



**Northumberland**  
County Council

Northumberland Local Plan

Planning Obligations  
Supplementary Planning Document  
Scoping Document

September 2019

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# 1. Introduction

## About this consultation document

- 1.1 The Council is proposing to prepare a Supplementary Planning Document (SPD) to provide guidance on the use of planning obligations in Northumberland. The Northumberland Planning Obligations SPD will provide further detail on Policy INF 6 (Planning Obligations) and other cross cutting policies in the emerging Northumberland Local Plan. Upon adoption its guidance will be a material consideration in the Council's decision making on planning applications.
- 1.2 This consultation document sets out the Council's initial views on the scope and content of the proposed SPD and is seeking feedback on that proposed coverage, prior to preparing a draft SPD for consultation.
- 1.3 Alongside consulting on the scope and content of the proposed Planning Obligations SPD, the Council is also consulting on the scope and content of a proposed Affordable Housing SPD. The two SPDs will cross-reference each other where relevant.

## How to get involved

- 1.4 The Council is seeking your comments at this stage in order to ensure the Planning Obligations SPD is fit for purpose and is prepared in a transparent way. Specific consultation questions have been included within this document to identify the issues that the Council would particularly welcome views on.
- 1.5 Consultation on this scoping document is taking place over a six week period between 25 September 2019 and 6 November 2019.
- 1.6 Comments in response to the consultation document can be submitted online or by returning a response form by email or by post. The Council is encouraging people to submit their comments online or via email but response forms are available from libraries, customer information centres and County Hall, or can be downloaded from the Councils website<sup>(1)</sup>. Details of how to respond to the consultation using these methods is provided below:
  - Online: Comments can be submitted via the consultation website<sup>(2)</sup>
  - Email: [planningstrategy@northumberland.gov.uk](mailto:planningstrategy@northumberland.gov.uk)
  - Post: Planning Policy, Northumberland County Council, County Hall, Morpeth, Northumberland, NE61 2EF.
- 1.7 All comments must be received by **5pm on 6 November 2019**.

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1 Response forms can be downloaded from the consultation website at <https://northumberland-consult.limehouse.co.uk/portal/planning/spd/planning-obligations/scoping>

2 The consultation website can be accessed <https://northumberland-consult.limehouse.co.uk/portal/planning/spd/planning-obligations/scoping>

## What is a Supplementary Planning Document?

- 1.8** The main purpose of an SPD is to add further detail to specific policies contained within the Development Plan. They do not set or introduce new policy but provide guidance on the interpretation and implementation of Development Plan policies.
- 1.9** SPDs are prepared by the Council in consultation but are not subject to independent examination in the way that a Development Plan document, (such as the Local Plan or a Neighbourhood Plan) would be. The regulatory framework for adopting an SPD is set out in the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 1.10** Once adopted, the content of an SPD is a material consideration when making decisions on planning applications.

## What are planning obligations?

- 1.11** Planning Obligations are often referred to as Section 106 legal agreements, in reference to the section of the Town and Country Planning Act 1990. They are used in order to mitigate the impacts of new development and make a development proposal acceptable in planning terms, that otherwise would not be acceptable.
- 1.12** Planning Obligations can take a number of forms. They can restrict the development or use of land in any specified way; require specified operations or activities to be carried out in, on, under or over the land; require land to be used in a specified way; or require a sum or sums to be paid to the authority (also known as developer contributions).
- 1.13** In the most part, addressing unacceptable impacts of development is dealt with through the use of planning conditions. Developers have to comply with any conditions attached to their planning permission. Planning obligations, should only be used where it is not possible to address unacceptable impacts through planning conditions.
- 1.14** Planning Obligations are commonly used to address issues in respect of the impacts of development on local infrastructure. In such instances planning obligations can be used to secure new or improved infrastructure, services and facilities, and where appropriate, cover their maintenance, to make a development acceptable in planning terms.

## 2. Policy context

### National Planning Policy Framework

- 2.1** The National Planning Policy Framework (NPPF) sets out that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. The framework repeats the three legal tests in regulations i.e. that a planning obligation must be: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

### Northumberland Local Plan

- 2.2** The Northumberland Local Plan will be a single new Local Plan for the whole of Northumberland and will replace all of the previous District and County Council Local Plan and Core Strategy documents. Once adopted, the Local Plan will become part of the Development Plan along with Neighbourhood Plans prepared by local communities. The Development Plan forms the statutory framework for future development of land and buildings.

- 2.3** There are a number of cross cutting policies which have the potential to be relevant in the case of seeking planning obligations. Specifically, the proposed SPD will supplement Northumberland Local Plan **Policy INF 6 (Planning obligations)** which states:

1. *Where it is not possible to address any unacceptable impacts of development through the use of planning conditions, planning obligations will be secured to ensure that otherwise unacceptable development can be made acceptable.*
2. *Planning obligations will be used, as necessary, to ensure that development meets relevant planning policy requirements set out in the Local Plan and any made neighbourhood plans.*
3. *Planning obligations may be used to secure the timely provision, and/or improvement and maintenance of any physical, social, community and green infrastructure and/or any mitigation and/or compensatory measures reasonably necessary to make a development acceptable in planning terms. This may include all or any of the following and any other reasonable measures that meet statutory requirements:*
  - a. *Affordable housing;*
  - b. *Measures to address highways, traffic and transportation impacts;*
  - c. *Provision and maintenance of SuDS schemes;*
  - d. *Sport, play and recreation provision;*
  - e. *Open space provision and maintenance;*
  - f. *Provision for schools and pre-school education;*
  - g. *Provision for primary healthcare;*
  - h. *Training and skills and local employment improvement programmes;*
  - i. *Provision of community facilities and services;*
  - j. *Measures to facilitate improvement in health and well-being;*

- k. *Environmental improvement and mitigation schemes;*
- l. *Landscape improvement schemes;*
- m. *Mineral and landfill site restoration and aftercare; and*
- n. *Measures to mitigate development impact on designated habitats and species.*

**2.4** The SPD will also be relevant other policies in the emerging Northumberland Local Plan, including:

- Policy HOU 4 - Housing development site allocations;
- Policy ENV 2 - Biodiversity and geodiversity;
- Policy WAT 4 - Sustainable Drainage Systems;
- Policy INF 1 - Delivering development related infrastructure;
- Policy INF 2 - Community services and facilities; and
- Policy INF 5 - Open space and facilities for sport and recreation.

### Neighbourhood Plans

**2.5** A number of communities across the County have prepared or are in the process of preparing neighbourhood plans. Once 'made' (brought into legal force) these plans also form part of the statutory development plan. Further information on the neighbourhood plans which have been 'made' or passed referendum are available on the Council's website at <https://www.northumberland.gov.uk/Planning/Planning-policy/Neighbourhood.aspx>.

**2.6** The scope of neighbourhood plans varies. Policies which could be relevant to the proposed Planning Obligations Supplementary Planning Document include those in respect of mitigating the impacts of development and providing adequate infrastructure in support of new development.

### Superseded guidance

**2.7** The existing saved policies of the previous District and County Council Local Plan and Core Strategy documents will be superseded by the Northumberland Local Plan. It is intended that the following SPDs are also superseded by the proposed Planning Obligations SPD.

- Wansbeck Provision for Sport and Play SPD; and
- Tynedale New Housing: Planning Obligations for Sport and Play Facilities SPD.

### A Northumberland Community Infrastructure Levy

**2.8** The Community Infrastructure Levy (CIL) is a fixed rate tariff, charged per square metre of new development. CIL can be used to fund a wide range of infrastructure required to support development across the local authority area.

- 2.9** As set out in the Local Plan, the Levy is viewed by the Council as a positive tool which could help support the delivery of the Local Plan and more particularly unlock opportunities for growth by helping to fund infrastructure required to support sustainable development.
- 2.10** An appraisal on the scope for introducing CIL and the levels at which it would be viable has been included in the Northumberland Local Plan and CIL Viability Assessment (November 2018). The Council will continue to investigate the benefits of introducing CIL and would anticipate progressing with this matter following adoption of the Local Plan.
- 2.11** Should a Northumberland CIL be adopted, appropriate measures would be put in place to ensure there could be no double charging between what is required under a planning obligation agreement and what is required under CIL.



## 3. Role and scope of the Planning Obligations SPD

### Role of the Planning Obligations SPD

- 3.1** The Planning Obligations SPD will provide guidance on how planning obligations will be used in Northumberland. It will be particularly relevant for decision makers and the development industry, including applicants, agents, developers and land owners. It may also be of interest to local communities which could be affected by development, and Town and Parish Councils. It is considered all of those involved should have the opportunity to inform the content of the Planning Obligations SPD.
- 3.2** The SPD will provide further details on why, when and how planning obligations will be sought. It will also have details of procedures, processes and the likely terms of any section 106 (or other) legal agreement. Accordingly, the SPD will improve transparency and serve to expedite the planning process.
- 3.3** As set out in the policies of Northumberland Local Plan, development can create a need for measures to mitigate impacts, or generate a need for new or improved infrastructure. The Planning Obligations SPD will help decision makers to ensure that development contributes positively towards enhancing the vitality of communities across Northumberland, supporting economic growth, and conserving and enhancing the County's unique environmental assets.

### Proposed scope of the Planning Obligations SPD

- 3.4** Planning Obligations can cover a wide range of infrastructure, mitigation and compensatory measures which are specific to individual development proposals. The intended scope of the SPD is not to address every possible planning obligation requirement, but instead to provide further details relevant to any planning obligation, and guidance in respect of the types of planning obligations most commonly used.
- 3.5** On this basis, it is proposed that the Planning Obligations SPD should include financial and non-financial planning obligations including in respect of:
- Open space, sport and recreation;
  - Education;
  - Healthcare;
  - Ecological mitigation;
  - Second and holiday homes;
  - Highways and sustainable transport;
  - Sustainable drainage (SUDS); and
  - Other development specific requirements.
- 3.6** As set out in paragraph 1.3, affordable housing is intentionally excluded from the scope of the Planning Obligations SPD as this is subject to a proposed separate SPD.

#### Procedures and processes

- 3.7** In respect of each obligation type, further guidance will be provided as appropriate, including in respect of any exemptions, thresholds, and how financial and non-financial contributions will be calculated.
- 3.8** The Planning Obligations SPD will also provide details of processes and procedures such as in respect of pre-application advice, drafting and finalising of agreements, viability, timing of payments, indexation and fees.

#### Monitoring

- 3.9** In accordance with government reforms of developer contributions, Northumberland County Council is committed to effectively monitoring planning obligations ensuring transparency. The Planning Obligations SPD will include details of how planning obligations are recorded, how they are spent, clawback arrangements, monitoring and monitoring fees.

## 4. Proposed content of the Planning Obligations SPD

4.1 The following sets out the suggested outline contents of the Planning Obligations SPD:

1. **Introduction**

- a. Purpose of the SPD
- b. Status of the document
- c. Overview of the document structure

2. **Background**

- a. Policy context
- b. Legal context
- c. Community Infrastructure Levy

3. **Scope**

- a. Scope and limitations

4. **Planning Obligations**

- a. Types:
  - i. Open space, sport and recreation
  - ii. Education
  - iii. Healthcare
  - iv. Ecological mitigation
  - v. Highways and sustainable transport
  - vi. Sustainable drainage (SUDS)
  - vii. Other development specific requirements
- b. Thresholds / trigger points
- c. Exemptions
- d. Financial and non-financial contributions
- e. How contributions will be calculated
- f. How contributions will be spent

5. **Viability**

6. **Process and procedures**

- a. Pre-application advice
- b. Drafting and finalising of agreements
- c. Timing of payments
- d. Indexation
- e. Clawback mechanisms
- f. Fees

7. **Planning Obligation Monitoring and Enforcement**

8. **Appendices**

- a. Standard forms and templates
- b. Model agreements and clauses

## 5. Consultation and next steps

### Consultation questions

- 5.1 We are seeking responses to the following questions in relation to the Northumberland Planning Obligations Supplementary Planning Document (SPD) scoping document:

#### Question 1

- a. Do you agree with the proposed role and scope of the Planning Obligations SPD as set out in sections 3.1 and 3.2 of this document?
- b. Please provide further comment if there is anything you would change in relation to the proposed role and scope of the Planning Obligations SPD.

#### Question 2

Are there any specific procedural and or process related issues you consider should be covered by the Planning Obligations SPD which are not identified in this scoping document?

#### Question 3

- a. Do you agree with the proposed structure of the Planning Obligations SPD as set out in section 4 of this document?
- b. Please provide further comment if there is anything you would change in relation to the proposed structure of the Planning Obligations SPD.

#### Question 4

Do you have any other comments on the Planning Obligations SPD Scoping Document?

### Next steps

- 5.2** Following the consultation on this document, a Draft Northumberland Planning Obligations SPD will be prepared. The feedback received from the consultation on this scoping document will be used to help inform the contents of the draft document.
- 5.3** The Draft Planning Obligations SPD will be published for a minimum four weeks of public consultation and feedback will be used to help finalise the SPD. The Council will then adopt the SPD and it will become a material consideration in making decisions on planning applications.
- 5.4** A Strategic Environmental Assessment (SEA) screening will be carried out prior to a consultation on the Draft Planning Obligations SPD to determine if there is a need to carry out an SEA. SPDs do not normally require Strategic Environmental Assessment (SEA) except in exceptional circumstances where there are likely to be significant environmental effects that have not already been assessed during the preparation of the Local Plan. The Council will consult the environmental assessment consultation bodies on the result of the SEA screening and will make this information available during consultation on the draft SPD.
- 5.5** A full timetable will be identified for the preparation of this SPD following an analysis of the feedback from the consultation on this scoping document.



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