



## **FINANCE, ASSETS, INVESTMENT & RECOVERY COMMITTEE**

**20 DECEMBER 2023**

<b>REPORT TITLE:</b>	Planning Obligations Supplementary Planning Document (SPD)
<b>REPORT OF:</b>	Phil Drane, Director of Place

### **REPORT SUMMARY**

The draft Planning Obligations Supplementary Planning Document (SPD) was first brought to the Planning, Resources and Economic Development Committee on 23 November 2022 before being published for public consultation. Since then, the Planning Policy team has considered the comments received from the consultation and some minor amendments have been made. Officers are seeking approval to formally adopt the final version of the Planning Obligations SPD.

The Planning Obligations SPD will sit alongside the Brentwood Local Plan 2016-2033, and provide additional guidance on the council's approach towards seeking planning obligations required to make development schemes acceptable in planning terms. It identifies topic areas where planning obligations may be applicable depending on the scale of development and sets out the required obligations or contributions. Once adopted the SPD will be a material consideration in respect of all relevant planning applications.

### **RECOMMENDATION**

**R1. Adopt the Planning Obligations Supplementary Planning Document (Appendix A).**

## **SUPPORT ING INFORMATION**

### **1.0 REASON FOR RECOMMENDATION**

- 1.1 The Planning Obligations Supplementary Planning Document (SPD) (Appendix A) will provide more detail and clarity in respect of policies within the adopted Brentwood Local Plan 2016-2033 that refer to the circumstances where planning obligations may be appropriate. This in turn will assist the decision-making process when considering and determining planning applications. It will also provide consistent and clear advice to applicants on what might be required from them.

### **2.0 BACKGROUND INFORMATION**

#### **Purpose of the SPD**

- 2.1 The Brentwood Local Plan 2016-2033 sets out the strategic objectives and spatial strategy for the borough. The council places great importance on delivering its planned growth and on providing appropriate infrastructure to ensure development mitigates its own impact and brings wider benefits to the communities who live and work in the borough.
- 2.2 Supplementary Planning Documents (SPDs) supplement Local Development Plans and are intended to provide further detail to policies. SPDs do not introduce new policies or requirements but rather assist in the interpretation and application of existing policies and proposals and should help applicants make successful planning applications.
- 2.3 To support the Local Plan, the Planning Obligations SPD serves the following purposes:
- a) It provides a robust framework to secure the delivery of necessary infrastructure generated by planned and incremental growth in a holistic and coherent manner;
  - b) It sets out detailed guidance and a clear position to developers, landowners and stakeholders, regarding the scope and scale of planning obligations applicable to different types and quantum of development; and
  - c) It supports and supplements the Local Plan policies and once adopted, it becomes an important material planning consideration for the council when determining planning applications.

## Changes made to the SPD

2.4 The draft Planning Obligations Supplementary Planning Document (SPD) was first brought to the Planning, Resources and Economic Development Committee on 23 November 2022 and approved for consultation. The SPD was consulted on for six weeks from 8 December 2022 to 19 January 2023. Since then, officers have considered the comments received from the consultation and some minor amendments have been made. Key changes to the SPD are outlined within the Consultation Statement, which include:

- a) Included reference to the Essex Green Infrastructure Strategy (2020) and Essex Infrastructure Standards: Technical Guidance (June 2022), as requested by Essex County Council.
- b) Additional text added to make clear the council's intentions if Monitor and Manage was to become an approach agreed and used by Essex County Council, as this is currently still work in progress.
- c) Included text regarding built sports facilities and removed playing pitches from the council's open space calculator as both playing pitches and built facilities are to be calculated using Sport England Active Places Power calculator (which aligns with the council's Local Plan and Playing Pitch and Built Facilities Strategy). The figures generated by the Sport England Playing Pitch and Built Facilities calculator can only be accessed by planning officers where a council has an up-to-date strategy. These figures would need to be manually inputted to the council's Open Space calculator. Therefore, a new paragraph under G18 has been inserted to make clear that the figures generated within the council's Open Space calculator will be provided to applicants. This will ensure that there is a consistent approach.
- d) Additional text added at the end of T9 to reflect that the relevant highway authorities will provide details on the formal procedure to be followed, as requested by National Highways.
- e) Concerns were raised regarding the proposed calculation for identifying the required commuted sum for affordable housing where on-site provision is not possible. Criteria H13 set out that the commuted sums will be calculated based on 55% x Open Market Value. An independent review of this criteria was undertaken by Ark Consultancy, who provide expert advice to the Council's Housing Department. This independent review identified that the use of 55% was too low and did not provide appropriate flexibility.

On the advice of the consultant, this criteria has been changed to: 'The commuted sum for the off-site provision of affordable housing will be the difference between the market value of equivalent provision off site (to be determined by the most recent Land Registry new build sales data for a given unity typology within the borough) and the value of the same unit as an affordable unit (as validated by what an approved Registered Provider operating within the borough would be prepared to pay for the affordable. unit(s) in question).' This change provides the required flexibility as well as being more reflective of the methodology utilised by other neighbouring local authorities.

- 2.5 A full summary of the comments received, and the council's response are included as appendices within the Consultation Statement.

### **National Policy Context**

- 2.6 The SPD was prepared in accordance with all the relevant planning guidance and regulations.
- 2.7 The statutory framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990 (as amended).
- 2.8 Paragraphs 55 to 58 of the National Planning Policy Framework (NPPF) published in July 2021 and Regulations 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) set out the Government's policies on planning obligations.
- 2.9 The NPPF advises that planning authorities should consider the use of planning obligations where they could make an otherwise unacceptable development acceptable. They should only be used where it is not possible to address unacceptable impacts through planning conditions.
- 2.10 The CIL Regulations 122 set out what planning obligations an constitute and paragraph 57 of the NFFP reiterates that planning obligations should only be sought where they meet all the following tests:
- a) necessary to make the development acceptable in planning terms;
  - b) directly relate to the development; and
  - c) fairly and reasonably relate in scale and kind to the development.

### **3.0 OTHER OPTIONS CONSIDERED**

None

### **4.0 RELEVANT RISKS**

None

### **5.0 ENGAGEMENT/CONSULTATION**

5.1 Public consultation on the draft Planning Obligations Supplementary Planning Document (SPD) was undertaken for a six week period between 8 December 2022 and 19 January 2023, in accordance with the council's Statement of Community Involvement and the Town and Country Planning (Local Planning)(England) Regulations 2012 (as amended).

### **6.0 FINANCIAL IMPLICATIONS**

**Name & Title: Tim Willis, Director – Resources (Section 151 Officer)**  
**Tel & Email: 01277 312500 / tim.willis@brentwood.rochford.gov.uk**

6.1 Negotiated Section 106 planning obligations, together with the Community Infrastructure Levy (CIL), make up the system of developer contributions used to secure funding towards mitigating the social and environmental effects of development. The value of Section 106 contributions varies depending on the type of contribution.

### **7.0 LEGAL/GOVERNANCE IMPLICATIONS**

**Name & Title: Claire Mayhew, Acting Joint Director – People & Governance (Monitoring Officer)**  
**Tel & Email: 01277 312500 / claire.mayhew@brentwood.rochford.gov.uk**

7.1 The council must ensure that the Planning Obligations SPD is in line with the policies of the adopted Brentwood Local Plan 2016-2033 and should not seek to introduce new policies. The draft SPD has undertaken a public consultation as required by the Town and Country Planning (Local Planning)(England) Regulations 2012 (as amended) and all representations received fully considered.

### **8.0 EQUALITY & HEALTH IMPLICATIONS**

**Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health**  
**Tel & Email 01277 312500 kim.anderson@brentwood.gov.uk**

- 8.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful;
  - b) Advance equality of opportunity between people who share a protected characteristic and those who do not; and
  - c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 8.3 The proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **9.0 ECONOMIC IMPLICATIONS**

**Name & Title: Phil Drane, Director - Place**

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- 9.1 The production of the Planning Obligations SPD sets out clear guidance on the processes and costs for contributions where they are deemed necessary through relevant policies in the adopted Brentwood Local Plan 2016-2033. This is an essential mechanism to secure infrastructure funding that contributes to the health of the local economy.

## **10.0 ENVIRONMENTAL IMPLICATIONS**

**Name & Title: Henry Muss, Sustainability & Climate Officer**

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- 10.1 In November 2022, the Community, Environment & Enforcement Committee approved the updated [Environment Strategy](#) 2023-2026 which set out the high-level approach as to how Brentwood Borough Council will achieve its

declared aims of achieving carbon neutrality within its own activity by 2040 and district wide by 2050.

- 10.2 Further to that report, at a meeting on 21 June 2023, Council approved the declaration of a Climate Emergency, where a commitment was made to achieve net-zero carbon by 2030 for its own estate, rather than the previous 2040 ambition.
- 10.3 In the Environment Strategy with respect to the built environment, the council's high-level approach with respect to housing states: "To ensure that new homes built in the Borough meet current the net zero emissions standard" as such those development that align with the current standard will be looked upon more favourably.

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## **APPENDICES**

- Appendix A: Planning Obligations Supplementary Planning Document (SPD)
- Appendix B: Planning Obligations SPD Consultation Statement
- Appendix C: Planning Obligations SPD Adoption Statement

## **BACKGROUND PAPERS**

None

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
Planning, Resources and Economic Development Committee Item (246): Draft Planning Obligations Supplementary Planning Document (SPD)	23/11/2022