

## **Delegated Decision**

**June 2024**



### **Adoption of the Development Viability, Affordable Housing and Financial Contributions and Trees, Woodlands and Hedges Supplementary Planning Documents**

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#### **Report of Regeneration, Economy and Growth**

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

**Councillor Elizabeth Scott, Cabinet Portfolio Holder for Economy and Partnerships**

#### **Electoral divisions affected:**

Countywide

#### **Purpose of the Report**

- 1 The purpose of this report is to confirm the adoption of both the Development Viability, Affordable Housing and Financial Contributions Supplementary Planning Document (SPD) and the Trees, Woodlands and Hedges SPD.
- 2 On 8 February 2023, Cabinet agreed to undergo a second stage of consultation on the latest draft of the Development Viability, Affordable Housing and Financial Contributions SPD. Consultation on the revised document ran from 24 February 2023 to 11 April 2023.
- 3 On 11 October 2023, Cabinet agreed to undergo a second stage of consultation on the latest draft of the Trees, Woodlands and Hedges SPD. Consultation on the revised document ran from 23 October 2023 to 3 December 2023.
- 4 Cabinet also agreed 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 documents following both consultations.

- 5 A copy of both SPDs, the Statement of Consultations and Adoption Statements are appended.

### **Executive summary**

- 6 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 SPDs. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan.
- 7 The Development Viability, Affordable Housing and Financial Contributions SPD sets out the Council's approach to determining and securing developer contributions for new development (such as housing). The SPD recognises that developments that include a net increase of new housing 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 people. By securing obligations to provide financial contributions from developers, these impacts can be mitigated and, where possible, bring positive benefits for the local area.
- 8 The Trees, Woodlands 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.
- 9 This SPD provides guidance on trees, woodlands and hedges in relation to development. It includes background information, guidance on protecting features through the development process, integrating them into new development and new planting. It also provides information on Tree Preservation Orders and trees in Conservation Areas.

### **Recommendation**

- 10 The Corporate Director of Regeneration, Economy and Growth in consultation with the Portfolio Holder for Economic Regeneration and Partnerships is recommended to agree the adoption of both the Development Viability, Affordable Housing and Financial Contributions SPD and the Trees, Woodlands and Hedges SPD.

## **Background**

- 11 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 SPDs.
- 12 SPDs are capable of being a material consideration in planning decisions but are not part of the development plan. SPDs can add weight in decision making but should be in conformity with the policies in the Plan rather than introduce new policy.

## **Development Viability, Affordable Housing and Financial Contributions Supplementary Planning Document**

- 13 The Development Viability, Affordable Housing and Financial Contributions SPD is intended to provide information on how Policy 25 (Developer Contributions) and other policies requiring affordable housing or specific infrastructure will be interpreted and applied. This will ensure that the process is fair and transparent and is applied consistently to all users of the planning system.
- 14 The SPD provides guidance on the following areas:
  - a) identifying infrastructure requirements;
  - b) mechanisms for securing mitigation;
  - c) spending and monitoring of s106;
  - d) viability and the assessment process; and,
  - e) specific developer contribution guidance by type;
    - (i) Affordable Housing
    - (ii) Green Infrastructure
    - (iii) Education
    - (iv) Health
    - (v) Transport and Digital Infrastructure
    - (vi) Habitats Regulations Assessment
    - (vii) Biodiversity Net Gains

- 15 Consultation on the first draft of the Development Viability, Affordable Housing and Financial Contributions SPD took place from 22 April 2022 to 7 June 2022. Consultation on the second draft was undertaken from 24 February 2023 to 11 April 2023. A total of 20 separate organisations and individuals provided comments.
- 16 A detailed Statement of Consultation is attached at Appendix 4 but some of the key comments to come out of the consultation include:
- a) requirement for the document to clarify approach to built sports facilities;
  - b) detailed comments from the Home Builders Federation (HBF) covering a range of issues including delivery of housing in County Durham and the impact of new requirements on viability;
  - c) recognition that landowners should have realistic expectations regarding land value and the Council's pre-application process is extremely helpful to developers and housebuilder in informing their negotiations and future planning applications;
  - d) request that the Council undertake an update of the Local Plan trajectory;
  - e) request that the Council publishes a disposal strategy for Council owned sites; and,
  - f) support for securing s106 contributions towards healthcare infrastructure.
- 17 Following the consultation and in response to the comments made, a number of minor amendments are now being proposed. These are set out below:
- a) additional text added clarifying how s106 money will be spent/allocated;
  - b) County Durham Plan viability testing has been updated to reflect the passage of time since it was carried out, and updated to reflect BNG, gross to net and First Homes;
  - c) reference in the document to the viability update and cross reference to sister SPD on Housing Needs and First Homes Interim Policy Statement which is in preparation;
  - d) new text added covering Community Sports Facilities and how the Playing Pitch Strategy will be applied to development proposals;

- e) further text added and updated following release of updated DfE guidance;
- f) BNG section updated and amended to reflect national planning practice guidance; and,
- g) general grammatical amendments.

## **Trees, Woodlands and Hedges Supplementary Planning Document**

- 18 The Trees, Woodlands and Hedges SPD sets out how the council will deal with planning applications that affect trees, woodlands and hedges.
- 19 The SPD provides guidance on the following areas:
- a) tree surveys;
  - b) Arboricultural Impact Assessments;
  - c) protecting ancient and veteran trees and ancient woodland;
  - d) protecting of trees and hedges of high landscape, amenity of biodiversity value;
  - e) protecting and integrating existing trees, woodlands or hedges into development;
  - f) compensating for any loss of trees, woodlands or hedges;
  - g) planting new trees, woodlands or hedges, including street trees;
  - h) Tree Preservation Orders and trees in Conservation Areas;
  - i) translocating hedges; and,
  - j) maintenance and management of trees and hedges.
- 20 Consultation on the first draft of the Trees, Woodlands and Hedges SPD took place from 24 February to 11 April 2023. Consultation on the second draft was undertaken from 23 October to 3 December 2023. In response, a total of 31 comments were received from four separate organisations.
- 21 A detailed Statement of Consultation is attached at Appendix 7 but some of the key comments to come out of the consultation include:
- a) the recognition of the role of trees and woodland in the green belt;

- b) greater recognition of trees having identifiable economic value in relation to significant developments;
- c) management of 'ordinary' trees, woodlands and hedges and the responsibility of managing trees, woodlands and hedges;
- d) financial obligations of developers in terms of tree maintenance;
- e) clarification on the ancient woodland buffer zone; and,
- f) clarification on the role of trees in relation to catchment level flood mitigation.

22 Following the consultation and in response to the comments made, a number of minor amendments are now being proposed. These are set out below:

- a) additional text on the benefits of trees and woodlands, including reference to health and well-being and water management and flooding;
- b) reference to the economic value of trees;
- c) additional text on the funding for long term management of trees and the responsibility for street trees;
- d) additional text which reflects the council's current requirements for commuted sums for maintenance where land is adopted and requirements of developers where land is not adopted by the council;
- e) clarification on the use of Tree Protection Orders where necessary and required;
- f) reference to the commencing Biodiversity SPD;
- g) reference to the council's Tree Management Policy; and
- h) general grammatical amendments.

## **Conclusion**

23 Adopting the Development Viability, Affordable Housing and Financial Contributions SPD ensures clarity in regard to the type of developer contributions that will be sought, why they are needed, and the monetary formula used to calculate the contributions.

24 Adopting the Trees, Woodlands and Hedges SPD ensures consistent guidelines will be applied to planning applications that affect trees, woodlands and hedges.

## Background papers

- County Durham Plan

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## **Appendix 1: Implications**

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### **Legal Implications**

The council's legal team have been consulted as appropriate in the preparation of the SPDs.

The day after adoption the SPD Regulations require publication of the SPDs, the Consultation Statement and Adoption Statement for a period of 3 months at council offices, Customer Access Points and on the website during which period any person aggrieved by the SPDs may apply to the High Court for permission to apply for judicial review of the decision to adopt the SPDs.

### **Finance**

The SPDs are not associated with a specific budget, and they do not identify any actions or projects. They do include text which reflects the council's current requirements for contributions towards green infrastructure, education, health and biodiversity net gains, and commuted sums for maintenance where land is adopted and requirements of developers where land is not adopted by the council.

### **Consultation**

The programme of consultation was agreed with the council's Corporate Communications Team and the council's Consultation Officers Group and 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**

Staff involvement in review sessions and any follow-up discussions with developers and those as part of considering planning applications and pre-application enquiries.

### **Accommodation**

None

### **Risk**

Not applicable

### **Procurement**

None.

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## **Appendix 2: Development Viability, Affordable Housing and Financial Contributions SPD**

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Please refer to the attached Development Viability, Affordable Housing and Financial Contributions SPD.

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### **Appendix 3: Development Viability, Affordable Housing and Financial Contributions SPD – Schedule of Amendments**

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Please refer to the attached Amendments to SPD following 2nd round of consultation.

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## **Appendix 4: Development Viability, Affordable Housing and Financial Contributions SPD - Statement of Consultation**

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Please refer to the attached Development Viability, Affordable Housing and Financial Contributions SPD Statement of Consultation.

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## **Appendix 5: Trees, Woodlands and Hedges SPD**

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Please refer to the attached Trees, Woodlands and Hedges SPD.

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## **Appendix 6: Trees, Woodlands and Hedges SPD – Schedule of Amendments**

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Please refer to the attached Amendments to SPD following 2nd round of consultation.

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## **Appendix 7: Trees, Woodlands and Hedges SPD - Statement of Consultation**

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Please refer to the attached Trees, Woodlands and Hedges SPD Statement of Consultation.

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## **Appendix 8: Adoption Statement**

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Please refer to the attached Development Viability, Affordable Housing and Financial Contributions SPD and Trees, Woodlands and Hedges SPD Adoption Statement.