



# EXECUTIVE BOARD DECISION

<b>REPORT OF:</b>	Executive Member for Growth and Development
<b>LEAD OFFICERS:</b>	Strategic Director of Growth & Development
<b>DATE:</b>	Thursday, 13 June 2024

<b>PORTFOLIO/S AFFECTED:</b>	Growth and Development
<b>WARD/S AFFECTED:</b>	(All Wards);
<b>KEY DECISION:</b>	Y

**SUBJECT: Adoption of the Developer Contributions and Affordable Housing Supplementary Planning Document (SPD)**

## 1. EXECUTIVE SUMMARY

Developer contributions, sometimes referred to as Section 106 contributions, are secured from developers (where required by policy/legislation) in order to mitigate the impact of new developments on public infrastructure. Typical examples include the provision of green space, school places, affordable housing and transport improvements.

Existing guidance is provided within several documents, whereas the Developer Contributions and Affordable Housing SPD provides updated and detailed guidance in one place. It will support the application of a number of policies within the [Blackburn with Darwen Local Plan \(2021-2037\)](#) (adopted January 2024) which have implications for developer contributions, in particular Policy CP12: Infrastructure & Delivery. The SPD provides information on how Policy CP12 and other policies requiring affordable housing or specific infrastructure will be interpreted and applied. This will assist planning officers, applicants, service providers, Councillors, and members of the public through the planning application process, ensuring that the process is fair and transparent and is applied consistently.

Once adopted, the SPD will sit alongside the Blackburn with Darwen Local Plan (2021-2037) and will be a material consideration in planning decisions.

As required by national legislation and the Council's Statement of Community Involvement, the draft Developer Contributions and Affordable Housing SPD was publicly consulted upon for a six-week period between December 2023 and January 2024, and again for a further five-week period between March and April 2024. Through the consultation, the Council received a number of representations, which have been duly considered in preparing the final SPD for Council adoption. The results of the consultations, and how they have shaped the Developer Contributions and Affordable Housing SPD, are summarised in this report and its appendices.

This report seeks approval to adopt the Developer Contributions and Affordable Housing SPD.

## 2. RECOMMENDATIONS

That the Executive Board:

- Notes the changes which have been made to the Developer Contributions and Affordable Housing SPD following the two consultations on the draft document; and
- Adopts the Developer Contributions and Affordable Housing SPD.

## 3. BACKGROUND

Developments that include a net increase of new housing (for instance) can impact on their physical, social and environmental surroundings due to the increased demand for services and increased use of facilities as a result of the additional population that they will typically support. By securing planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) to provide financial contributions from developers, these impacts can be mitigated and, where possible, bring positive benefits for the local area.

The Developer Contributions and Affordable Housing SPD provides detailed guidance on the application of a number of policies within the Blackburn with Darwen Local Plan (2021-2037) (adopted in January 2024) which have implications for developer contributions, in particular Policy CP12: Infrastructure & Delivery which is the policy for seeking planning contributions. It is intended to provide information on how Policy CP12 and other policies requiring affordable housing or specific infrastructure will be interpreted and applied. This will assist planning officers, applicants, service providers, Councillors, and members of the public through the planning application process, ensuring that the process is fair and transparent and is applied consistently. The SPD does not introduce new policy, it just clarifies the implementation of existing policy set out in the Local Plan.

The SPD provides further guidance on the Council's approach to seeking contributions towards the following 'appropriate matters', as set out in Local Plan Policy CP12:

- Affordable housing;
- Education provision;
- Transport and travel improvements;
- Highways infrastructure;
- Health infrastructure;
- Open space, public realm and leisure; and
- Biodiversity net gain and environmental improvements.

The SPD will ensure clarity regarding the **main** types of developer contributions that will be sought, why they are needed, and the monetary formula used to calculate the contributions (where relevant). Decisions on the required developer contributions will be determined on a case-by-case basis based on the available evidence and will relate to one of the 'appropriate matters' set out in Policy CP12. Once adopted, the SPD will be a material consideration in the determination of planning applications in Blackburn with Darwen.

Legally, the Council are required to undertake public consultation on an SPD, prior to its adoption. The draft SPD was published for a six-week public consultation between December 2023 and January 2024, in accordance with the requirements of the Town and Country Planning (Local Planning) (England) Regulations 2012, and the Council's Statement of Community Involvement.

During this time, an outline planning application for the strategic employment site close to Junction 5 of the M65 was submitted which initiated officer discussions on the Council's approach to securing s106 contributions to deliver the required highway and transport infrastructure to support development sites in the South-East Blackburn area. To ensure all sites that directly impact on the need for the identified transport infrastructure contribute proportionately, a specific, formula-based approach to

calculating highway and transport & travel improvements, based on assumed trip generation rates, will be applicable to relevant sites. The Council prepared a note to provide additional details for calculating, and justifying, developer contributions in this area of the borough. This note has been included within the SPD, as Appendix B. It should be noted that the s106 contributions attributed to each site may be reviewed and updated accordingly in the future if required. Further information is set out within the SPD document.

Furthermore, several amendments were made to the section on Biodiversity Net Gain (BNG) following the initial consultation period. The most significant of these changes is the Council's approach to monitoring fees for BNG, information of which has now been added to the SPD.

Due to the significance of the changes made to the draft SPD following the initial six-week public consultation, the Council considered it appropriate to re-consult on these changes to allow interested parties to review and comment on the updated SPD. A second consultation was undertaken for a five-week period between 4<sup>th</sup> March 2024 and 5<sup>th</sup> April 2024.

Across the two consultations, comments were received from 27 representors, which included statutory consultees (Natural England, Environment Agency) and general consultees (including Homes England and Sport England). All comments received through the consultations have been considered in the preparation of a final Developer Contributions and Affordable Housing SPD. In accordance with legislative requirements, a Consultation Statement has been prepared, setting out who was consulted, a summary of the issues raised, and how these issues have been considered and, where relevant, incorporated into the final SPD. The Consultation Statement can be found as an Appendix to this report.

As a result of the comments received, the main changes to the SPD include:

- Adding reference to further evidence base documents;
- Including a diagram to summarise the likely infrastructure requirements from new developments;
- Removal of requirement to reduce developer contribution requirements for sports facilities and health infrastructure to account for occupiers of new properties moving from within the borough;
- Additional wording to clarify that developer contributions may be requested towards improving existing walking and cycling routes; and
- Additional wording to clarify the Council's approach to contributions where additional improvements/mitigation measures are identified over and above those listed in Appendix B to the SPD.

Approval is sought to adopt the Developer Contributions and Affordable Housing SPD. It will then be a material consideration in the determination of applications for development, supporting the Local Plan (2021-2037).

#### **4. KEY ISSUES & RISKS**

The SPD sets out the up-to-date process through which the Council will seek contributions from developers towards mitigating the impacts of development. Specifically, it:

- Provides clear guidance in a single document to mitigate the impacts of future development proposals and to ensure that any gaps in provision of infrastructure arising from new housing (for instance) are provided for by the developer; unless there are clearly substantiated and justified reasons as to why a developer could not viably fund such planning contributions, which do not outweigh the acceptability of the development; and

- Establishes the requirements for on-site provision of infrastructure, or financial contributions in lieu, provided via s106 planning obligations, to mitigate impacts arising from the development. This includes details on the calculations that will be used to determine the financial contributions required from relevant developments.

Taking forward the document will provide useful guidance to applicants within one document, helping to speed up the planning process by minimising amendments or negotiations, often necessary following submission of planning applications. Subsequent adoption of the SPD will ensure that the document has weight as a material consideration in planning decision-making and enables the Council to refuse non-compliant planning applications. This will give more certainty for the community and prospective developers on the Council's approach to developer contributions and affordable housing.

## 5. POLICY IMPLICATIONS

There are no direct policy implications, as the requirement for the Developer Contributions and Affordable Housing SPD is set by the Blackburn with Darwen Local Plan (2021-2037) and Policy CP12: Infrastructure and Delivery specifically.

Policy CP12 sets out the commitment to produce a Developer Contributions and Affordable Housing SPD, and any failure to do so would fall foul of the proposed policy requirements.

## 6. FINANCIAL IMPLICATIONS

There are no financial implications for adoption of the Developer Contributions and Affordable Housing SPD.

## 7. LEGAL IMPLICATIONS

Consultation on the SPD has been undertaken in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, and in accordance with the Council's Statement of Community Involvement.

Approval is sought to adopt the Developer Contributions and Affordable Housing SPD – this will ensure the Council is continuing to meet its legal requirements.

## 8. RESOURCE IMPLICATIONS

As identified under financial implications, no budget will be required to adopt the Developer Contributions and Affordable Housing SPD.

## 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 10. CONSULTATIONS

Extensive consultation has been undertaken on the draft SPD, details of which have been provided within this report. Comments received have been used to inform relevant changes to the SPD. No further consultation is required.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>VERSION:</b>	<b>1</b>
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<b>CONTACT OFFICER:</b>	<b>PMO Growth</b>
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<b>DATE:</b>	29/04/2024
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<b>BACKGROUND PAPER:</b>	<ul style="list-style-type: none"><li>• Developer Contributions and Affordable Housing SPD</li><li>• Developer Contributions and Affordable Housing SPD Consultation Statement</li></ul>
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