

BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan

REPORT OF THE EXECUTIVE DIRECTOR PLACE TO CABINET ON 20th February, 2019

SUPPLEMENTARY PLANNING DOCUMENTS

1. PURPOSE OF REPORT

- 1.1 This report seeks authority to consult on several Supplementary Planning Documents (SPD's) and Planning Advice Notes.

2. RECOMMENDATIONS

- 2.1 **That approval is given to consult on the Supplementary Planning Documents and Planning Advice Notes covered in this report.**
- 2.2 **It is recommended that the Council no longer continues to progress the Community Infrastructure Levy.**

3. INTRODUCTION

- 3.1 The Local Plan, adopted on 3rd January 2019, contains policies to be considered when determining planning applications. Supplementary Planning Documents contain further advice and explain how these policies will be applied. Where a document is referred to as a Planning Advice Note (PAN) it is providing guidance on an issue that doesn't have a direct link to a Local Plan policy.
- 3.2 A number of updated and new Supplementary Planning Documents and Planning Advice Notes have been prepared following adoption of the Local Plan. Some documents are existing SPD's that have had minor changes to reflect the updated policy position. Others are new documents. Appendix 1 summarises key points to note and changes made to existing documents. The documents are contained in full in appendix 2.
- 3.3 A number of the Supplementary Planning Documents seek developer contributions through section 106 agreements. It is proposed that the Council continues to use section 106 contributions rather than pursuing the Community Infrastructure Levy.

4. PROPOSAL AND JUSTIFICATION

- 4.1 Following adoption of the Local Plan, a suite of updated and new SPD's/ PAN's has been prepared. This report seeks approval to carry out public consultation. Public consultation will take place for a period of four weeks.

4.2 **Existing SPD's/PAN's that have been updated**

Financial Contributions for Schools
Barn Conversions
Trees and Hedgerows
Shop Front Design
Advertisements
House Extensions and other Domestic Alterations
Residential Amenity and the Siting of Buildings
Design of Housing Development
Open Space Provision on New Housing Developments
Removal of Agricultural Occupancy Conditions
Mortar Mixes for pointing historic buildings
Hot Food Takeaways SPD
Walls and Fences
Lawful Development Certificates

4.3 **New SPD's/PAN's**

Planning Obligations
Affordable Housing
Sustainable Travel
Heritage Impact Statements
Biodiversity and Geodiversity
Hot Food Takeaways Planning Advice Note

4.4 Public consultation will take place for a period of four weeks in accordance with the Town and Country Planning (Local Planning) regulations, 2012. Comments will be considered and a further report will be taken to Cabinet detailing any changes made as a result of consultation, and seeking authority to adopt the final versions.

4.5 Appendix 1 provides a summary of the purpose of each document and highlights any key points to note, including changes made to existing documents. The documents are contained in full in appendix 2.

4.6 There are three existing SPD's that it is no longer intended to carry forward. These are:

- Cawthorne Village Design Guide
- Silkstone Parish Design Statement
- Penistone Markets Area Planning Brief.

4.7 The two village design documents are out of date as the policies they supplement are superseded by policies in the Local Plan. Cawthorne and Silkstone are preparing Neighbourhood plans, and could incorporate the design guides into their plans. If they are not incorporated within the Neighbourhood Plans, and are still considered necessary by the Parish Councils, they will be asked to update them and submit them to the Council to carry out consultation and take them through the adoption process. The Penistone Markets Area Planning Brief is significantly out of date and is superseded by development of the Tesco and the market area.

4.8 A number of the Supplementary Planning Documents seek developer contributions through section 106 agreements.

These are:

- Financial Contributions for Schools
- Sustainable Travel
- Affordable Housing
- Open Space Provision on New Housing Developments

Community Infrastructure Levy Review and Consultation

- 4.9 In Barnsley consultations on the CIL took place in 2015 and 2016. In between these consultations the Government commissioned an independent review of CIL to assess the extent to which it was able to provide an effective mechanism for infrastructure funding. The review also considered whether any changes were required. In Barnsley progress halted with progressing CIL to adoption whilst Government considered and responded to the review. The Review was published in February 2017 and found that the system of developer contributions was not as fast, simple, certain or transparent as originally intended. The Government therefore announced a package of reforms at Autumn Budget 2017 in response to the CIL Review and in March 2018 they issued a “Supporting housing delivery through developer contributions - Reforming developer contributions to affordable housing and infrastructure” (see hyperlink in Appendix 3).
- 4.10 The consultation recognised that one of the main issues with the current system was that there has been a partial take-up of CIL resulting in a complex patchwork of authorities charging and not charging CIL. Where CIL is charged, it was recognised that it is complex for local authorities to establish and revise rates and that these were often set at a lowest common denominator level (very low or zero rate) in order for development to remain viable in their area when taking into account other requirements such as affordable housing.

Proposed Lifting of the Section 106 Pooling Restriction

- 4.11 Regulation 123 of the CIL regulations prevents local authorities from using more than five section 106 planning obligations to fund a single infrastructure project. The pooling restriction was introduced to incentivise local authorities to introduce CIL in order to collect a fixed contribution towards infrastructure from a large number of developments. In contrast, planning obligations were intended to be individually negotiated to allow for site specific issues to be mitigated.
- 4.12 The CIL Review found that pooling restrictions were a key concern for both local authorities and developers, In the consultation the Government therefore recognised that there may be authorities where it is not feasible to charge CIL, as the amount forecast to be raised would not justify operating the costs of the system, or because an authority considers the viability impact of even a low CIL alongside section 106 planning obligations outweighs the desirability of funding the required infrastructure from CIL. They defined these areas as being those where the average new build house price was within the bottom 10% nationwide. The Government also recognised that there may be rare circumstances where a CIL has not been adopted, and development of significant scale is proposed on large sites. In some of these areas, lifting of the pooling restriction could significantly aid the funding of the infrastructure needed to support development.

- 4.13 Barnsley fits within both of these categories in that average new build prices are within the bottom 10% nationwide and with the newly adopted Local Plan we have a number of large scale sites where it is considered that S106 agreements are a better way of funding required infrastructure.

Government Response to the Consultation

- 4.14 The Government response was published in October 2018 and although it proposes to retain CIL, it indicates that the Section 106 pooling restriction will be lifted for all authorities giving them the flexibility to choose the system for infrastructure that they consider best suited to their area.

Reasons for not pursuing CIL.

- 4.15 The CIL Review and the Government consultation and the recent response provide a clear rationale for not pursuing CIL within Barnsley. The suite of Supplementary Planning Documents that we are proposing to adopt will focus infrastructure contributions on provision of additional school places, funding for sustainable transport and active travel (in order to influence travel behaviour and in turn to reduce the environmental impact of transport and improve the health and wellbeing of residents), provision of new and enhanced play equipment, formal recreation facilities and informal open space and securing affordable housing to meet identified need.
- 4.16 When preparing the Supplementary Planning Documents we have sought to ensure the contributions we seek are sufficient to provide the required infrastructure whilst also ensuring that development will remain viable (taking into account the viability testing that took place to support the local plan). When reviewing the supplementary planning documents it has been concluded that the cost of providing an additional school place within the borough has increased to £16k whilst contributions sought towards open space have also increased. In order to ensure that development is capable of being sustainable it is considered necessary to secure contributions towards sustainable travel. Taken together, the cumulative cost of meeting these requirements, providing necessary affordable housing and funding any other site specific infrastructure, are such that CIL would have to be set at a zero rate throughout the majority of the borough save for the area to the west of the M1 where significant levels of growth were not possible due to sustainability issues and other constraints.
- 4.17 The level of additional income that could have been secured by adopting CIL for the area to the west of the M1 would therefore be very modest and insufficient to justify the costs of introducing, administering and reviewing CIL.

5. CONSIDERATION OF ALTERNATIVE APPROACHES

- 5.1 One alternative approach would be not to update or prepare new supplementary planning documents. This would mean that there would be a vacuum of planning policy advice to support the Local Plan to help explain how policies will be applied and interpreted.

- 5.2 An alternative approach would be to continue the process of CIL adoption. This is not a recommended approach for the reasons set out in paragraphs 4.15 to 4.17 above.

6. IMPLICATIONS FOR LOCAL PEOPLE/SERVICE USERS

- 6.1 The implications for local people and service users are that the updated Supplementary Planning Documents and Advice notes will be used to provide up to date information and guidance on how planning policies will be applied and interpreted.
- 6.2 If CIL was implemented a proportion of the monies would be required to be retained locally.

7. FINANCIAL IMPLICATIONS

- 7.1 Consultations have taken place with representatives of the Service Director – Finance (S151 Officer).
- 7.2 The cost of the public consultation including printing and publicity costs are estimated to be approximately £2,000.
- 7.3 This additional expenditure will be financed from the reserves previously earmarked for the Local Plan.
- 7.4 The financial implications to this report are summarised in the attached Appendix A.
- 7.5 Not taking forward the Community Infrastructure Levy will be offset by the additional income generated through S106 contributions. In order to ensure that development can come forward and deliver the other sources of income such as Council Tax Revenue, New Homes Bonus and Business Rates, from time to time it will be necessary for site viability to be independently appraised. This could lead to reductions in the level of developer contributions in areas where values are low or where there are abnormal costs (e.g. significant ground stability works). However, this would have remained the case had CIL been adopted.

8. EMPLOYEE IMPLICATIONS

- 8.1 There are no employee implications arising from this report.

9. COMMUNICATIONS IMPLICATIONS

- 9.1 Communications support will be required in publicising the consultation through press releases and social media.

10. CONSULTATIONS

- 10.1 Consultation has taken place internally with the various officers who act on behalf of the teams responsible for providing input into planning applications (e.g. Highways, Housing, Public Health).

11. THE CORPORATE PLAN AND THE COUNCIL'S PERFORMANCE MANAGEMENT FRAMEWORK

- 11.1 The Local Plan is a key Council strategy document that will support achievement of each of the three main priorities set out in the corporate plan and more specifically outcomes 1-6, 9 and 11. The suite of SPD's provide further detail on how Local Plan policies will be applied.

12. PROMOTING EQUALITY, DIVERSITY AND SOCIAL INCLUSION

- 12.1 The Local Plan was subject to an Equality Impact Assessment to assess the impact of its policies and proposals. This concluded that all policies and proposals apply to all sectors of the community equally. The policies make provision for a range of housing types to meet differing needs for example affordable housing and the accommodation needs of gypsies and travellers. The Design policy D1 also seeks to ensure development is designed to be accessible to all. The Supplementary Planning Documents will support these policies ensuring that equality, diversity and social inclusion are promoted as far as possible when planning applications are considered.

13. TACKLING THE IMPACT OF POVERTY

- 13.1 If the objectives of the Local Plan are achieved it is anticipated that levels of poverty, deprivation and inequality will have reduced by the end of the plan period. A number of the supplementary planning documents will play important roles in securing planning contributions for sustainable travel (public transport, walking and cycling), investment in public open space, provision of additional school places and affordable housing. These contributions will benefit communities affected by development proposals, helping to mitigate impacts but also maximize opportunities. In turn, benefits should also be realised for those in poverty.

14. TACKLING HEALTH INEQUALITIES

- 14.1 A Health Impact Assessment was produced to consider the Local Plan proposals on health. This considered the impact of the various policies within the plan on the health of the various communities as well as whether they contribute to the ambitions of the Corporate Plan and reduce health inequalities. It concluded that as a whole the plan would potentially improve the health of residents and help address health inequalities.
- 14.2 The Hot Food Takeaway Planning Advice Note seeks to tackle obesity and promote the health agenda through influencing the location of hot food takeaways. Enhanced open space and active travel routes arising from the implementation of the Open Space on New Housing Development SPD and the Sustainable Travel SPD will also contribute towards improving health.

15. REDUCTION OF CRIME AND DISORDER

- 15.1 The Police Architectural Liaison Officer has been consulted on those documents which relate to layout and design of development to ensure that principles of Secured By Design are embedded.

16. RISK MANAGEMENT ISSUES

- 16.1 CIL is non-negotiable whereas section 106 can be negotiated. This is a risk but we consider it is outweighed by the benefits of focusing on section 106 contributions.

17. HEALTH, SAFETY AND EMERGENCY RESILIENCE ISSUES

- 17.1 Over and above the matters referred to under the heading “Tackling Health Inequalities”, there are no direct implications for health, safety and emergency resilience arising from this report.

18. COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS

- 18.1 There are no implications arising from this report.

19. CONSERVATION OF BIODIVERSITY

- 19.1 The Local Plan as modified seeks to achieve a net biodiversity gain by the end of the plan period. One of the new supplementary planning documents sets out further detail on how the Local Plan biodiversity policy will be applied. Some other SPD's such as the Open Space SPD will indirectly assist in the conservation of biodiversity.

20. GLOSSARY

SPD Supplementary Planning Document
PAN Planning Advice Note

21. LIST OF APPENDICES

Appendix A: Financial Implications

Appendix 1: List of SPD's/ PAN's and summary of their content, key points and changes

Appendix 2: Draft SPD/PAN documents

Appendix 3: Supporting housing delivery through developer contributions:

<https://www.gov.uk/government/consultations/supporting-housing-delivery-through-developer-contributions>

Appendix 4: Government response to supporting housing delivery through developer contributions - A summary of consultation responses and the Government's view on the way forward:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752183/Developer_Contributions_Government_Response.pdf

22. BACKGROUND PAPERS

Local Plan <https://www.barnsley.gov.uk/media/9924/local-plan-adopted.pdf>

A new approach to developer contributions: a report by the CIL review team
October 2016

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/589637/CIL_REPORT_2016.pdf

The value, impact and delivery of the Community Infrastructure Levy: report of
study February 2017

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/589635/CIL_Research_report.pdf

If you would like to inspect background papers for this report, please email
governance@barnsley.gov.uk so that appropriate arrangements can be made

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