

# **Planning Obligations**

# **Draft Statement of Consultation**

October 2007

www.derby.gov.uk

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# 1.0 Introduction

- 1.1 This Consultation Statement accompanies the draft Planning Obligations Supplementary Planning Document (SPD). It summarises the initial consultation undertaken as part of the process to develop the draft SPD and indicates how the SPD has taken account of vies expressed.
- 1.2 There were two ways in which the Council sought input to develop the first draft of the Planning Obligations SPD. Local developers and stakeholders were asked to participate to help inform the guidance in the SPD so that the Council could assess the likelihood of securing the new contributions that are suggested in the SPD. In addition regular meetings were held with key stakeholders to help guide the development of the draft document.

# 2.0 SPD Advisory Group

- 2.1 An Advisory Group was established to enable key stakeholders to discuss the possibility of securing additional contributions through this SPD. This Advisory Group was made up representatives from the following:
  - Derby City Council
    - o Planning
    - $\circ$  Education
    - o Highways and Transportation
    - o Parks
    - o Housing
    - o Libraries
    - o Leisure
    - o Economic Development
    - o Estates
  - Derby's Urban Regeneration Company Cityscape
  - Miller Homes
  - Wilson Bowden
  - Derby City Primary Care Trust
- 2.2.1 The Advisory Group was used as a means to develop the draft SPD and involved some of the main stakeholders who held an interest in the document.
- 2.2.2 Lists of the topics discussed at the Advisory Group meetings can be found in Appendix A to D.

# 3.0 Developers Day

3.1 There was a Developers Day event held on the 5<sup>th</sup> March 2007 at Kedlestone Road Training Centre. There were a wide range of invitees which included Architects, Local Agents, Consultants and Registered

Social Landlords. Representatives attended the event from the following:

- Derby City Council
- Planning & Design Practice
- Highgrange Homes
- Wheeldon Group
- Derby Cityscape
- Michael Goodall Homes
- Strata Homes
- Home-Central
- Savills
- Concept Developments
- Radleigh Homes
- Barratt Homes
- David Wilson Homes
- Miller Homes
- MHT Raleigh House
- Salloways
- Cedar House Investments Ltd
- 3.2 Presentations were given by staff from the City Council's Housing Strategy and Development Section, Highways and Transportation and Special Projects Section and Plans and Policies Section. In these presentations the Council put forward their ideas for new contributions and procedures that could be secured through the Planning Obligations SPD.
- 3.3 Issues discussed included:
  - Affordable Housing
  - Education
  - Highways and Transport
  - Libraraies
  - Healthcare
  - Community Projects
  - Public Realm
- 3.4 The items discussed are summarised in the following paragraphs.

# a) Affordable Housing

# (i) Summary of the Council's Position

Following the Affordable Housing SPG Developer Day in May 2005, a Good Practice Note was drawn up and consulted on towards the end of 2006. Comments form this consultation were taken on board and the Final Good Practice Note has now been published.

The current Good Practice Note will form the basis of the affordable housing section in the SPD. There is potential for changes to the threshold for affordable housing

Proposals for basing the threshold on floor area instead of number of dwellings were not supported by developers therefore the Council will retain the figure of 30% of total units.

#### Scheme Development Standards Options:

Option 1 – Affordable housing is built to Scheme Development Standards (SDS) whether or not Housing Corporation funding is available.

Option 2 – Affordable Housing built to SDS in part.

Option 3 – Affordable rented accommodation built to SDS with New Build HomeBuy built to developers own standard so long as that is not a lower standard than the market properties.

## Chosen Option:

Option 3. Affordable rented accommodation is t be built to SDS with New Build HomeBuy built to the developers own standard so long as that is not a lower standard than the market properties.

## Pepper-potting Options:

Option 1 – Affordable Housing in clusters of no more than 5 units. Option 2 – Affordable Housing interspersed in pairs with open market units.

## Chosen Option:

Option 1. It was decided that it was preferable to group properties in clusters of no more than 5 units. With regards to blocks of flats this is problematic as it may prove difficult to manage and further research is required

#### Offers from RSL's for affordable units:

A list of transfer prices was provided to determine whether these were at the correct level. It was decided that this needs further research.

#### Off-site provision and financial contributions:

It was decided the best option was to stick with the existing procedure of deducting the RSL transfer price from the open market value with a separate calculation for off site provision.

## Sliding scale for affordable housing:

Proposals for a sliding scale have been affected by PPS3 introducing a new threshold level of 30% affordable on 15 units and above. There is still the possibility of introducing a sliding scale after introduction of an economic appraisal tool. This will test developer's financial appraisals to determine whether affordable housing can be provided on site. Further consultation does need to be undertaken.

# (ii) Summary of Developers Responses

Economic Viability:

Developers wanted to ensure that Derby City Council (DCC) will consider a given schemes economic viability when negotiating S106 contributions.

## Tenure Split:

Developers want there to be some degree of flexibility when it comes to tenure split.

## SPD's relationship to current Policy:

Developers were seeking to ensure that the SPD complies with current local policy.

# Priorities:

Developers sought to clarify whether there will be any contributions that will be deemed to be more important than others or whether they will all have equal standing.

## Location of Affordable Housing:

Developers wanted to establish whether DCC would consider off site Affordable Housing provision.

# b) Education

# (i) Summary of the Council's Position

Primary contributions will remain as secured now (new school built for large housing sites, contribution based on DfES multiplier for smaller sites). Secondary contributions will use the DfES multiplier for small sites. On large sites there may need to be a more specific solution. Feasibility studies will be needed to determine actual cost of extending local secondary school.

# (ii) Summary of Developers Responses

# Funding of education provision:

Developers did not believe that they should be contributing towards building school extension. They believed that it should be covered by the Local Education Authority or Central Government.

## Need for new Education facilities:

Developers wanted to know whether a demand study had been carried out and suggested that catchment areas need to be reviewed.

# c) Highways and Transportation

(i) Summary of the Council's Position

## Background:

Provision of a reliable, safe, secure and environmentally sustainable transport system that responds to needs of individuals and business is fundamental to future vitality of Derby.

To sustain the economic and residential land use growth that is forecast for Derby, significant investment will need to be made to transport infrastructure and services.

2<sup>nd</sup> LTP expected to receive around £130 million to support investment in transport system over 5 years. However, it does not provide improvements to resolve the cumulative impacts of development or wider long term transport challenges.

Developers are currently expected to ensure proper and safe operation of highway network directly related to their development. In addition, contributions to transport solutions will be sought to support wider transport improvements that would be of benefit to development..

#### Policy:

Concept of planning obligations and delivery of sustainable development is set out in Circular 05/2005

PPG13 provides clear statement on principle of seeking contributions and how they should be used.

Regional Spatial Strategy (RSS8) recognises that significant resources will be needed to meet transport demands. Unless these are met then it may not be possible to provide projected levels of housing and economic growth. Local transport and planning policy sets out the need for developer

contributions to support land use and transport strategies

Indeed, most authorities have adopted some form of transport related planning contribution.

#### Contribution Calculation Method:

Derby City Councils transport contribution is based on a set of rates rather than a formula approach.

Justification of methodology is that a standard rate system is easy to understand and factors such as land use and location are defined in advance. In summary, the rates have been calculated by proportioning projected integrated transport capital and certain revenue elements of 5 year LTP spend to households in Derby.

From this a standard value per residential trip has been derived and transposed to non residential land uses and flats based on average trip rates. These rates have been adjusted to reflect differences in transport corridors and land use trip types

Basic assumption of rate methodology is that if Derby's transport system is to be sustained and developed then it is assumed that each additional new housing and non-residential development will need to contribute the same level of expenditure to support the additional demand.

<u>Trip Type Adjustments:</u> Housing – basic value Flats – reduced rate to reflect lower number of occupants and lower trip generation

Employment – adjusted by 60% to reflect that majority of trips will be generated by Derby residents. Based on 2001 Census Journey to Work analysis. Avoids double counting residential development.

Retail - reduced by 30% to account for bypass trips

Other development including leisure, tourism, health and education will be treated on a case-by-case basis.

## Transport Corridor Adjustments:

Rates adjusted across LTP strategic corridors to reflect varying residential catchments and demand on transport.

Corridor	Housing	Flats	Food Retail	Non- Food Retail	Office B1	Industrial B2	Warehouse B8
A61 Sir Frank Whittle	Housing	Flats					
Road	£1,100	£400	£9,900	£1,400	£1,100	£640	£250
A6 London Road	£1,100	£430	£11,000	£1,500	£1,200	£680	£270
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Stenson Road	£1,600	£610	£15,000	£2,100	£1,700	£960	£380

#### Summary of Contribution Rates:

# Application of Rates:

Contribution rates are a maximum guide

They will not preclude the need to consider highway or directly related transport mitigation measures usually delivered through Transport Assessment and Travel Plan.

We recognise that there may be local circumstances that may provide room for negotiation. For example:

- Competing priorities to drive development. E.g. where development alleviates areas of deprivation
- Proven accessibility by public transport and sustainable travel modes.

City Centre development will be assessed on individual basis because of it's accessibility to transport and regeneration strategy.

## How Contributions will be Used:

Transport Policy recognises that trends in car ownership and use can't be sustained in longer term. Investment needs to focus on measures that encourage modal shift form the car and increased choice in other modes. Normally, contributions will be used to support major schemes that benefit the whole City and indirectly benefit development.

However, transport payments will not be used to secure planning permission and must be acceptable in planning terms. (Circular 05/2005).

# (ii) Summary of Developers Responses

## How have figures been calculated:

Developers want to know what information has been used to calculate the revised transport corridor figures and whether there is a need for highways contributions for the affordable housing element of a scheme.

## Mixed use and exclusions:

Developers sought to establish whether special needs developments e.g. care homes, would be exempt from highways contributions and also what rates would be applied in mixed-use schemes.

# d) Libraries

# (i) Summary of the Council's Position

Contribution per unit sought where area is deficient in library facilities Contribution to be based on cost of building libraries and amount of library space needed per head of population.

# (ii) Summary of Developers Responses

## Perceived lack of Need:

Developers wanted to know whether there was a need for new library facilities and whether a needs survey has been undertaken to support this contribution.

# e) Healthcare

(i) Summary of the Council's Position

Contribution per unit sought where area is deficient in health services. Contribution to be based on cost of building surgeries and the number of patients that will be seen at that surgery.

# (ii) Summary of Developers Responses

Funding of Healthcare provision:

Developers sought clarity about how this would be applied and were concerned that as they were already dealing with healthcare projects under LIFTCO there could be some overlap.

# f) Community Centres

(i) Summary of the Council's Position

Contribution per unit sought where area is deficient in community centres

Contribution to be based on cost of building community centre and population served by that centre.

# (ii) Summary of Developers Responses

## Thresholds and contributions required:

Developers sought to establish whether this would be applied to smaller residential sites and were concerned about what costs would be applied to this.

Provision of land and improvement of existing facilities:

Developers wanted to know if the Council could dispose of sites for use as community facilities through their Asset Management Strategy. It was also suggested that it may be preferable for the Council to work with existing organisations to develop/improve current facilities.

# g) Community Projects

(i) Summary of the Council's Position

Small pots of money to be secured on large housing sites to help foster community cohesiveness

Will be used to set up community projects, run by the residents themselves.

## (ii) Summary of Developers Responses

There were no comments on this subject

# h) Public Realm

(i) Summary of the Council's Position

The Public Realm Strategy has highlighted public realm works needed in City Centre. Part of this should be funded through developer contributions. Contributions will be secured from developments across the City. Contributions will be lower per unit for those sites outside of the City Centre.

# (ii) Summary of Developers Responses

<u>Will money spent benefit the development it's secured from:</u> Developers wanted a guarantee that money spent on public realm projects would directly benefit the site the contribution was secured from.

# i) Summary of General issues raised by Developers

Will there be reference to the proposed PGS? Can terms be renegotiated due to unforeseen costs? Greater communication between East Midlands Local Authorities.

# 4.0 Draft SPD – Response to Issues Raised

4.1 As a result of the issues raised through this consultation, a number of points have been addressed through the draft SPD.

# a) Affordable Housing

(i) Economic Viability

The Council acknowledges that under certain circumstances unexpected costs can arise which may effect the viability of a scheme. The draft SPD will take account of this and allows for a developer to submit a financial appraisal to the Council to demonstrate this. The appraisal will then be independently assessed at the cost of the developer and, dependent on the outcome of this, some S106 contributions may be altered accordingly.

(ii) <u>Tenure Split</u>

As with the example above the draft SPD will allow for some degree of flexibility with regards to tenure split if the tenure split proposed makes the scheme unviable. As with above this would need to be proved through a financial assessment.

- (iii) <u>SPD's relationship to current Policy</u> The draft SPD will comply will current Council Policy.
- (iv) <u>Priorities</u>

The draft SPD states that contributions are negotiated on a site-by-site basis and the priority given to any particular type of contribution will be at the discretion of the Council. Priorities may vary and will depend on a number of factors including local, regional and national guidance as well the current political agenda.

 (v) <u>Location of Affordable Housing</u> The Council expects affordable housing to be integrated into the overall development and locating it off site would not be acceptable.

# b) Education

(i) <u>Funding of Education Provision</u>

Developments that are likely to generate an increased demand for school places will need to contribute towards education facilities where they are not sufficient to support the development. However if the Council's Education Department judges there to be sufficient capacity in local schools then there will be no need to provide an education contribution.

(ii) <u>Need for new Education Facilities</u>

The draft SPD will include a formula that is to be applied to determine how many children the development will provide and subsequently what level of contribution is required from the development.

# c) Highways and Transportation

(i) How have figures been calculated

The figures used in the draft SPD have been calculated by looking at the Local Transport Plan over the next 5 year and calculating an average cost per household trip. This has then been transposed onto other non-residential land uses that have been adjusted to reflect different land use trip types and strategic transport corridors. The transport corridor adjustment was based on a population density index with the basic assumption being that the higher the density, the more strain on the corridor

(ii) <u>Mixed use and exclusions</u>

Special needs developments will not be excluded from the draft SPD as they will also generate use on the transport network and there will be no specific exclusions. Mixed-use schemes may need to be negotiated on a case-by-case basis.

# d) Libraries

## (i) <u>Perceived lack of need</u>

Modern library facilities are not just used for lending books, they contain a wide range of current computer and media technology. Using the National Public Library Tariff of 30 sqm per 1,000 population, Derby has a shortfall of space required in many of its neighbourhood libraries. The draft SPD aims to address this by securing contributions towards extending library facilities wherever required.

# e) Healthcare

(i) <u>Funding of Healthcare provision</u>

Healthcare contributions will be secured on a cost per person basis. The figure used in the draft SPD has been derived from Derby City and Derbyshire County PCT's countywide Section 106 Levy for significant housing development.

# f) Community Centres

## (i) <u>Thresholds and contributions required</u>

The draft SPD sets the threshold for contributions to community centres at 50 dwellings. It may be possible that contributions will be sought at a lower threshold than this on developments where it is felt that a site has been subdivided in an attempt to avoid S106 contributions or where adjoining sites are felt to have a significant impact on the local areas current community centre facilities.  (ii) <u>Provision of land and improvement of existing facilities</u> The draft SPD will allow for contributions to me used to improve/extend current community centre facilities or pool contributions towards a new facility wherever necessary.

# g) Community Projects

(i) Where a community centre is to be built as part of a new development a small contribution towards promoting the use of the centre will be required to help encourage community cohesion.

# h) Public Realm

 (i) <u>Will money spent benefit the development its secured from</u> Public Realm contributions will benefit the City of Derby as a whole with improvements to the City's Public Realm being enjoyed by residents of any new development every time they visit the City Centre.

# i) General Issues

(i) <u>Will there be reference to the proposed Planning Gain Supplement</u> (PGS) Reference will be made to PGS under Section 1 of the draft SPD

Reference will be made to PGS under Section 1 of the draft SPD where it will explain that until a firm decision has been made as to whether PGS will go ahead this document will be required.

- (ii) <u>Can terms be renegotiated due to unforeseen costs</u> This would need to be dealt with on a case-by-case basis.
- (iii) <u>Greater communication between East Midlands Local Authorities</u> This issue cannot be addressed by the draft SPD.

Appendices

# Appendix A - SPD Advisory Group 16<sup>th</sup> October 2006

# S106 SPD Advisory Group

Held on Monday 16<sup>th</sup> October 2006

**Present:** Implementation Planning, Development Control Planning, Highways and Transportation, Estates, Education, Miller Homes, Derby Cityscape, Cultural Services, Parks, Sport and Leisure

Issues discussed: Library Contributions Affordable Housing consultation draft New themes – Highways and Public Realm Public Realm – City wide contributions & match funding Highways – Transport corridor contributions Leisure Improvements Investigate Community and Healthcare Education Public Art Public Open Space progress Developers Day

# Appendix B - SPD Advisory Group 11<sup>th</sup> December 2006

# **S106 SPD Advisory Group** Held on Monday 11<sup>th</sup> December 2006

Present: Implementation Planning, Education, Miller Homes, Highways and Transportation, Derby Cityscape, Cultural Services, Parks, Sport and Leisure, Derby City PCT, City Development and Tourism

Issues discussed: Library costs and formula Sport and Leisure 10 year plan Updating POS costs Highways 5 year project programme Education Affordable Housing Sustainability Appraisal Healthcare Economic Development Public Realm Strategy **Developers Forum** 

# Appendix C - SPD Advisory Sub-Group 8<sup>th</sup> January 2007

# S106 SPD Advisory Group Sub-Meeting Held on Monday 8<sup>th</sup> January 2007

- **Present:** Implementation Planning, Cultural Services, Libraries
- Issues Discussed: South East Public Library Tariff BCIS Cost Indices International Federation of Library Associations recommendations Areas requiring new facilities Thresholds and spend periods

# Appendix D - SPD Advisory Group 12<sup>th</sup> March 2007

# S106 SPD Advisory Group Held on Monday 12<sup>th</sup> March 2007

- Present: Implementation Planning, Miller Homes, Derby Cityscape, Cultural Services, Derby City PCT, Libraries, Education, Housing
- Issues discussed: Education and DFES formulas Problem areas for education provision Nursery funds and Post-16 and catchments and formulas Affordable Housing, sliding scale, pepperpotting and standardised purchase prices Public Realm Public Art Libraries and SIMLAC Healthcare Sustainability Appraisal Employment **Integrated Community Facilities Developers Day and PGS**

# Appendix E - S106 Developers Day Minutes 5<sup>th</sup> March 2007

# S106 Developers Day 5<sup>th</sup> March 2007

#### Attendees:

Planning and Design Practice, Highgrange Homes; Sean Ingle – Wheeldon Group; Derby Cityscape; Michael Goodall Homes; Strata Homes; Home-Central; Savills; Concept Developments; Radleigh Homes; Barratt Homes; David Wilson Homes; Miller Homes; MHT Raleigh House; Salloways; Cedar House Investments Ltd.

Derby City Council - Implementation Planning; Housing Strategy; Highways and Transportation; Education.

Draft version of the S106 SPD is expected in July 2007 and adoption expected to take place towards the end of 2007.

## The SPD – Aims

- To bring together all guidance on planning obligations
- To give clear and transparent advice on all aspects of planning obligations
- To provide consistency in how planning obligations policies are implemented
- To give certainty to developers over what planning obligations will be sought
- To give members of the public information on planning obligation policies and implementation
- To set out procedures for monitoring planning obligations

#### What we want from you

- Feedback on the ideas we will present
- Any good practice examples from elsewhere
- Is there anything that we've missed, or that you want us to include in the SPD?

#### Affordable Housing - Progress

- Developers day on affordable housing SPG held May 2005
- Following that a Good Practice Note was prepared and consulted on end of 2006
- Comments from consultation taken on board and final Good Practice Note now published
- This will from basis of affordable housing chapter in S106 SPD

## Affordable Housing - Main Points from Good Practice Note

• Potential Changes to the threshold for affordable housing

## Education

- Primary contributions will remain as secured now (new school built for large housing sites, contribution based on DfES multiplier for smaller sites).
- Secondary contributions will use the DfES multiplier for small sites.
- On large sites there may need to be a more specific solution. Feasibility studies will be needed to determine actual cost of extending local secondary school.

# Highways and Transport

## Background

- Provision of a reliable, safe, secure and environmentally sustainable transport system that responds to needs of individuals and business is fundamental to future vitality of Derby.
- To sustain the economic and residential land use growth that is forecast for Derby, significant investment will need to be made to transport infrastructure and services.
- 2<sup>nd</sup> LTP expected to receive around £130 million to support investment in transport system over 5 years. However, it does not provide improvements to resolve the cumulative impacts of development or wider long term transport challenges.
- Developers are currently expected to ensure proper and safe operation of highway network directly related to their development. In addition, contributions to transport solutions will be sought to support wider transport improvements that would be of benefit to development..

## Policy

- Concept of planning obligations and delivery of sustainable development is set out in Circular 05/2005
- PPG13 provides clear statement on principle of seeking contributions and how they should be used.
- Regional Spatial Strategy (RSS8) recognises that significant resources will be needed to meet transport demands. Unless these are met then it may not be possible to provide projected levels of housing and economic growth.
- Local transport and planning policy sets out the need for developer contributions to support land use and transport strategies
- Indeed, most authorities have adopted some form of transport related planning contribution.

## **Contribution Calculation Method**

- Derby City Councils transport contribution is based on a set of rates rather than a formula approach.
- Justification of methodology is that a standard rate system is easy to understand and factors such as land use and location are defined in advance.

- In summary, the rates have been calculated by proportioning projected integrated transport capital and certain revenue elements of 5 year LTP spend to households in Derby.
- From this a standard value per residential trip has been derived and transposed to non residential land uses and flats based on average trip rates.
- These rates have been adjusted to reflect differences in transport corridors and land use trip types
- Basic assumption of rate methodology is that if Derby's transport system is to be sustained and developed then it is assumed that each additional new housing and non-residential development will need to contribute the same level of expenditure to support the additional demand.

## Trip Type Adjustments

- Housing basic value
- Flats educed rate to reflect lower number of occupants and lower trip generation
- Employment adjusted by 60% to reflect that majority of trips will be generated by Derby residents. Based on 2001 Census Journey to Work analysis. Avoids double counting residential development.
- Retail reduced by 30% to account for bypass trips
- Other development including leisure, tourism, health and education will be treated on a case-by-case basis.

## **Transport Corridor Adjustments**

• Rates adjusted across LTP strategic corridors to reflect varying residential catchments and demand on transport.

# **Summary of Contribution Rates**

Corridor	Housing	Flats	Food Retail	Non- Food Retail	Office B1	Industrial B2	Warehouse B8
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Stenson Road	£1,600	£610	£15,000	£2,100	£1,700	£960	£380

# **Application of Rates**

• Contribution rates are a maximum guide

- They will not preclude the need to consider highway or directly related transport mitigation measures usually delivered through Transport Assessment and Travel Plan.
- We recognise that there may be local circumstances that may provide room for negotiation. For example:
  - Competing priorities to drive development. E.g. where development alleviates areas of deprivation
  - Proven accessibility by public transport and sustainable travel modes.
- City Centre development will be assessed on individual basis because of it's accessibility to transport and regeneration strategy.

## How Contributions will be Used

- Transport Policy recognises that trends in car ownership and use can't be sustained in longer term. Investment needs to focus on measures that encourage modal shift form the car and increased choice in other modes.
- Normally, contributions will be used to support major schemes that benefit the whole City and indirectly benefit development.
- However, transport payments will not be used to secure planning permission and must be acceptable in planning terms. (Circular 05/2005).

#### **Community Facilities – Libraries**

- Contribution per unit sought where area is deficient in library facilities
- Contribution to be based on cost of building libraries and amount of library space needed per head of population.

#### **Community Facilities – Health**

- Contribution per unit sought where area is deficient in health services.
- Contribution to be based on cost of building surgeries and the number of patients that will be seen at that surgery.

#### **Community Facilities – Community Centres**

- Contribution per unit sought where area is deficient in community centres
- Contribution to be based on cost of building community centre and population served by that centre.

## **Community Facilities – Community Projects**

- Small pots of money to be secured on large housing sites to helkp foster community cohesiveness
- Will be used to set up community projects, run by the residents themselves.

## Public Realm

- Public Realm Strategy has highlighted public realm works needed in City Centre
- Part of this should be funded through developer contributions
- Contributions will be secured from developments across the City.
- Contributions will be lower per unit for those sites outside of the City Centre.