

CABINET

DATE OF MEETING: 2 NOVEMBER 2023

TITLE OF REPORT: VIABILITY APPRAISALS FOR NEW DEVELOPMENT SUPPLEMENTARY PLANNING DOCUMENT

Report of: Executive Director – Place

Cabinet Portfolio: Planning Policy and Place

Key Decision: No

Confidentiality: Non Exempt

PURPOSE OF REPORT

1. To provide an update on the draft Viability Appraisals for New Developments Supplementary Planning Document (SPD) following public consultation and seek Cabinet agreement to adopt the SPD.

RECOMMENDATION

2. That the Viability Appraisals for New Development Supplementary Planning Document attached at Appendix 1 is adopted for planning and development management purposes.
3. Authorise the Executive Director – Place, in consultation with the Portfolio Holder for Place, to make minor alterations, clarifications and typographical corrections to the SPD prior to it being published.

BACKGROUND

4. Developer contributions from new development, including the provision of affordable homes, can be required to make development acceptable in planning terms consistent with the policies in the adopted Hart Local Plan (Strategy & Sites) 2032, the National Planning Policy Framework (NPPF) and Planning Practice Guidance.
5. The Local Plan sets out that a viability assessment will be needed if an applicant proposes a scheme that does not provide the amount or type of developer contributions required through the Council's Development Plan Policies.
6. To ensure that such viability assessments are robust and meet the Council's expectations, a draft Viability Appraisals for New Development Supplementary Planning Document (Viability SPD) has been drafted to provide advice to applicants. Following public consultation, the SPD was brought to the Overview & Scrutiny Committee for comments, prior to consideration for adoption by Cabinet.
7. The Council receives planning applications where applicants fail to comply fully with all Local Plan Policies on the grounds of viability. This is usually related to the full provision of affordable homes as set out in Local Plan Policy H2, and/or to the full delivery of infrastructure requirements as set out in Policy INF1, and to financial payments towards infrastructure improvements or delivery.
8. In relation to both of these policies, the Local Plan sets out that where the full Policy requirements are not met, the application must be supported by a robust viability assessment that may be independently reviewed.

9. Although some guidance on the assumptions to be included within viability assessments is set out in the Government's Planning Practice Guidance, there remain many assumptions on for example costs and returns, which are at the discretion of those preparing the assessments. The purpose of the Viability SPD is therefore to provide advice to applicants on the information that the Council will expect to be submitted in any viability assessment.

COMMENTS FROM OVERVIEW & SCRUTINY COMMITTEE

10. This draft Viability SPD was considered by Overview & Scrutiny Committee at their meeting on 17 October 2023. The Committee commented that it was a good report and appreciated the breadth, detail and technical nature of the document. The committee was also satisfied that consultation responses had been properly considered.

MAIN ISSUES

11. The Viability SPD sets out the basis on which it expects viability appraisals to be considered. This includes the approach to affordable homes costs and to a range of cost inputs such as build costs, abnormal costs, marketing costs and professional and legal fees. The SPD also provides detail on the approach to developer profit and to land value.
12. Consultation on the draft Viability SPD ran for 6 weeks between 12 May and 23 June 2023. The consultation was promoted through a press release, the Council's website, and posts across the Council's social media platforms. County and Parish Councillors were notified via a Councillor Connect newsletter email. Organisations and individuals on the Planning Policy database were notified directly by email or letter. This included statutory consultees, landowners, developers, Town and Parish Councils and residents' groups. Hard copies of the consultation documents were also available to view at the Council Offices. This was carried out in line with the Council's Statement of Community Involvement, 2021.
13. Ten consultation responses were received including from statutory consultees, a Member of Parliament, Waverley Borough Council, Hook Parish Council and a local resident. A summary of representations and the Officer response to these is set out in Appendix 2.
14. A number of minor changes to the draft SPD have been made as a result of the consultation responses. These include:
 - a. clarity as to how expert advice on assessments of submitted appraisals will be procured (para 1.6),
 - b. additional wording allowing some flexibility from the suggested figures in the SPD where these can be robustly justified (para 2.3),
 - c. wording requiring a published reason why some information may be exempt (para 2.4),
 - d. wording added regarding First Homes (para 4.6 and Glossary).
15. Other updates have been made for clarity or where legislation has changed such as in relation to ground rents.
16. Comments have been received from Councillor Dorn have also been considered resulting in some of clarifications to parts of the draft Viability SPD.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

17. The alternative option is not to produce a Viability SPD.

18. If the approach was taken not to provide clear and consistent viability guidance to applicants through the SPD this would take additional Officer time and resource in agreeing the inputs into viability appraisals and may not result in the same level of contributions and affordable housing being achieved.
19. This option has therefore been rejected.

CORPORATE GOVERNANCE CONSIDERATIONS

Relevance to the Corporate Plan

20. As set out earlier in this report the Viability SPD supports policies in the Hart Local Plan and in particular those policies relating to the delivery of affordable homes and to infrastructure. Maximising the delivery of affordable homes, including more social rented homes, and infrastructure will support the ambitions under the Planet and Place themes of the Hart Corporate Plan 2023/2027.

Service Plan

- Is the proposal identified in the Service Plan? Yes
- Is the proposal being funded from current budgets? Yes
- Have staffing resources already been identified and set aside for this proposal?
Yes

Legal and Constitutional Issues

21. The Supplementary Planning Document has been prepared following relevant planning legislation. There are not considered to be any direct legal issues arising from the report.

Financial and Resource Implications

22. Where a viability assessment is submitted alongside proposals for new development, the SPD reflects the Local Plan in that the developer will bear the cost of an expert review / audit of any viability assessment submitted to the Council. No additional financial or resource implications have been identified.

Risk Management

23. There is the opportunity for legal challenge to an SPD, however this is considered to be a low risk. The SPD has been prepared following relevant legislation with extensive consultation.

EQUALITIES

24. An Equalities Impact Assessment Screening has been undertaken on the SPD. This has identified neutral or positive impacts on all protected groups and has concluded that a full EqIA is not needed.

CLIMATE CHANGE IMPLICATIONS

25. No direct carbon/environmental impacts arise from the recommendations.

ACTION

26. Subject to agreement by Cabinet, the SPD will be placed on the Council's website along with other statutory documents required by Regulations, and those who responded to the Draft SPD consultation will be notified. The SPD will be used by Development Management and Planning Policy in advising applicants on the viability evidence that will be required where viability matters are raised.

Appendices

Appendix 1: Viability Appraisals for New Development Supplementary Planning Document

Appendix 2: Summary of Representations received and Council response to the Draft Viability Appraisals for New Development Supplementary Planning Document

Background Papers:

Draft Viability in New Development SPD, May 2023 - [Consultation on draft Supplementary Planning Documents | Hart District Council](#)