

Cabinet

8 February 2023



**Developer Viability, Affordable Housing
and Financial Contributions, Housing
Needs, Design Code and Trees,
Woodlands and Hedges Supplementary
Planning Documents**

Ordinary Decision

Report of Corporate Management Team

**Amy Harhoff, Corporate Director of Regeneration, Economy and
Growth**

**Councillor Elizabeth Scott, Cabinet Portfolio Holder for Economic
Regeneration and Partnerships**

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 The purpose of this report is to seek Cabinet's approval to commence consultation on the second draft of the Developer Contributions Supplementary Planning Document and the first draft of the Housing Needs, County Durham Design Code and Trees, Woodlands and Hedges Supplementary Planning Documents. All four documents support the County Durham Plan, adopted in October 2020.

Executive Summary

- 2 The County Durham Plan seeks to ensure that County Durham is a successful place to live, work, invest and visit by focussing on supporting and creating vibrant communities. The Plan is a comprehensive document covering all aspects of planning however, to provide more detailed advice or guidance on the policies in the Plan, Government guidance allows the preparation of supplementary planning documents (SPDs). SPDs are capable of being a material consideration in planning decisions but are not part of the development plan.
- 3 The Development Viability, Affordable Housing and Financial Contributions SPD sets out the Council's approach to determining and

securing contributions from developers for new developments to ensure we secure the infrastructure required to support new development. It also sets out the Council's requirements for the submission of site-specific viability appraisals, and the information and evidence needed to support them.

- 4 The Housing Needs SPD supplements a range of policies in the CDP which seek to meet the different housing needs of our residents. The SPD provides further guidance on the implementation of M4(2) Accessible and Adaptable housing and what constitutes a multi-generational home. Both of these measures are part of the CDP approach to meeting the needs of older people. The SPD also introduces guidance as to what should be considered as part of assessments for determining local area housing needs and the need for purpose-built student accommodation. Furthermore, the SPD provides additional guidance on the application of the Nationally Described Space Standard in different forms of C Class Development, including hotels, dwellings and houses in multiple occupation. Finally, the SPD contains a First Homes Interim Policy Statement, including local eligibility criteria consisting of a lower price cap to ensure that a First Home is genuinely affordable.
- 5 The County Durham Design Code SPD sets down guidance for ensuring development is well designed and better suited to their context. It articulates an approach for developers to follow to enable their developments to reflect a meaningful understanding and evaluation of place. It is applicable to all scales and types of development. The SPD will be supported by Settlement Character Studies which provide a key evidence base for understanding the history and essential character of our settlements. It also fulfils a requirement to prepare a design guide/code as set out in the National Planning Policy Framework (NPPF).
- 6 The Trees Woodland and Hedges SPD sets out guidance to ensure that trees, woodlands and hedges are fully considered as part of the planning process, so that the multiple benefits they provide can be experienced by the residents of, and visitors to the county.
- 7 If agreed consultation will be undertaken on the SPDs from 24 February to 11 April 2023. All consultation will be undertaken in accordance with the Council's Statement of Community Involvement.

Recommendation

- 8 Cabinet is recommended to:
 - (a) agree the second draft of the Development Viability, Affordable Housing and Financial Contributions Supplementary Planning

Document (Appendix 2) for consultation 24 February to 11 April 2023;

- (b) agree to delegate to the Corporate Director of Regeneration, Economy and Growth in consultation with the Portfolio Holder for Economic Regeneration and Partnerships the power to make minor modifications and adopt the document following consultation (if significant changes are required then the SPD will need to return to Cabinet for adoption); and
- (c) agree the first drafts of the Housing Needs (Appendix 4), County Durham Design Code (Appendix 5) and Trees, Woodlands and Hedges (Appendix 6) for consultation from 24 February to 11 April 2023.

Background

- 9 At a meeting of Full Council on 21 October 2020 the Council adopted the County Durham Plan. The Plan seeks to ensure that County Durham is a successful place to live, work, invest and visit by focussing on supporting and creating vibrant communities. The Plan is a comprehensive document covering all aspects of planning however, to provide more detailed advice or guidance on the policies in the Plan, Government guidance allows the preparation of supplementary planning documents (SPDs). SPDs are capable of being a material consideration in planning decisions but are not part of the development plan.

Development Viability, Affordable Housing and Financial Contributions Supplementary Planning Document

- 10 The Development Viability, Affordable Housing and Financial Contributions Supplementary Planning Document (SPD) sets out the Council's approach to determining and securing contributions from developers for new developments to ensure we secure the infrastructure required to support new development. It includes guidance relating to:
- Affordable housing;
 - Older person's housing;
 - Green Infrastructure;
 - Education provision;
 - Health provision; and
 - Biodiversity Net Gain.
- 11 The SPD also sets out the Council's requirements for the submission of site-specific viability appraisals, and the information and evidence needed to support them.
- 12 The first draft of the Development Viability, Affordable Housing and Financial Contributions SPD was consulted on from 22 April to 3 June 2022. Twenty-two consultees made extensive representations to the SPD. A full Statement of Consultation is attached at Appendix 3 and the key changes made following the consultation are:
- Clarification added that developer contributions will be spent within the area affected by a development to ensure greater clarity in regard to the requirements of the Community

Infrastructure Levy Regulations 2010. This amendment does not apply to affordable housing contributions which will remain as able to be spent countywide to reflect the fact that there is only one countywide housing delivery area;

- Text which made reference to s106 monies potentially being used to align with core Council projects has been deleted over concerns the approach would not align to the provisions of the National Planning Policy Framework (NPPF) which requires that the allocation of s106 monies are spent in specific response to the direct affects of a development;
- The affordable housing calculator has been revised and updated to align with the requirements of Policy 15 (Addressing Housing Need) of the County Durham Plan;
- New text has been added to cover the Government's 'First Homes' policy, with cross reference to the Housing Needs SPD;
- New text has been added clarifying how the Open Space Needs Assessment (OSNA) and Playing Pitch Strategy (PPS) are implemented in practice;
- Requirements for education contributions amended to take account of the higher costs of special or alternative provision school places;
- Updated health requirements to reflect more up to date information from the NHS;
- Amended text relating to public transport to make it clearer that developers will be required to make financial contributions to infrastructure and operational costs as appropriate to ensure that new developments will have access to public transport services;
- New chapter has been added covering the fourth Rights of Way Improvement Plan (ROWIP4); and
- New text added to the Transport and Digital Infrastructure Section to address developments affecting the Strategic Road Network.

13 In addition to these changes, a representation from the Homes Builders Federation (HBF) highlighted that since the County Durham Plan viability testing was carried out, there have been changes which need to be taken account of. The development market has been impacted by significant macro-economic events, including the Covid-19 pandemic and the ongoing cost of living crisis and war in Ukraine, which is having an impact, in particular on cost inflation. There are also changes in the

development industry which are likely to have a further impact, most notably the changes to Part L of the Building Regulations, which will come into full effect from June 2023. These changes require that CO2 emissions are reduced by 31% for dwellings, with a new emphasis on low carbon heating systems.

- 14 To address this issue, CP Viability who undertook the County Durham Plan viability testing have been commissioned to prepare an update of the typology testing undertaken within the June 2018 study and June 2019 addendum, to assess what has changed and what the impact is for viability. The intention is then to hold a workshop with the HBF during the next stage of consultation to discuss its findings.

Housing Needs Supplementary Planning Document

- 15 The Housing Needs Supplementary Planning Document (SPD) sets out guidance relating to a number of housing related policies in the County Durham Plan which seek to meet the different housing needs of our residents and includes the following sections:
 - Implementation of the M4(2) Accessible and Adaptable housing standard – The SPD provides additional guidance and a checklist to support the implementation of the Policy 15: Addressing Housing Needs requirement for 66% of homes on sites of 5 units or more to be to M4(2) standard;
 - Guidance on Multi-Generational Homes– Policy 15: Addressing Housing Needs requires that, on all sites of 10 or more units, 10% of these homes need to be of a design and type to increase housing options for older people including bungalows, level access flats and multi-generational homes (MGH). The SPD provides further guidance on what does and what does not constitute an MGH;
 - Local Area Housing Needs Assessments template - Policy 11: Rural Housing and Employment Exception Sites requires consideration of ‘an identified local need for affordable or specialist housing sufficient to justify the scale and nature of the development’. The SPD provides an overview of the factors and evidence that would be expected to be considered as part of a Local Area Housing Need Assessment. This will provide guidance to applicants, agents and other community groups in preparing such assessments;
 - Purpose Built Student Accommodation (PBSA) needs assessment template – Policy 16.2 requires applicants to demonstrate that there is a need for PBSA in support of a

planning application. The SPD provides further guidance, setting out what a PBSA needs assessment should include, in order to ensure sufficient consideration is given to the need for PBSA from quantitative and qualitative perspective;

- Application of the Nationally Described Space Standard (NDSS) in C Class Uses¹ – Policy 29 Sustainable Design introduced the NDSS. The SPD provides guidance as to whether NDSS applies to differing forms of accommodation within the Class C Use Classes; and
- First Homes Interim Policy Statement and Local Eligibility Criteria - First Homes are a new form of affordable housing tenure, representing one of a range of intermediate housing products to meet the needs of households unable to afford outright home ownership. The SPD introduces Local Eligibility Criteria, in addition to the national criteria, consisting of a lower price cap. This will ensure that a First Home is genuinely affordable in a County Durham housing market context.

County Durham Design Code Supplementary Planning Document

16 The County Durham Design Code Supplementary Planning Document (SPD) provides specific local design guidance for developments occurring in County Durham and fulfils a requirement to prepare a guide/code as required by the National Planning Policy Framework (NPPF). The SPD:

- will help developers create well-designed places that are suited to their context and setting and ensure new developments reflect a meaningful understanding and evaluation of place;
- is based upon the essential characteristics of good design set down in national policy;
- identifies seven broad settlement typologies which should influence the design within each typology
- demonstrates how the design code will work by providing examples from each of the key settlement typologies (historical, 19th century industrial, new town, etc.);

¹ Town and Country Planning (Use Classes) Order 1987 (as amended): Class C: C1 Hotels; C2 Residential Institutions; C2A Secure Residential Institutions; C3 Dwellinghouses; C4 Houses in Multiple Occupation.

- It is focussed on residential development, however the approach and guidance are applicable to most scales and types of development; and
- Will be supported by Settlement Character Studies which are being prepared for settlements across the County. These studies provide a key evidence base for understanding the history and essential character of our settlements.

Trees, Woodland and Hedges Supplementary Planning Document

17 The Trees, Woodland and Hedges Supplementary Planning Document (SPD) sets out how the Council will deal with planning applications that affect trees, woodlands and hedges. It includes guidance related to:

- Tree Surveys;
- Arboricultural Impact Assessments;
- Protecting Ancient and veteran trees and ancient woodland;
- Protecting of trees and hedges of high landscape, amenity of biodiversity value;
- Protecting and integrating existing trees, woodlands or hedges into development;
- Compensating for any loss of trees, woodlands or hedges;
- Planting new trees, woodlands or hedges, including street trees;
- Tree Preservation Orders and trees in Conservation Areas;
- Translocating hedges; and
- Maintenance and management of trees and hedges.

Next Steps

18 If agreed consultation will be undertaken on the SPDs from 24 February to 11 April 2023. All consultations will be undertaken in accordance with the Council's Statement of Community Involvement. Subject to the scale of the changes required following the consultation the Development Viability, Affordable Housing and Financial Contributions SPD can be adopted using delegated powers. Second drafts of the other SPDs will be consulted on in later in 2023.

Background papers

- County Durham Plan – Adopted 2020

Author

Mike Allum

Tel: 03000 261906

Appendix 1: Implications

Legal Implications

The Town and Country Planning (Local Planning) (England) Regulations 2012 set out how to prepare development plan documents and supplementary planning documents. Before the SPDs can be adopted, it is necessary to undertake two rounds of public consultation.

Finance

As the SPDs progress there will be some costs for appropriate evidence gathering, consultation and printing which will be met from the Spatial Policy budget. To date, a consultant was appointed to undertake a study relating to the First Homes element of the Housing Needs SPD. Opportunities to make charges for elements of the work set out in the SPDs will be explored.

Consultation

The programme of consultation has been agreed with the Council's Corporate Communications Team and the Council's Consultation Officers Group and will be undertaken in accordance with the Statement of Community Involvement and the 2012 Local Plan Regulations.

Equality and Diversity / Public Sector Equality Duty

The Council acknowledges that, in exercising its functions, it has a legal duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. This duty applies to all people defined as having protected characteristics under that legislation. An Equality Impact Assessment was prepared for the County Durham Plan which considered the impact of all of the Plan's objectives and policies, including those that relate to each of the SPDs for consideration.

Climate Change

Climate change is a thread running through the County Durham Plan. The importance of tackling and adapting to climate change is recognised in the Plan's Vision, Objectives, Sustainable Development Statement, spatial strategy and a number of policies. As the SPDs sit below and reflect the policies and strategies of the County Durham Plan they similarly reflect this approach.

Human Rights

Human Rights issues were considered as part of the preparation of the County Durham Plan and in particular Article 8 which protects people's right to respect for their private life, family life and home and Protocol 1, Article 1 which protects a person's right to enjoy their property peacefully. As the

SPDs sit below and reflect the policies and strategies of the County Durham Plan they similarly reflect its approach.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

None.

Procurement

If required, consultants may need to be commissioned to deliver evidence studies. To date, a consultant was appointed to undertake a study relating to the First Homes element of the Housing Needs SPD who were appointed in accordance with the Council's procurement rules/procedures.