quality woodland. The Regional Freight Interchange will require close working with Peterborough City Council to bring this proposal forward. Although the majority of the site is within Peterborough City Council’s boundary it will have an impact on the local transport network around Whittlesey and on the natural environment. A working group between the relevant authorities will be set up from the start of any pre-application stage. This is to ensure all impacts of the proposed development are considered and mitigate against any adverse impact</p>
<p>English Heritage</p>	<p>5.7.3 Fenland has a number of listed buildings and some are in need of repair. Where a proposal requiring any of the following is required, it may be necessary for planning obligations to be sought:</p> <ul style="list-style-type: none"> • repair and re-use of listed buildings and/or enhancement of setting; • increased public access and improved signage to heritage assets; • interpretation panels/ historical information and public open days; • measures for preservation or investigation and recovery of archaeological remains and sites; • display of archaeological sites and dissemination of information for educational or research purposes. <p>Where a planning application is made in the conservation areas, applicants are advised to consult the Historic Environment Record, held by Cambridgeshire County Council. This will assist in the identification of possible mitigation or enhancement measures that may be necessary to a given site and these measures may need to be secured through a planning obligation.</p>