

<b>CABINET</b>	<b>AGENDA ITEM No. 5</b>
<b>28 JULY 2014</b>	<b>PUBLIC REPORT</b>

Cabinet Member(s) responsible:	Councillor Marco Cereste - Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business Engagement Councillor Peter Hiller - Cabinet Member for Planning and Housing Services	
Contact Officer(s):	Richard Kay (Head of Sustainable Growth Strategy) Gemma Wildman Principal Planning Officer	Tel. 863795 Tel. 863824

## **PETERBOROUGH DRAFT DEVELOPER CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)**

R E C O M M E N D A T I O N S	
<b>FROM :</b> Simon Machen; Director of Growth and Regeneration	<b>Deadline date :</b> n/a
That Cabinet approves the Peterborough Draft Developer Contributions Supplementary Planning Document (SPD) (See Appendix A) for the purposes of public consultation to take place in August and September 2014.	

### **1. ORIGIN OF REPORT**

- 1.1 This report is submitted to Cabinet following Government changes to the way Local Authorities can collect developer contributions and the proposed introduction of a Community Infrastructure Levy (CIL).

### **2. PURPOSE AND REASON FOR REPORT**

- 2.1 The purpose of this report is for Cabinet to approve the proposed changes to the way developer contributions (S106 Agreements) will be negotiated in the future. The proposed changes respond to statutory and regulatory changes by Government and are also set in the context of the anticipated adoption of the Peterborough Community Infrastructure Levy (CIL).
- 2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.1, 'to take collective responsibility for the delivery of all strategic Executive functions within the Council's Major Policy and Budget Framework and lead the Council's overall improvement programmes to deliver excellent services'.

### **3. TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	<b>No</b>	If Yes, date for relevant Cabinet Meeting	N/A
Date for relevant Council meeting	N/A	Date for submission to Government Dept (please specify which Government Dept)	N/A

#### **4. BACKGROUND**

- 4.1 The current system for securing infrastructure and developer contributions is through a combination of planning conditions and S106 agreements, with the latter informed by the Council's Planning Obligations Implementation Scheme (POIS) SPD adopted in February 2010.
- 4.2 The national system governing planning conditions remains largely unchanged. However, Government has introduced a number of changes to the way local authorities can collect and distribute developer contributions. In order to continue to secure developer contributions for investment in the infrastructure considered critical to accommodate our growth targets and maintain sustainable communities, the Council needs to make changes to its existing systems and processes.
- 4.3 The main changes will be through the adoption of a Community Infrastructure Levy (CIL). A draft version was recommended for approval by Cabinet on 30 June is due to be approved for public consultation by Full Council on 23 July 2014.
- 4.4 CIL is a charge that the Council can levy on most new development to fund infrastructure improvements. Once CIL has been consulted upon, approved through independent examination and adopted by Council, it will replace the current POIS system and will become the main mechanism for securing developer contributions.
- 4.5 Although CIL will be the main system for funding future infrastructure, S106 planning obligations will still be used to fund any necessary on site related infrastructure such as open space provision and site specific access arrangements. Also, the provision of affordable housing is outside the CIL process and therefore can only be delivered via the use of S106 agreements.
- 4.6 Therefore, to make it clearer for everyone, it is considered prudent to prepare a Developer Contributions SPD to set out the relationship between planning conditions, S106 agreements and CIL and to make it clear what infrastructure will be funded by the different mechanisms.
- 4.7 A Draft SPD is presented with this agenda item. Please note, the SPD is written on the assumption that it is adopted at the same time a CIL is adopted for Peterborough. It will not be appropriate to adopt the SPD in advance of a CIL. If, for whatever reason, a CIL is not adopted for Peterborough, this SPD will need considerable redrafting and be subject to further public consultation.
- 4.8 The Developer Contributions SPD does not set new policy. It provides a framework for the implementation of existing policies contained in the adopted Core Strategy DPD (2011) and Planning Policies DPD (2012) relating to the impacts of new development and provision of new infrastructure.
- 4.9 The SPD will;
- Clarify the relationship between planning conditions, planning obligations and the Peterborough Community Infrastructure Levy (CIL);
  - Explain how developer contributions which are not provided for through the Community Infrastructure Levy, might be sought through the use of planning obligations;
  - Help ensure the timely provision of infrastructure to support growth;
  - Aid the smooth functioning of the planning application process by explaining the Council's process and procedures for using planning obligations;
  - Assist in securing both local and national objectives in respect of the provision of sustainable development in Peterborough.
- 4.10 This new SPD will supersede the POIS SPD which will need to be formally revoked at the same time this SPD is adopted.

- 4.11 Although CIL will replace some elements of S106 planning obligations, S106 obligations will still play an important role in securing on site infrastructure. They will be used for site-specific infrastructure or mitigation required to make a development acceptable in planning terms. The principle is that all eligible developments must pay a CIL as well as any necessary site specific requirement to be secured through S106 obligations.
- 4.12 For clarity and transparency, it is important to identify the relationship between S106 obligations and CIL; and to make clear the circumstances when each will or will not be used. This relationship is set out clearly in the SPD.
- 4.13 The types of infrastructure that CIL and S106 contributions will be sought for include:
- Transport
  - Education
  - Affordable Housing
  - Lifetime & Wheelchair Homes
  - Primary Health Care
  - Crematoria/Burial grounds
  - On site Open Space
  - Strategic Open Space and Green Infrastructure
  - Indoor Sports Facilities
  - Community Facilities
  - Libraries and Life Long Learning
  - Public Realm / Urban Design
  - Waste Management
  - Site Drainage and Flood Risk Management
- 4.14 The Draft Developer Contributions SPD sets out when S106 agreements will be used to secure developer contributions. It sets out any thresholds that apply and also gives an indication of likely cost. It may not always be necessary or appropriate to seek contributions for each infrastructure type as such matters are addressed on a case by case basis.

### **Affordable Housing**

- 4.15 Affordable housing is not part of CIL and therefore can only be provided through the use of S106 agreements. The Draft SPD includes a section setting out the process for securing affordable housing. Core Strategy policy CS8 (meeting housing needs) states that any housing development of 15 dwellings or more would be required to provide 30% affordable housing. The CIL charge is lower for residential developments of 15 dwellings or more because of the extra cost associated with providing affordable housing and to ensure that schemes remain viable.

### **Strategic Sites**

- 4.16 A lower CIL rate for residential development on all strategic sites of 500 dwellings or more is proposed to reflect the range of infrastructure to be provided by the developer directly on site or via an S106 agreement.
- 4.17 This Draft SPD sets out what the likely cost would be for different types of infrastructure. Nevertheless, each application would be negotiated on a case by case basis (unlike CIL, which is non-negotiable).

## **5. CONSULTATION**

- 5.1 The Peterborough Draft Developer Contributions SPD was presented to Planning and Environmental Protection Committee on 8 July and to Sustainable Growth and Environment Capital Scrutiny Committee on 17 July.

## 6. REASONS FOR RECOMMENDATIONS

- 6.1 Government has introduced changes to the way developer contributions can be collected and spent. From April 2015, the use of our existing methodology for collecting and pooling developer contributions (POIS) will become unlawful and so unless a CIL is adopted, the collection and use of developer contributions will be severely limited from that date.
- 6.2 To support CIL and to secure the provision of on-site infrastructure there is a need for a Developer Contributions SPD to clearly set out the difference between CIL and S106 agreements.
- 6.3 Cabinet are recommended to approve the Developer Contribution SPD for public consultation in August and September 2014.

## 7. ALTERNATIVE OPTIONS CONSIDERED

- 7.1 From April 2015 the Council will not be able to secure developer contributions through the POIS system and therefore the Council is proposing to introduce CIL. However, CIL does not cover affordable housing and will not be used to secure site specific infrastructure, particularly on strategic sites. Therefore there is the need for an additional document which supplements the CIL process and sets out how affordable housing contributions and other on-site infrastructure will be secured.
- 7.2 Without a Developer Contributions SPD in place to set out clearly how this process will work there could be inconsistencies in the approach used and the Council could miss out on securing developer contributions that are critical to accommodate our growth targets. It could also mean that a developer would not be aware upfront of the potential costs associated with onsite infrastructure, which could affect the viability of a scheme and either result in lower contributions to fund important infrastructure, such as affordable housing, or stop development coming forward.
- 7.3 Therefore the option of not preparing a Developer Contributions SPD was rejected.

## 8. IMPLICATIONS

- **Legal** – The proposed changes to CIL and S106 agreements will have legal implications relating to implementation, monitoring and enforcement.
- **Financial Implications** - There will be financial implications in terms of the way the Council collects, administer and spends S106 receipts and how this will fit with CIL
- **Human Resources** – The SPD can be delivered within existing resources.

The developer Contributions SPD will have implications city wide.

## 9. NEXT STEPS

- 9.1 The SPD will be consulted on alongside the CIL Draft Charging schedule in August and September 2014 for four weeks. It is anticipated that the SPD will be adopted at the same time as CIL in March/April 2015.

## 10 APPENDICES

- Appendix A - Peterborough Draft Developer Contributions SPD