



**Strategic Environmental Assessment
Screening Determination Statement
for
North Hertfordshire District Council
Developer Contributions
Supplementary Planning Document**

1. Introduction

- 1.1 This report sets out a Screening Determination for the North Hertfordshire District Council Developer Contributions Supplementary Planning Document (hereafter Developer Contributions SPD), and has been prepared by North Hertfordshire District Council. The purpose of the screening is to assess if the Developer Contributions SPD will require a Strategic Environmental Assessment (SEA). More detail is given in the following sections on SEA (section 2), Supplementary Planning Documents (section 3) and the Developer Contributions SPD specifically (section 4).
- 1.2 The assessment of the Developer Contributions SPD and the Determination is included in sections 5, 6 and 7.

2. Strategic Environmental Assessment Context

- 2.1. European Union Directive 2001/42/EC requires SEA to be undertaken for certain types of plans or programmes that could have significant environmental effects. The Directive has been transposed into law for England and Wales in the Environmental Assessment of Plans and Programmes Regulations 2004 (the Regulations). The purpose of Strategic Environmental Assessment is to promote sustainable development through assessing the extent to which the plan will help to achieve relevant environmental, economic and social objectives.
- 2.2. Under Regulation 9 of the Regulations, the responsible body (local parish or town council or neighbourhood forum) is required to determine whether a plan or programme is likely to have significant environmental effects, and therefore whether SEA is required. This process is called screening. It is undertaken using a specified set of criteria (set out in Schedule 1 of the Regulations). The Regulations require that the results of this process are set out in a Screening Determination (this document), which must be publicly available.
- 2.3. Before the responsible body makes a formal determination, there is a requirement to consult three statutory consultation bodies designated in the Regulations (Historic England, the Environment Agency & Natural England) on whether an environmental assessment is required. This consultation will take place alongside consultation on the draft SPD.

3. Supplementary Planning Documents and Strategic Environmental Assessment

- 3.1. Planning Practice Guidance states that:
 - 3.1.1. Supplementary planning documents do not require a sustainability appraisal but may in exceptional circumstances require a strategic environmental assessment if they are likely to have significant environmental effects that

have not already have been assessed during the preparation of the Local Plan.

3.1.2. A strategic environmental assessment is unlikely to be required where a supplementary planning document deals only with a small area at a local level (see regulation 5(6) of the Environmental Assessment of Plans and Programmes Regulations 2004), unless it is considered that there are likely to be significant environmental effects.

3.1.3. Before deciding whether significant environment effects are likely, the local planning authority should take into account the criteria specified in schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004 and consult the consultation bodies¹.

3.2. This Screening Determination has taken account of this Guidance in reaching its conclusions.

4. Developer Contributions SPD

4.1. Developer contributions can be used to make a development acceptable but should only be used where unacceptable impacts cannot be dealt with by planning conditions. Legal tests must be applied to any planning obligations sought, and this is outlined in Community Infrastructure Levy Regulations 2010 (as amended) and in paragraph 56 of the NPPF. Any contributions must be:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

4.2. The National Planning Policy Framework (NPPF)² defines Supplementary Planning Documents (SPDs) as documents which add further detail to the policies in the development plan. SPDs are capable of being a material consideration in planning decisions but are not part of the statutory Development Plan.

4.3. SPDs do not have the same status as the policies within the Development Plan (in North Hertfordshire's case, the Local Plan) and are not subject to an independent Examination. However, SPDs must undergo public consultation and are considered as material considerations when determining planning applications.

4.4. A review of the Council's current planning guidance was undertaken in 2017. This identified that the Council's Planning Obligations Supplementary Planning Document (SPD) dating from 2006 should be prioritised for updating. This review of current Council planning guidance, and the identification of documents to be produced in the future, was considered and approved by Cabinet on 25th July 2017.

¹ Planning Practice Guidance: Strategic Environmental Assessment and Sustainability Appraisal, Paragraph: 008 Reference ID: 11-008-20140306, <https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>

² Annex 2: Glossary

- 4.5. The Council has previously considered whether some contributions from new development might instead be secured by introducing a Community Infrastructure Levy (CIL). CIL effectively operates as a flat-rate ‘tax’ levied upon qualifying development based on the amount of floorspace being provided. It is collected on an authority-wide basis. CIL can be spent on any matters or projects defined by the Council on its ‘Regulation 123’ list. However, unlike site-specific legal agreements, there is no guarantee at the point of determining applications that monies will be spent on any particular matter or project.
- 4.6. In December 2018, Cabinet reaffirmed its resolution of 30th July 2013: “That a Community Infrastructure Levy for North Hertfordshire be not pursued for the time being”, and that developer contributions would continue to be collected using Section 106 legal agreements. In the Cabinet report it was also recommended that work would be expedited on the review and adoption of a revised Planning Obligations SPD to reflect the Governments’ recent strengthening of viability matters in Planning Practice Guidance; and, to address the full range of potential contributions that might be sought through s106 in the absence of CIL.
- 4.7. Subsequent to that Cabinet decision, the Government laid draft regulations confirming that all pooling restrictions are to be lifted so that multiple Section 106 agreements can be collected towards a single piece of infrastructure. This restriction has been in place since 2015 and presently means that no more than five Section 106 contributions may be made towards any single infrastructure scheme. This has been a notable barrier to the funding and delivery of infrastructure, particularly for larger projects.
- 4.8. In June 2019, the Cabinet approved the Council’s Housing Delivery Test Action Plan for publication. This contains a range of measures to boost the delivery of new homes in the District. The Action Plan reiterates this Council’s intention to prepare a Developer Contributions SPD to be adopted alongside, or shortly after, any adoption of the new Local Plan.

5. Screening Assessment

- 5.1. As noted above, the Regulations specify a set of criteria which must be used to assess whether any plan covered by the Regulation is likely to have a significant environmental effect and therefore require a SEA. The table below considers each of these criteria in turn.

Table 1: Assessment of likelihood of significant effects on the environment

Criteria for determining the likely significance of effects	Likely to have significant effects?	Justification for assessment

<p>1 (a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources</p>	<p>No</p>	<p>The SPD provides greater detail on the policy and principles established in the emerging North Hertfordshire Local Plan. The emerging Plan has been subject to a comprehensive Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA). The purpose of the SPD is to provide guidance on the effective and constant implementation of the relevant infrastructure requirements and developer contributions policies (principally Policy SP7 which has been subject to SA / SEA through the process above).</p>
<p>1 (b) the degree to which the plan or programme influences other plans or programmes including those in a hierarchy.</p>	<p>No</p>	<p>The SPD is intended to supplement Local Plan policies and sits below the Local Plan in terms of the planning hierarchy. The SPD must be in general conformity with the strategic policies of the Local Plan.</p>
<p>1 (c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development</p>	<p>No</p>	<p>The SPD is highly relevant in terms of promoting sustainable development as it seeks to ensure the effective and consistent implementation of developer contributions policy. The aim of this policy is to ensure that development proposals make provision for infrastructure that is necessary in order to accommodate the additional demands resulting from the development.</p>
<p>1(d) environmental problems relevant to the plan</p>	<p>No</p>	<p>There are no environmental problems relevant to the SPD. The policies within the North Hertfordshire Local Plan that the SPD supplement are not expected to have any significant effects on the environment.</p>
<p>1 (e) the relevance of the plan or programme for the implementation of community legislation on the environment (e.g. plans and programmes</p>	<p>No</p>	<p>The SPD is not relevant to the implementation of EC legislation such as waste management or water protection.</p>

linked to waste management or water protection)		
2 (a) the probability, duration, frequency and reversibility of the effects	No	<p>The anticipated effects on the sustainability of North Hertfordshire are expected to be positive by providing guidance to support policies designed to create new development supported by the necessary infrastructure.</p> <p>The SPDs will require contributions towards any mitigation measures for any development that requires environmental enhancement. The duration of the effects is difficult to define; the effects will be linked to a planning permission which is (usually) permanent unless superseded by a subsequent permission on the same site.</p>
2 (b) the cumulative nature of the effects	No	The District Plan SA/SEA expects overall positive benefits to arise from the specific policies related to infrastructure provision that the SPD relates to.
2 (c) the trans-boundary nature of the effects	No	Planning obligations/developer contributions will be local to North Hertfordshire district and only indirect effects are expected cross-boundary, for example, where the obligation secures a contribution towards infrastructure in an adjoining authority.
2 (d) the risks to human health or the environment (e.g. due to accidents)	No	No significant effects have been identified.
2 (e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)	No	The SPD will be applied to all relevant planning applications in the district, although the effects of the SPD will be more likely felt at a more local scale (i.e. site or neighbourhood).
2 (f) the value and vulnerability of the area likely to be affected due to:	No	The SPD is not be able to set policy related to specific land uses. They will only affect the way in which infrastructure is funded or provided.

(i) special natural characteristics or cultural heritage (ii) exceeded environmental quality standards (iii) intensive land-use		
2 (g) the effects on areas or landscapes which have a recognised national, community or international protection status	No	None identified. Any applications for development will be required to satisfy the relevant policies for protection of the character of the area before permission is granted.

6. Consultation Responses

- 6.1. This screening determination has been produced alongside the consultation on the draft Developer Contributions Supplementary Planning Document. The Council will consult the three statutory consultation bodies designated in the Regulations (English Heritage, the Environment Agency & Natural England) on whether an environmental assessment is required.
- 6.2. Following consultation, responses have been received from both the English Heritage (now Historic England) and the Environment Agency. No response has been received from Natural England. The response from Historic England made no comments on either this SEA Screening Determination or the Developer Contributions SPD. The response from the Environment Agency had no comments on this SEA Screening Opinion, but did make comments on the Developer Contributions SPD, which have been taken on board.
- 6.3. Consequent to the above, no consultation responses have been received which would alter the preliminary findings of this screening determination.

7. Screening Determination

- 7.1. In summary, it is concluded that at this time the Developer Contributions SPD is not likely to have significant environmental effects and therefore a SEA is not required. The principal reasons for this conclusion are that:
- The development plan policies supplemented by this SPD have themselves been subjected to SA and SEA. The SA conclusion on Policy SP7 states that the policy is critical in ensuring that the Plan delivers against a significant number of the sub-objectives in the sustainability appraisal framework, not only through ensuring the delivery of needed infrastructure but also through making provision for the mitigation of the adverse impacts of new development. The appraisal of

proposed main modifications to the emerging Local Plan did not indicate any change to this.

- The SPD is only entitled to provide guidance to existing policies, it is not expected that they would alter the conclusions reached in the District Plan SA/SEA. The SPD cannot set new policy. It has been prepared to build upon the District Plan policies and provide guidance to applicants regarding infrastructure provision (in accordance with the NPPF).

7.2. On the basis of the above, and considering the SE/SEA undertaken at a higher level through the preparation of the District Plan, and the effects expected, North Hertfordshire District Council concludes that the Developer Contributions Supplementary Planning Document does not require a full SEA to be undertaken.