

**Wards Affected:**

All Wards

**ITEM 4(a)****STRATEGIC PLACEMAKING SCRUTINY  
SUB-COMMITTEE****23 AUGUST 2018****ADOPTION OF THE PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT**

Responsible Cabinet Member: Councillor Legg, Cabinet member for Customer Services

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**Executive Summary:**

On 6 March 2018 Cabinet approved a new Supplementary Planning Document (SPD) that consolidated and brought up to date the Council's guidance on planning obligations, to be used in negotiating obligations from developers for a range of infrastructure to mitigate the impacts of development proposals. For operational reasons adoption and implementation of the new SPD is planned from 1 September. This report highlights various changes to the policy and housing market context since the Cabinet decision, the risks and issues these represent in bringing forward the new SPD, and the option of not adopting the SPD on 1 September, as currently planned, (as clarified in Sections 2 and 3 below) but reviewing the SPD and aligning it with Plan:MK.

**1. Recommendation(s)**

- 1.1 That the new Planning Obligations Supplementary Planning Document be not adopted from 1 September 2018.
- 1.2 That the Supplementary Planning Document be revisited in terms of the policy requirements in the emerging Plan:MK, and the impact on delivery of strategic sites in the Plan.
- 1.3 Proposals to amend the Supplementary Planning Document be fully consulted upon following a delegated decision by the Cabinet member, and any decision to adopt an amended Supplementary Planning Document be referred to the Cabinet. Production of this amended document will be managed so that it is capable of being adopted upon adoption of Plan:MK (anticipated February 2019).
- 1.4 Any decisions above be informed by consideration of the Council's position regarding Community Infrastructure Levy (CIL).

**2. Issues****2.1 Policy**

- 2.2 The new SPD is based on policies in the currently adopted Local Plan and Core Strategy. At the time of the Cabinet decision on the SPD the adoption of

Plan:MK was not anticipated until summer or autumn 2019. This would have given the SPD a 'shelf life' of around 12 months. Although this is relatively short a project to update and consolidate the guidance has been running since 2010 and was seen as a way of mitigating the risk of continuing to operate policy guidance that pre-dated the CIL Regulations. However the Plan:MK Examination has since started earlier than expected, and the adoption of the Plan is now anticipated in February 2019. This means that the SPD will need to be reviewed with immediate effect anyway in order to have a new SPD in place attached to the new Local Plan. Once the new Local Plan is adopted the SPD will have very limited weight as it would not be attached to the current Local Plan.

- 2.3 The Cabinet decision on 6 March 2018 included a commitment to bring a report to Cabinet to review bringing in a Community Infrastructure Levy (CIL). The Council has since responded to a Government consultation (launched on 5 March – the day before the Cabinet decision on the SPD) on amendments to the CIL Regulations, which would give the Council more flexibility in terms of planning obligations, especially the ability to pool obligations for strategic infrastructure. The Government's response to this consultation is expected over the summer and would affect how the SPD is structured. As adopted the SPD seeks contributions to further education and strategic highway infrastructure items from only the largest sites in order that the Council can pool the largest contributions.
- 2.4 Housing Delivery
- 2.5 Milton Keynes (MK) is failing to deliver homes against its Local Plan target and housing trajectory. This is an issue that was reported to Cabinet on 2 January 2018. MK also currently does not have a 5 year housing land supply and currently the Council must consider residential applications on the basis of national policy rather than Local Plan policies.
- 2.6 The Council are seeking to address the 5 year housing land supply position through the adoption of Plan:MK and the development strategy within that. Part of that strategy relies on key sites coming forward in Central Milton Keynes, including Campbell Park (CMK). The new Planning Obligations SPD will apply in CMK, seeking an equal level of contribution from developments here as elsewhere in the Borough. Under the current policy developments in CMK pay a lesser amount of contributions.
- 2.7 The viability testing of Plan:MK and the Planning Obligations SPD found that the full level of contributions from sites in CMK (including affordable housing) would not be viable. However where sites are being actively promoted then the Council has included them within its development strategy and housing trajectory.
- 2.8 With the 1 September implementation of the new SPD coming up, market signals from developers in CMK is that the SPD puts in jeopardy the delivery of sites in the Council's housing trajectory and there are strong indications that these sites may not come forward for planning consent in the timescales anticipated. Although site viability can be discussed as part of the negotiation process there is a strong desire, and expectation, that sites in public ownership (which many of the residential sites in CMK are) will be policy

compliant. The Council has also been challenged for not being as expansive in its consultation on the draft SPD as it should have been, which has had an impact on bringing these issues to light sooner. There is a risk therefore that the Council maybe be challenged on the SPD from the outset of its operation.

- 2.9 The level of under delivery of homes in MK will trigger the need for the Council to produce an Action Plan when the Government publish its first official Housing Delivery Test results in the Autumn. The Action Plan must set out what the Council is doing to support and accelerate delivery of homes.
- 2.10 The Council is also trying to promote investment in CMK through Renaissance CMK – one of the big six MK 2050 projects. A Prospectus is being developed to promote ambitions for the future of CMK, but the impact of the incoming SPD appears to be adverse on current planned developments, potentially undermining the Council's ambition for CMK.

### 3. **Options**

#### 3.1 The Council has the following options

(a) Adopt the SPD and Seek Immediate Review

Bring in the implementation of the agreed SPD from 1 September as planned but seek to update the policy immediately to bring forward a new SPD capable of being adopted upon adoption of Plan:MK.

This is likely to prove a challenging option operationally as the timescale for the currently approved SPD to apply will be limited. This may also further unsettle the market and delay delivery, especially in CMK, with developers potentially challenging the application of the policy and waiting for the replacement SPD. This is likely to affect the delivery of affordable housing disproportionately. Changes to the CIL Regulations in the interim (to remove pooling restrictions) would mean that the thresholds set in the SPD related to more strategic scale developments and infrastructure would unnecessarily limit what the Council can negotiate. This option is not recommended.

(b) Do Not Adopt the SPD at this Time and Review Aligned to Plan:MK

This option would allow the Council to review the SPD against the policy requirements in the emerging Plan and give more consideration to the viability issues in CMK. This approach carries less risk to the development strategy in Plan:MK, which is currently at Examination, and would support the Council's Action Plan, aimed at unlocking delivery of more homes in Milton Keynes. It would also allow the SPD to reflect changes to the CIL Regulations.

Although the current SPD has taken a long time to develop, it is capable of being used as the basis for the review. It is likely to be much clearer operationally and more efficient to do this rather than adopt the current SPD for a short period of time and bring in another new policy document.

Any amendments should be consulted on, ensuring that this consultation is as expansive as possible to include all relevant interests, with approval for adoption to be taken by Cabinet. The review should be managed so that the

updated document is capable of being adopted as soon as Plan:MK is adopted. This is the recommended option.

3.2 The Cabinet decision in March also committed to a review of the Council's position on CIL. Regardless of the options above this action will continue to be pursued and any impact on the production of a revised SPD will be taken into account at the relevant time.

#### 4. Implications

##### 4.1 Policy

The approved SPD is supplementary to extant Local Plan policy. The emerging Plan:MK will replace these policies once adopted (currently anticipated in February 2019). SPDs can only be supplementary to adopted policy and cannot introduce new policies as part of their content. The SPD, once adopted needs to support the Council objectives of Growth and Affordable Housing, Economy, Education and Skills, Transport and Environment by helping to support the infrastructure associated with these priorities.

##### 4.2 Resources and Risk

Planning Obligations are a significant contributor to the Council's Capital Programme and provide a source of revenue funding for such works as the maintenance of open space. The only significant uplift in contributions sought in the SPD compared to previous policy is in relation to education contributions because of increasing pupil numbers. Currently the Council opens negotiations at a maximum of £8,562.54 per home, where as the new policy would open negotiations at a maximum of £17,380 per home. Delaying adoption of the SPD does delay implementation of this increase in contributions sought. In recommending the preferred option in this report this delay has been weighed against the benefits of aligning the whole document to Plan:MK and mitigating current risks to implementing from 1 September, particularly delivery of homes. It should also be noted that the Council would not necessarily be forgoing higher receipts in the intervening period as the negotiated outcome will continue to vary from site to site (as it currently does) and have to take account of viability issues.

Any work associated with the recommendations above is being funded by existing budget provision.

Y	Capital	Y	Revenue	N	Accommodation
N	IT	N	Medium Term Plan	N	Asset Management

##### 4.3 Carbon and Energy Management

None.

#### 4.4 Legal

The SPD already carries some weight as it has reached the stage of being approved by Cabinet for adoption. However to avoid any problems with retrospectively applying the SPD to applications already registered with the Development Management Service the SPD was proposed not to be adopted until 1 September 2018. An adoption statement has therefore not yet been published. Current negotiations on Planning Obligations are therefore still being carried out in accordance with existing policies, and would continue to do so until a new SPD is adopted.

#### 4.5 Other Implications

N	Equalities/Diversity	N	Sustainability	N	Human Rights
N	E-Government	N	Stakeholders	N	Crime and Disorder

Background Papers: [6 March 2018 Cabinet Meeting](#)

Annex(es): None