

The Vale of Glamorgan Council

Cabinet Meeting: 31 July, 2017

Report of the Cabinet Member for Regeneration and Planning

Adoption of Supplementary Planning Guidance for Planning Obligations and Affordable Housing

Purpose of the Report

1. The purpose of this report is to advise Council of the results of the public consultation undertaken on the draft Affordable Housing and Planning Obligations Supplementary Planning Guidance (SPG) and to adopt the SPG documents in order to ensure the effective consideration and implementation of planning proposals.
2. This report contains the following appendices which are attached electronically as links due to the size of the documents. In addition, copies of the appendices are available in the Members' Room.

[Appendix 1](#) - Summary of Consultation Representations and Council's Response

[Appendix 2](#) - Final Planning Obligations SPG (with tracked changes shown)

[Appendix 3](#) - Final Affordable Housing SPG (with tracked changes shown)

Recommendations

1. That Cabinet note the contents of this report and endorse the responses to representations received on the draft Planning Obligations and Affordable Housing SPGs attached at [Appendix 1](#).
2. That Cabinet approve the finalised Planning Obligations and Affordable Housing SPGs attached at [Appendix 2](#) and [3](#), for immediate use in Development Management decisions alongside the adopted Local Development Plan.
3. That the values quoted in the Planning Obligations SPG (valid at July 2017) are index linked and revised on an annual basis to reflect up to date costs.

Reasons for the Recommendations

1. To provide a summary of the public consultation undertaken on the Draft Planning Obligations and Affordable Housing SPGs and to seek members endorsement of the responses and changes proposed to the finalised SPGs.

2. To ensure the effective consideration of planning applications following the adoption of the LDP and to provide decisions makers, applicants and developers access to the Council's most up-to-date guidance relating to Planning Obligations and Affordable Housing without undue delay.
3. To ensure the values quoted in the Planning Obligations SPG are updated on an annual basis to reflect up to date costs associated with delivering infrastructure.

Background

3. The Council has a number of adopted Supplementary Planning Guidance documents (SPGs) which were prepared to supplement the policies contained in the Adopted UDP. In order to ensure conformity with LDP policies, a review of the Council's Planning Obligations and Affordable Housing SPGs was undertaken to ensure there can continue to be the effective consideration and implementation of development proposals following Adoption of the LDP.
4. Draft Planning Obligations and Affordable Housing SPG were prepared prior to the LDP Examination to take account of the draft LDP policies as well as the latest evidence and guidance that informed these key policy areas. This includes updates to take account of the Council's Local Housing Market Assessment and affordable housing viability evidence.
5. The Draft SPGs were considered by Cabinet on 14th December 2015 (Cabinet Minute C3022) and at the Council's Economy and Environment Scrutiny Committee on 5th January. Cabinet resolved that the Draft Affordable Housing and Draft Planning Obligations SPG be approved for submission as evidence to the examination in public of the Council's Local Development Plan (LDP) and that a further report on any proposed changes to these SPGs be brought back to Cabinet after the Council has received the LDP Inspector's Report. In addition it was resolved at that time that the SPGs be approved to be used as material considerations in relevant Development Management decisions with immediate effect.
6. Following the initial Examination sessions in early 2016 a number of consequential and typographic changes were made to the draft SPG to take account of the Matters Arising Changes to the LDP and public consultation on the amended draft documents took place concurrently with the consultation on the Matters Arising Changes to the LDP from 16th September to 28th October 2016.
7. Officers have considered the responses received and amended the SPG documents where necessary to prepare final versions for adoption (see [Appendix 2](#) and [3](#)). The SPGs have been updated to reflect any factual changes or relevant changes in national policy and guidance. In addition, the formulas used to calculate financial contributions have been updated to reflect index increases since November 2015.
8. This report therefore summarises the results of the public consultation undertaken and seeks the adoption of the finalised SPGs to ensure guidance for these key policy areas remains up-to-date and can be considered alongside the Adopted LDP.

Relevant Issues and Options

9. In total, 12 organisations or individuals commented on the Draft Planning Obligations SPG and the Affordable Housing SPG. Summaries of these

representations together with the Council's response are shown at [Appendix 1](#) to this report.

Planning Obligations SPG - Consultation Responses

10. For the Draft Planning Obligations SPG, comments were received from 12 organisations or individuals some were objecting to an element of the draft SPG or requested changes; some individual comments were supportive of the draft SPG and others were related to the MACs and not the draft SPG. The key issues are summarised below:

- Requesting changes to include requirements for planning obligations for specific facilities or infrastructure providers (e.g. rail infrastructure, sewerage, and primary and community healthcare facilities).
- Representations from house builders to clarify and amend wording to protect developer profit where there are development viability issues
- Objecting to the S106 planning obligations monitoring and implementation administrative fee.
- Representations calling for more transparency in the spending process of Planning Obligations.
- Representations from developers calling for a reduction of the return period for unspent contributions.
- Representations regarding the pooling restriction imposed by the Community Infrastructure Regulations 2010 (as amended), and seeking clarification as to how this would be managed.
- Various other wording clarifications and typographical corrections.
- Representations in support of the SPG.

11. The response to these matters is provided at [Appendix 1](#). In response the following key changes have been proposed to the Draft Planning Obligations SPG:

- Deletion of requirement for Air Quality and Traffic Assessments, required on developments of 10 or more dwellings, as this is considered on a case by case basis, based upon evidence provided by advice received from the Environmental Health Department.
- Additional wording provided to clarify the potential contribution of drainage basins towards open space where no conflict can be demonstrated.
- Additional wording provided to clarify the costs that apply in determining the 1% build cost for Public Art requirement.
- Various typographical clarifications and corrections.

Affordable Housing SPG - Consultation Responses

12. For the Draft Affordable Housing SPG, comments were received from 12 organisations or individuals. Some of these individual comments objected to an element of the SPG, or requested changes; some were supportive of the draft SPG

and other comments were related to the MACs and not the SPG. The key issues are summarised below:

- Representations from housing associations calling for more flexibility regarding housing size mix following government welfare reforms.
- Clarification from developers regarding the requirement for Development Quality Requirements for all affordable housing (DQR).
- Representations calling for further emphasis of the areas in highest need, such as Barry, Penarth and Llandough.
- Representations from developers calling for a reduction of the return period for unspent contributions.
- Representations from housing associations requesting the Council to encourage the minimisation of site management charge arrangements.
- Representations from developers for changes to the list of abnormal/exceptional development costs.
- Representations from developers to clarify that contingency costs can be considered in viability assessments.
- Representations from developers to allow greater flexibility for clustering affordable housing in groups above 10 dwellings.
- Concerns regarding the consideration of developer profit in viability assessments and the levels of planning obligations and affordable housing that should be provided.
- Various representations of support.
- Various typographical corrections and clarifications sought.
- Support for cross-subsidised rural exceptions housing and flexibility of approach where justified.

13. The response to these matters is provided at [Appendix 1](#). In response the following key changes have been proposed to the Draft Affordable Housing SPG:

- Wording included to reference future housing welfare reforms.
- Clarification provided regarding the Council's position on Development Quality Requirements (DQR) following Inspector's Report conclusions.
- Clarification that the inclusion of an appropriate contingency allowance is acceptable when developers submit a viability appraisal.
- Clarification regarding the Council's expectation of what would be required in the consideration of off-site affordable housing provision on an alternative suitable site.
- Further clarification regarding affordable housing tenure mix.
- Various typographical clarifications and corrections.

Resource Implications (Financial and Employment)

14. The preparation of the updated Supplementary Planning Guidance has been undertaken by officers within the Regeneration and Planning Division within existing

budgets. The adoption the SPG is not anticipated to result in significant additional expenditure. Planning obligations sought through Section 106 Legal Agreements are an important mechanism to mitigate impacts of new developments.

15. The financial contributions received can be used to help lever additional grant funding for infrastructure projects through match-funding. Each year an annual report setting out income and expenditure in relation to s106 contributions is prepared following the close of the financial year.

Sustainability and Climate Change Implications

16. The ability to effectively secure affordable housing and necessary planning obligations will assist in the creation of sustainable communities whilst ensuring the financial viability of developments is considered. Updated SPG will therefore assist the Council in addressing the seven wellbeing goals set out under the Well-being of Future Generations (Wales) Act 2015. For example, maximising affordable housing provision in areas of identified need will assist in the creation of balanced and inclusive communities, whilst planning obligations can assist in the investment of sustainable transport or new community facilities in order to mitigate the impacts from new development.

Legal Implications (to Include Human Rights Implications)

17. The adoption of updated SPG documents will enable the effective negotiation of Affordable Housing and Planning Obligations secured via legal agreements under Section 106 of the Town and Country Planning Act 1990 (as amended) and the Community Infrastructure Levy Regulations 2010 following the adoption of the LDP.

Crime and Disorder Implications

18. There are no crime and disorder implications arising from this report. Crime and disorder implications can however be considered in the planning system at the development management stage when assessing the design and layout of proposals.

Equal Opportunities Implications (to include Welsh Language issues)

19. The Local Development Plan, which contains the policies the SPG documents are based on, has been subjected to Equalities Impact Assessment throughout the plan preparation process. There are considered to be no equal opportunity implications (or Welsh Language Issues) arising from the production of this report. The final version of the SPG documents will be published in Welsh and English.

Corporate/Service Objectives

20. The Adoption of the Planning Obligations and Affordable Housing SPGs will ensure that up-to-date and robust local planning policies can be used in the consideration of future development proposals in the area.
21. The 'in kind' provisions and financial contributions paid by Developers under the planning obligations system have a positive impact on many of the Council's functions including education, community facilities, highways and public transport, and seek to mitigate the impact upon services created by new development. More specifically, Section 106 financial and in-kind obligations assist in meeting the Council's Corporate Plan Objectives:

Objective 2: Providing decent homes and safe communities – increasing the number of sustainable, affordable homes delivered within the Vale of Glamorgan.

Objective 3: Promoting regeneration, economic growth and employment –delivering sustainable transport improvement schemes; developing opportunities for employment and training through new developments; and Links between Penarth Haven and the Town Centre.

Objective 4: Promoting sustainable development and protecting our environment - using developer contributions to improve community facilities.

Objective 5: Raising overall standards of achievement – using Section 106 Education contributions to assist the education department to meet the Council's aims set out under this objective.

Objective 7: Encouraging and promoting active and healthy lifestyles – using Section 106 Sustainable Transport contributions to deliver infrastructure which will encourage and promote active and healthy lifestyles; using Section 106 Public Open Space contributions to support play development.

22. In addition, one of the objectives contained in the Development Management Team Plan is the adoption of the Planning Obligations and Affordable Housing SPG documents in 2017.

Policy Framework and Budget

23. The adoption of the updated Supplementary Planning Guidance documents is a matter for Executive Decision by the Cabinet.

Consultation (including Ward Member Consultation)

24. As this matter relates to a Vale of Glamorgan wide issue no specific ward member consultation has been undertaken.

Relevant Scrutiny Committee

25. Environment and Regeneration Scrutiny Committee and Homes and Safe Communities Scrutiny Committee.

Background Papers

[Appendix 1](#) - Summary of Consultation Representations and Council's Response

[Appendix 2](#) - Final Planning Obligations SPG

[Appendix 3](#) - Final Affordable Housing SPG

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