

HIGH PEAK BOROUGH COUNCIL

Economy and Growth Select Committee

24 November 2022

TITLE:	Developer Contributions Supplementary Planning Document (SPD)
EXECUTIVE COUNCILLOR:	Councillor Anthony McKeown – Council Leader
CONTACT OFFICER:	Mark James - Principal Planning Officer
WARDS INVOLVED:	All wards outside of the Peak District National Park

Appendices Attached:

Appendix 1 – Draft Developer Contributions Supplementary Planning Document (SPD)

Appendix 2 - Strategic Environmental Assessment (SEA) Screening Report

Appendix 3 – Habitats Regulations Assessment (HRA) Screening Report

Appendix 4 – Issues and Options Consultation – Summary of Responses

- 1. Reason for the Report**
 - 1.1 To notify Councillors of the draft Developer Contributions Supplementary Planning Document (SPD) and plans for public consultation. Feedback on the document and plans for consultation is also sought.
- 2. Recommendation**
 - 2.1 That Councillors note the purpose and content of the draft SPD and provide feedback.
 - 2.2 That Councillors note the findings of the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening reports.
- 3. Executive Summary**
 - 3.1 Policy CF7 in the adopted High Peak Local Plan identifies the need for a Developer Contributions SPD to provide guidance for affordable housing, open

space, education, health and other forms of infrastructure required to address the impact of development and how contributions will be calculated. The SPD will provide the Council with a stronger basis to seek developer contributions and will provide officers, councillors and developers with clear guidance. It is being progressed now as part of a joint project to develop a parallel SPD in Staffordshire Moorlands.

- 3.2 The Council has appointed Capita to assist with the preparation of the SPD. As part of the initial work undertaken, stakeholder engagement was carried out with key service areas across the Council including Development Management, Legal, Regeneration, Service Commissioning and Derbyshire County Council. This led to a first stage consultation between 24th February and 7th April 2022 where a number of issues and options were identified for consideration. A summary of the responses received and how these have been taken into account in the draft SPD can be seen in Appendix 4.
- 3.3 The Developer Contributions SPD sets out details regarding the Council's approach to planning obligations and the types of contributions that will be required. A full copy of the draft SPD is attached as Appendix 1.
- 3.4 It is now proposed to consult on the draft SPD in line with the Regulations and the Councils Statement of Community Involvement. Details regarding the extent of the consultation are set out in the report below. Following a review of responses to the consultation, the Council will then be able to consider the adoption of the SPD. The document will become a material consideration to relevant planning applications.

4. How this report links to Corporate Priorities

- 4.1 The Developer Contributions SPD links to the following corporate key priorities:
- Aim 1: Supporting our communities to create a healthier, safer, cleaner High Peak. Key objectives include fit for purpose housing that meets the need of tenants and residents; and provision of high quality leisure facilities both in formal leisure centres and swimming pools and out in our communities.
 - Aim 2: A responsive, smart, financially resilient and forward-thinking council. A key objective is ensuring our future financial resilience can be financially sustainable whilst offering value for money.
 - Aim 3: To protect and create jobs by supporting economic growth, development and regeneration. It states that in order to meet these objectives we will 'review the implementation of the Local Plan to ensure that the requirements for affordable housing and developer contributions are being met'.
 - Aim 4: Protect and improve the environment including responding to the climate emergency. Key objectives include effective provision of quality parks and open spaces; and meeting the challenge of climate change and working meeting the challenges of climate change.

5. **Alternative Options**

- 5.1 This report does not seek a decision from the Economy and Growth Select Committee. As such, there are no alternative options to consider.

6. **Implications**

6.1 Community Safety - (Crime and Disorder Act 1998)

No direct implications.

6.2 Workforce

Officer time allocated towards the preparation and publication of the SPD.

6.3 Equality and Diversity/Equality Impact Assessment

An Equalities Impact Assessment has been completed for this project.

6.4 Financial Considerations

The SPD will provide the Council with a stronger basis to seek developer contributions. The Council is required to annually publish an Infrastructure Funding Statement (IFS) which sets out annual income and expenditure relating to developer contributions in High Peak secured through S106 agreements. The 2020/21 statement can be found as follows:

https://www.highpeak.gov.uk/media/7048/High-Peak-Infrastructure-Funding-Statement-2020-21/pdf/High_Peak_Infrastructure_Funding_Statement_2020-21.pdf?m=1640005488917

6.5 Legal

Section 106 of the Town & Country Planning Act 1990 provides that a local planning authority may enter into an agreement with any person interested in land in their area for the purpose of restricting or regulating the development or use of the land. From a practical point of view, the provision allows for the payment of monetary contributions and other measures to offset the impact of proposed developments. The proposed SPD set out in this report can give more certainty and consistency to the process of calculating developer contributions in the interests of those involved in development planning. Any adopted SPD will not form part of the Local Plan in itself, but it will be a material consideration when deciding planning applications.

The Planning and Compulsory Purchase Act 2004 makes provision for the preparation of Supplementary Planning Documents. Regulations 11 to 16 of the Town and Country Planning (Local

Planning) (England) Regulations 2012 set out the procedural requirements for their preparation and adoption and should be followed.

6.6 Climate Change

Policy EQ1 of the High Peak Local Plan sets out the Council's overarching approach for mitigating and adapting to climate change. The SPD also provides guidance on how climate change can be addressed by developments.

6.7 Consultation

A period of public consultation is proposed in accordance with the Council's Statement of Community Involvement.

6.8 Risk Assessment

S106 contributions are likely to be withdrawn by Government as the Planning White Paper proposed to abolish the current method of securing contributions and replacing it with an "Infrastructure Levy". However, planning reforms at a national level are likely to take several years and in the meantime, Government has made it clear that LPAs should not pause plan making. The SPD will reflect the adopted Local Plan.

The SPD will provide the Council with a stronger basis to seek developer contributions and will provide officers, councillors and developers with clear guidance.

Neil W. Rodgers
Executive Director (Place)

Web Links and Background Papers

As attached to the report

Contact details

Mark James
Principal Planning Officer
mark.james@highpeak.gov.uk

7. **Detail**

- 7.1 Supplementary Planning Documents (SPDs) can be prepared by local planning authorities to provide guidance to developers, land owners, planning agents and the Council on specific planning policies. SPDs are capable of being material considerations in the determination of planning applications but they do not form part of the statutory development plan. As such, they cannot be used to introduce new policies. Outside of the Peak District National Park, the statutory development plan in High Peak consists of the adopted High Peak Local Plan (2016), the Chapel-en-le-Frith Neighbourhood Plan (2015) and the minerals and waste plans prepared by Derbyshire County Council.

- 7.2 The Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for the preparation of SPDs. The National Planning Policy Framework and associated guidance acknowledge the role of SPDs in providing further guidance for local policies. Regulation 8 (3) states that; “Any policies contained in a supplementary planning document must not conflict with the adopted development plan”. It is also made clear in the national planning practice guidance that SPDs should not add unnecessarily to the financial burdens on development.

Purpose and scope of the Supplementary Planning Document

- 7.3 HPBC adopted the Local Plan in April 2016. The Local Plan sets out the Spatial Strategy, development requirements, site allocations and development management policies for the period 2011 to 2031. The plan proposes 7,000 new homes and 45ha of employment land over the plan period focussed around the market towns.
- 7.4 Policy CF7 in the adopted High Peak Local Plan identifies the need for a Developer Contributions SPD to provide guidance for affordable housing, open space, education, health and other forms of infrastructure required to address the impact of development and how contributions will be calculated. The SPD will provide the Council with a stronger basis to seek developer contributions and will provide officers, councillors and developers with clear guidance. It is being progressed now as part of a joint project to develop a parallel SPD in Staffordshire Moorlands.

Consultation on Issues and Options

- 7.5 The Council has appointed Capita to assist with the preparation of a draft SPD. As part of the initial work undertaken, a series of stakeholder engagement was carried out with key service areas across the Council including Development Management, Legal, Regeneration, Service Commissioning and Derbyshire County Council. This led to a first stage consultation where a number of issues and options were identified for consideration and inclusion within the SPD and a consultation event was undertaken between 24th February and 7th April 2022.
- 7.6 Twenty-one responses were received to the issues and options consultation which included statutory consultees, developers and members of the public. Some comments were submitted by email or letter and other respondents utilised the questionnaire which was designed for the consultation. A summary of the responses received and how these have been taken into account in the draft SPD can be seen in Appendix 4.

Draft Developer Contributions SPD

- 7.7 The draft Developer Contributions SPD sets out what will be required to mitigate or manage the impact of new developments and the financial contributions provided by developers to pay for infrastructure to meet the needs of their development. A full copy of the draft SPD is attached as Appendix 1.

- 7.8 The draft SPD sets out the background in terms of legislation, national and local planning policy. It provides details of the Council's approach to developer contributions such as:
- trigger points for payments;
 - how contributions will be index linked over time;
 - viability issues;
 - monitoring fees; and
 - prioritisation of contributions.
- 7.9 The draft SPD introduces a new requirement which will enable the Council to request a monitoring fee for planning obligations included in the Section 106 agreement. This is a approach enabled by the [Community Infrastructure Levy \(Amendment\) \(England\) \(No.2\) Regulations 2019](#) which allows fees to be sought from developers where: the sum to be paid fairly and reasonably relates in scale and kind to the development; and the sum to be paid must not exceed the authority's estimate of its cost of monitoring the development over the lifetime of the planning obligations which relate to the development.
- 7.10 The draft Developer Contributions SPD also provides guidance for key areas of infrastructure that will be affected by most major schemes such as:
- Affordable housing – covering first homes, calculating commuted sums, dwelling space standards, vacant building credit and rural exceptions sites.
 - Open space, sport and recreation – sets out the requirements for different types of open space and outdoor and indoor sports facilities.
 - Biodiversity and Green Infrastructure
 - Air Quality
 - Health
 - Training and Employment
 - Transport Infrastructure including sustainable travel
 - Education
 - Climate Change – including water quality and efficiency, electric vehicle charging, flood protection, decentralised energy networks and sustainable design and construction.
 - Retail and Town Centres
- 7.11 The draft Developer Contributions SPD is supported by a Strategic Environmental Assessment (SEA) screening statement (Appendix 2). Unlike Local Plans, SPDs do not require a Sustainability Appraisal. However, in exceptional circumstances they may require an SEA unless it is considered likely that there will be significant environmental effects. The screening considers if such effects are likely and therefore if a SEA is necessary in consultation with the statutory bodies, namely; Natural England, the Environment Agency and Historic England.
- 7.12 The draft SPD is also supported by a Habitats Regulations Assessment (HRA) screening report. This is the first stage of a HRA which screens the plan and/or project to identify if there is a risk that it may have a 'likely significant effect' on a European designated site either alone or in combination with other

plans and projects.

- 7.13 The SEA screening report concludes that an SEA will not be necessary to support the SPD as it is unlikely to lead to any significant environmental effects beyond those already assessed through the environmental assessments (SEA/SA) of the High Peak Local Plan. The HRA screening report concludes that the SPD would not result in adverse effects on European designated sites, both alone and in combination with other plans. The Council has consulted with Natural England, the Environment Agency and Historic England who have all agreed with the Council's conclusions. The SEA and HRA Screening Reports will be included as part of the consultation on the draft SPD.
- 7.14 The SPD is now approaching the "public participation" stage. Regulation 12 (b) (ii) of The Town and Country Planning (Local Planning) (England) Regulations 2012 requires that public consultation is undertaken on SPDs for a period not less than four weeks. Regulation 35 requires that consultation documents are made available at the Council's principal offices and other relevant locations and published on the Council's website.
- 7.15 Proposals for consultation should also be in accordance with the Council's own policies for consultation on planning. This is set out in the Council's Statement of Community Involvement (SCI) which was adopted in February 2019. In relation to consultation on SPDs, the SCI sets out the following for the Stage 2 – Publication
- 4 week (minimum) formal period for anyone to comment on the plan, consultation statement, sustainability appraisal (where applicable) and any supporting evidence.
 - Documents made available for inspection at Council's principal office and other appropriate locations and published on the Council's website.
- 7.16 Subject to approval by the Executive, public consultation will commence for a period of six weeks which will correspond with a period of early engagement on the review of the High Peak Local Plan and consultation on a revised SCI. This will include direct consultation with specific and general consultation bodies listed in the Regulations, those who have participated in the earlier stages of the SPD preparation and other residents and businesses on the Council's planning policy consultation database. A press release and social media will also be used to raise awareness of the consultation. Details will be published on the Council's website and at Council Offices and libraries. Hard copies of the document will also be available on request.
- 7.17 The Council and its consultants will then review the consultation responses to determine if any amendments to the SPD are required. A summary of those individuals consulted, issues raised and how they have been addressed will be set out in a "consultation statement". Councillors will then be asked to consider any changes to be made and the adoption of the SPD. Following adoption, the SPD and an "adoption statement" will be published. The SPD will become a material consideration in the determination of relevant planning applications in the Borough.

Summary of key stages

- a. Public consultation: January – February 2023
- b. Consideration of consultation feedback, preparation of “consultation statement” and revisions made to the SPD if necessary: Spring 2023
- c. Council considers adoption of SPD: Spring/Summer 2023
- d. Publication of SPD and “adoption statement” – SPD becomes a material consideration to relevant planning applications in the Borough.

7.18 Whilst the Council is in the early stages of updating the Local Plan, when adopted in 2023, the SPD will still be used alongside the 2016 Local Plan to determine planning applications and to inform developer contributions. The SPD will remain in force until such time that the Council decides to formally withdraw it. The Council may decide to do this following the adoption of a new Local Plan in 2026. The SPD may also become superfluous if the Government abolishes S106 agreements and replaces them with a new Infrastructure Levy but the details and timing of this remain unclear. Even when details are announced, it is expected that there will need to be a transitional period and so it is likely that the SPD would be applicable for the foreseeable future.