

Planning obligations Supplementary Planning Document- Second review 2021

Consultation Statement for adoption

February 2021

Following the anticipated adoption of Making Spaces for Growing Places an update to the Planning Obligations Supplementary Planning Document (SPD) will be required. The SPD was first adopted in 2016 and updated in 2017.

The SPD sets out the Council's approach to developer contributions, it does not set policy but provides the framework for implementation of the Local Plan in relation to developer contributions.

Consultation on the SPD ran alongside the consultation on MSGP which commenced on the 27th July 2020 and ended on the 18th September 2020. Consultation was in accordance with planning regulations 2012 and the council's Statement of Community Involvement. Consultation included emailing or sending letters to statutory consultees and all those on the Local Plan consultation database. The documents were made available on the Council website, and hard copies were available to view, by appointment at the Civic Centre (subject to covid 19 related restrictions).

A number of representations were received from 7 consultees, 3 of whom offered support or no particular comments. Representations received included concerns relating to viability, which is a matter dealt with through the MSPG or Core Strategy process. Other representations were seeking clarification of the Council's approach in the SPD. The representations received have resulted in a few minor amendments to the SPD, and these are summarised in the table below.

The SPD was published on the Council website for a period of 4 weeks from 22nd November 2020. During this time, further representations could be made on the SPD. Following this period of consultation a number of representations were received which are summarised in the table below. Representation received resulted in 3 minor amendments to the SPD as set out in the table below. In addition minor typographical and clarification amendments were made.

The SPD will be taken to Cabinet and Council for approval prior to adoption.

Amendments arising from MSGP Adoption

Following receipt of the Inspectors report for Making Spaces for Growing Places, and anticipated adoption in 2021 there have been a number of main modifications to MSGP that have resulted in the need to re-number policies, paragraphs and appendices. These changes have been reflected in Obligations SPD.

Summary of representations received during 2020 consultation commencing 22nd November

| Representor | Summary of representation | Response | Action |
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| English Heritage | No particular comments at this stage. | Noted. | N/A |
| Northumberland County Council | It may be worth referencing that in some circumstances a planning obligation (or a section 278) can be used to address cross boundary issues/ impacts of development i.e. issues on boundary and outside of Gateshead's administrative area. The councils would seek to work collaboratively in such instances. | It is agreed that planning obligations can be used to address cross boundary impacts, and the Council will welcome working collaboratively with neighbouring authorities, as appropriate. | Onsite/Offsite 28. Developers should provide the required provision / mitigation on site. However, there will be cases where this is neither practicable nor appropriate. In these instances, the Council will require financial contributions or physical works towards the off-site provision of necessary measures to mitigate the impact of the development. <u>Offsite provision or mitigation may be required in neighbouring local authority areas where the development has cross boundary impacts. The Council will work collaboratively with</u> |

| | | | <u>the relevant local authority/ies in these cases.</u> |
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| Persimmon Homes and Charles Church North East, | <p>Section 2 – Indexation</p> <p>Former representations highlighted that the document does not provide information with regards to the indexation rate or standard and how this will be worked into agreements. While the Council’s response has highlighted that this has been done in order to ensure that the document remains up to date, it is still considered that the indexation standard and how this will be worked into agreement should be clarified within the SPD. This element can have a significant bearing on overall costs associated with development and vary the viability of schemes, therefore it is important that this document provides as much information as possible for developers at this stage.</p> | A specific form of indexation has not been included to help ensure the SPD does not become outdated. | N/A |
| | <p>Affordable Housing</p> <p>It is acknowledged that the affordable housing provision for sites will be considered on a case by case basis. We maintain previous representations in relation to the affordable housing obligations.</p> | <p>The Council’s response to this representation remains unchanged; ‘The level and tenure split of affordable housing provision was informed by the SHMA and was tested in the viability work underpinning the CSUCP.</p> <p>The 15% requirement on developments of 15 or more dwellings is subject to viability, whilst the actual tenure split will be considered on a case by case basis, which the Council considers a reasonable and flexible approach.’</p> | N/A |
| | <p>Open Space</p> <p>The adjustment to the contribution formula for calculating open space provision is welcomed. The Council’s response does not provide any evidence for the significant increase in cost since the adoption of the former Planning Obligations</p> | Noted. Criterion 3(d) of MSGP40 requires that “Where new open space is created or enhanced, it will be expected to... include a suitable programme of maintenance for at least 20 years after the completion of the development.” | Additional words for clarification to be added; Landowner in accordance with an |

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| | <p>SPD however clarification has been provided to confirm that this cost includes for future maintenance. Clarification in relation to the how off site contributions will be spent is welcomed. It is noted that off site provision would usually be maintained by the Council however there is no clarification as to whether the contribution sum would be adjusted in the event that the Council did not maintain the off site provision.</p> | <p>Maintenance is to be carried out by the landowner in accordance with an agreed management plan. Off-site provision will usually be maintained by the Council and the cost for this will be included in the contribution. Where the Council is carrying out maintenance, the commuted sum can be negotiated on a case by case basis as appropriate.</p> | <p>agreed management plan. Off-site provision will usually be maintained by the Council and the cost for this <u>will be</u> included in the contribution.</p> |
| | <p>Facilities for Children and Young people Further clarification in relation to this obligation is welcomed. It is noted that off site provision would usually be maintained by the Council however there is no clarification as to whether the contribution sum would be adjusted in the event that the Council did not maintain the off site provision.</p> | <p>Noted. Criterion 3(d) of MSGP40 requires that "Where new open space is created or enhanced, it will be expected to... include a suitable programme of maintenance for at least 20 years after the completion of the development."</p> <p>Maintenance is to be carried out by the landowner in accordance with an agreed management plan. Off-site provision will usually be maintained by the Council and the cost for this will be included in the contribution. Where the Council is carrying out maintenance, the commuted sum can be negotiated on a case by case basis as appropriate.</p> | <p>Additional words for clarification to be added; Landowner in accordance with an agreed management plan. Off-site provision will usually be maintained by the Council and the cost for this <u>will be</u> included in the contribution.</p> |
| | <p>Highways and Transport The additional amendments and clarification in relation to this obligation are welcomed.</p> | <p>Noted.</p> | <p>N/A</p> |
| | <p>Targeted Recruitment and Training Provision The adjustment to this obligation for housing development of 100 dwellings or more is welcomed.</p> | <p>Noted.</p> | <p>N/A</p> |
| | <p>Sustainable Drainage Systems It is noted that a SUDS Guidance document is in preparation and Persimmon Homes would like the opportunity to continue to be involved in any future consultation on this</p> | <p>A SuDS management plan will be required through a planning obligation or planning condition reflecting NPPF para. 165. The forthcoming SuDS Technical Guidance Note will</p> | <p>N/A</p> |

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| | <p>document. Clarification that other maintenance procedures can be put in place and conditioned is welcomed. The obligation currently requires the submission of a SUDs maintenance plan regardless of whether the Council or a Developers management arrangements are put in place. It is considered that the submission of this maintenance plan should only be required in the event that the developers will be securing their own management arrangements and the Council are not taking on this ongoing management. This obligation requires the SUDs Maintenance Plan to cover the maintenance of SUDs on private property. Private property is maintained by the property owner and is not normally maintained by a management company for a development. On this basis only guidance and recommendations can be made to property owners to assist with the maintenance of SUDs on their property. This requirement should subsequently be removed from the obligation.</p> | <p>provide further advice on the contents of SuDS management plans and responsibilities of the various parties subject to the chosen maintenance option. If the Council takes over the ongoing maintenance of SuDS components, an agreed SuDS management plan is still required, to ensure the effective operation of the SuDS components. The maintenance requirements of SuDS on private properties need to be understood by all parties (management companies, water company, Highway Authority and the Council) and should be set out in the management plan to ensure an acceptable standard of operation of the drainage system and clear arrangements are in place.</p> | |
| | <p>Green Infrastructure We would like to reiterate previous representations in relation to the application of this obligation to reserved matters applications. This requirement should not be imposed retrospectively to an outline planning consent which was granted prior to the adoption of this SPD for the reasons set out in former representations.</p> | <p>Green Infrastructure will normally be considered at an Outline application stage. Where it was not considered at outline stage, it can be considered at reserved matters, and this would be agreed on a case by case basis. This was clarified in the previous iteration of the SPD.</p> | N/A |
| | <p>Monitoring and Implementation While it is acknowledged that monitoring fees may be imposed by a Council, they must fairly and reasonable relate in scale and kind to the development and should not exceed the Council's estimated costs for the monitoring of a development. The fee per obligation remains the same irrespective of the scale of the development (with the exception of very large or complex sites) and subsequently</p> | <p>Charges are based on the full cost recovery rate for Officers involved in this process for 2019/20 which is £34.95 per hour. The charges reflect officer time involved in general correspondence, billing, site visits, ensuring compliance and recording and reporting collection and spend. The costs have been calculated on a cost recovery basis using past evidence on the</p> | N/A |

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| | <p>introduces significant additional monetary obligations for developers. There is also no evidence of the Council have calculated the fee required for the monitoring of obligations. An insufficient response has been provided at this stage. The SPD should as a minimum note that where multiple obligations are being monitored on the same site visit, a reduction in the fee to be paid should be applied.</p> | <p>average time between completed agreement and payment or compliance with obligation and covers Gateshead Councils' CIL, S106 and Monitoring Officers' time.</p> <p>All agreements will require some of these elements, even if they are simple financial contributions paid on commencement. The higher charges reflect the more complex nature of some agreements, the need to monitor progress on site during development or the management of the site during development or occupation, which is likely to require site visits. Fees will apply per obligation and per trigger point in the legal agreement. The total monitoring fee charged will be the sum of the fees for all obligations and trigger points in an agreement. If the agreement is exceptionally complex it may be necessary to request a contribution above the sum of these standard fees. Where the purpose of the agreement is to impose a restriction, e.g. preventing use of the development except for a specific use, the nature and duration of the restriction will be considered, and it may be necessary to request a contribution specific to the extent of monitoring that may be required into the future.</p> | |
| Taylor Wimpey UK Limited | <p>Our client's main concerns relate to the cumulative impact the SPD could have upon the already fragile viability associated with the delivery of large-scale residential schemes in Gateshead.</p> | <p>The purpose of the SPD is to set out the Councils approach to developer contributions. The SPD makes clear the Council's approach to viability and the submission of viability assessments in support of any planning application.</p> | N/A |
| | <p>Gateshead occupies a unique position in the north east of</p> | <p>The SPD supports the Local Plan within which</p> | N/A |

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| | England, in that it has consistently failed to deliver the required number of homes it needs. This point is demonstrated further in this letter, however, our client is concerned that the SPD fails to acknowledge this and worse still, has a significant potential to exacerbate this long standing problem of under delivery. | housing delivery is fully considered in addition to viability. Current rates of housing delivery are not included in the SPD as this information would become out of date. | |
| | Housing Delivery Action Plan provides Eight reasons are given as part of the root cause for under delivery including high delivery costs and time taken to complete S106 agreements. Our client agrees that the high development costs are relevant to the SPD consultation, as the obligations contained within it will only exacerbate this issue. The high development costs also include the expenditure associated with addressing matters that are classed as “abnormals”. These are site specific costs that a development must bear in order to bring forward a site for development. | The SPD makes clear the Council approach to viability and the submission of viability assessments in support of any planning application. Whilst it is recognised expenditure in relation to abnormal development costs; these costs can be a matter of negotiation between the landowner and developer. | |
| | Time taken to complete S106 agreements In the absence of a completed S106 agreement, a decision notice cannot be issued, and a planning consent cannot be implemented, and homes delivered. The reason for non-completion of S106 agreements can be linked in no small part to reaching agreement on the levels of planning obligations to be provided by a scheme. S106 agreements generally involve a degree of negotiation relating to the levels of off-site planning contributions to be paid, many of which are outlined within the Planning obligations SPD. If agreement cannot be reached regarding the financial contributions, then the signing of the S106 agreement will ultimately stall. | The Council will endeavour to carry complete s106 agreements in a timely manner. It is the intention that the SPD provides clarity on s106 agreements and therefore speed up the negotiation process. | N/A |
| | The HDAP notes that there are five factors which Gateshead Council view as not affecting housing delivery, including Planning obligations and CIL. As a major stakeholder delivering housing in Gateshead, our client is clearly of the opinion that planning obligations and the associated costs attached do have the potential to have a significant impact upon housing delivery for all of the reasons stated above. One of our clients main concerns is that the benchmarks being used to inform all future viability | The Viability and Deliverability Report (VDR) was prepared by CP Viability Ltd who have extensive knowledge and experience in preparing development appraisals for local plan testing. The report includes details of the approach to the development appraisals and various | N/A |

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| | <p>assessments are out of date. This will most likely lead to protracted negotiations to allow up to date and accurate positions to be agreed between the LPA and applicants, further delaying the issuing of planning permissions and holding up housing delivery.</p> <p>One suggested way to address this issue would be to ensure that the assumptions used to formulate viability assessments across Gateshead are updated as part of the SPD process.</p> <p>To illustrate this point we have commented on two major aspects of viability further below, namely abnormal costs and S106 contributions. The VDR is based on the following assumptions:</p> <ul style="list-style-type: none"> - An abnormal allowance of £150,000 per hectare (Page 35 of the appendices to the DVR; and - A Section 106 contribution of £2,000 per plot (Page 106 of the appendices to the DVR). <p>These assumptions are carried over, without update or review, into Appendix 3 of the Second review Planning Obligations SPD. These figures are in significant contrast to the actual costs being incurred on live sites within Gateshead.</p> <p>The actual abnormal cost per hectare being currently experienced by our client across three live sites in Gateshead is 474% higher than the figures assumed by Gateshead Council in formulating the Planning Obligations SPD.</p> <p>The average cost per plot of meeting existing Section 106 agreement planning obligations is 250% higher than the figures assumed by Gateshead Council in formulating the Planning Obligations SPD.</p> <p>The concern our client has is that despite the above-mentioned fundamental difference between the desk based assessment shown in the DVR and actual costs being incurred on sites in Gateshead currently, the council will continue to place further financial pressures upon viability through the adoption of the Planning Obligations SPD. The SPD needs further, very careful consideration by the Council.</p> | <p>information sources to apply to the standard inputs of an appraisal.</p> <p>The Council will review the local plan in accordance with Government guidelines to include all aspects including deliverability and viability of sites across Gateshead.</p> <p>In addition, the developer has the opportunity to submit viability assessment with planning application.</p> <p>As stated above the development appraisals carried out to supplement the DVR were based on a variety of sources of information in accordance with guidelines for the preparation of viability testing.</p> | |
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Summary of representations received during 2020 consultation commencing 27th July

| Representor | Summary of representation | Response | Action |
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| The Church Commissioners (Barton Willmore) | Concerns raised over deliverability and viability was included in representation on MetroGreen AAP. | Viability is a key consideration and forms part of the evidence base for the Local Plan which this SPD supports. | N/A |
| Taylor Wimpey UK Ltd (Barton Willmore) | We note that in table attached to paragraph 27 the use of Grampian pre-commencement condition is included as one of the mechanisms used to mitigate the impact of the development. Paragraph 007 (Reference ID: 21a-007-20180615) of the Planning Practice Guidance states that: "Such pre-commencement conditions should only be used where there is a clear justification, which is likely to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission." To reflect this guidance, a note should be added to the table to explain that Grampian conditions should only be used in similar circumstances. This would avoid any further prolonged delay to housing delivery once planning permission is granted. | Any mechanisms that the Council uses to ensure development is acceptable will be in accordance with national guidance. | N/A |
| | Offsite/onsite mitigation Paragraph 28 of the draft SPD explains the potential to use off site mitigation where on site provision is neither practicable or appropriate. This section of the draft SPD should make reference to the viability of being able to provide either off site or on site mitigation. It is proposed that the paragraph is amended to read as follows: "28. Developers should provide the required provision / | All policies within the Local Plan have been viability tested, and contributions required are part of this process. It will be up to the developer to provide evidence that particular requirements would make schemes unviable, as stated in the SPD, and this would be | N/A |

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| | <p>mitigation on site. However, there will be cases where this is neither practicable nor appropriate. In these instances, the Council will require financial contributions or physical works towards the off-site provision of necessary measures to mitigate the impact of the development where is viable to do so. “</p> | <p>assessed on a case by case basis.</p> | |
| | <p>Viability Viability is a significant factor for Gateshead Council and has been a major contributing factor to the council’s underperformance in terms of housing delivery. The emerging MSGP local plan document seeks to allocate 76% of the housing sites on Council owned land. In addition to this, 71% of the allocated sites are located on brownfield land. This means that future housing delivery in Gateshead will be reliant upon challenging, complex and commercially less attractive sites.</p> <p>Our client has noted in previous objections through the MSGP consultation that the council have not fully considered the implications of viability on a large percentage of its proposed previously developed land housing allocations.</p> <p>Paragraph 30 states that the Gateshead Local Plan has been tested for viability and concluded that the requirements it sets out are viable. This statement is reliant upon the Deliverability and Viability Report (DVR) dated 2018, which was drafted on evidence collected in years prior to 2018. The statement in paragraph 30 is a broad statement that does not reflect the findings of the DVR.</p> <p>The DVR notes that even in modest and base appraisals with minimum contributions towards obligations (£2,000 per dwelling and 15% onsite affordable housing) low mid and</p> | <p>MSGP accounts for approximately 30% of the overall housing supply whilst the Core Strategy allocates housing on larger greenfield sites. The Plan is supported by appropriate and extensive evidence on viability and deliverability which was updated and subject to sensitivity testing in 2018.</p> <p>The report tests a number of site typologies and specific sites, whilst the viability of all sites has been considered. The Council is pursuing a number of routes to bring forward sites including direct development, through the Gateshead Regeneration Partnership and through access to Accelerated Construction Funding, for example, whilst sensitivity testing shows that less viable sites can be brought forward by certain</p> | <p>The Council will amend paragraphs 30 –32 to provide clarity to developers.</p> <p>Viability 31. The revised National Planning Policy Framework (NPPF) Feb.2019 and revised Planning Practice Guidance (PPG) sets out the approach to viability at both the plan making stage and decision making stage.</p> <p>30. Gateshead’s Local Plan has been extensively rigorously tested for viability. <u>A number of development appraisals have been undertaken testing both site specific areas of Gateshead and an area wide approach using relevant development market information and incorporating sensitivity testing, which showed that at a plan-wide level most sites return a viable outcome. The Council will review testing in accordance with the statutory time frame for</u></p> |

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| | <p>low areas are generally unviable. As is noted above the majority of the housing land to be brought forward in Gateshead is likely to disproportionately found in these areas, compared to Newcastle City council (which has large areas of greenfield housing release within higher value areas.</p> <p>Our client objects to the statement in paragraph 30 that the requirements of the plan have been determined as viable. In order to ensure that the SPD is sound and is based on the most up to date relevant information the deliverability and viability report should be updated specifically for Gateshead and for its use in decision making moving forward. This assessment should review the proposed obligations in light of the most up to date market information to provide clear guidance upon where the proposed obligations can be delivered. For example, build costs have increased since the DVR was published and environmental changes are not reflected in the table included at Appendix 3 e.g. biodiversity net gain, future homes standard etc.</p> | <p>low-cost developers (section 8.5 of the V&D Report). In addition, a high proportion of the sites in the lower value areas are owned by the Council, which has different drivers to a private developer and therefore is able to bring forward more difficult sites where perhaps a developer would not be able to.</p> <p>Evidence on viability is regularly updated to inform Local Plan preparation. Issues affecting specific sites where viability pressure is increased can be considered on a case by case basis. In accordance with the Planning Practice Guidance on Viability infrastructure requirements, site conditions and / or constraints should be taken into consideration in the land value. For land where significant site-specific costs are identified (for example additional drainage issues, enhanced foundations etc.) this will reduce the price paid for the land, mitigating the impact on viability. The Council will review and amend the wording of paragraph 30 to provide clarity.</p> | <p><u>reviewing Local Plans.</u> and it has been concluded that the requirements set out in the plan ensure that development is viable.</p> <p>32. In accordance with <u>the</u> NPPF (Para. 57) it is up to the applicant to demonstrate to the Council whether particular circumstances justify the need for a viability assessment at the planning application stage.</p> |
| | Affordable Housing | Noted. | N/A |

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| | <p>In relation to Affordable Housing (paragraph 34) which is listed under the types of obligation, our client supports the note that states that the way in which this can delivered is flexible.</p> | | |
| | <p>Public Open Space The provision of public open space is referred to in the table after paragraph 35. The proposed approach refers to policy MSGP 41. It should be noted that our client has objected to the drafting of the MSGP 41 noting that a consideration of viability should be included within the wording of the policy. The Framework, in paragraph 122 takes account of issues such as this by identifying that planning policies should support development that makes efficient use of land, taking into account local market conditions and viability. We therefore consider, the wording of Policy MSGP41 (criteria 3) should be revised to state 'New open space will be expected to be provided on-site, unless it can be demonstrated that it would not be feasible or viable to do so'. This revision would give clarity and certainty to developers and this should be reflected in the The Council retains control over the decision-making process in this instance through paragraph 57 of the Framework which places the emphasis on developers to demonstrate viability constraints, and the weight attribute to it is a matter for the decision maker, however the proposed revision to the wording would ensure the policy is flexible enough to apply throughout the Borough, otherwise it may end up being an additional viability constraint threatening delivery of homes throughout the county.</p> | <p>Comments relating to policies within MSGP are not relevant to the consultation on the Obligations SPD. The Obligations SPD will align with the adopted MSGP following the completion of the Examination in Public</p> | <p>N/A</p> |
| | <p>Green infrastructure The definition of green infrastructure is too broad and unclear, and its inclusion is unnecessary. The listed standards of Open Space, Ecology, SuDs, Climate Change</p> | <p>The definition of Green Infrastructure is broad. The Council considers that the Planning Obligations SPD's approach to</p> | <p>N/A</p> |

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| | and Highways are all covered in detail elsewhere within the draft SPD. | green infrastructure is consistent with the definition of green infrastructure set out in the adopted CSUCP. Its inclusion within the SPD is needed to assist in the implementation of MSGP32 as appropriate. | |
| | <p>Ecology</p> <p>Within the standards listed it states that measurable biodiversity net gain. On some site this will not be possible, flexibility should therefore be included within the policy. It is proposed that this section of the table is amended to read as:</p> <p>“Development will be required to achieve a measurable biodiversity net gain, where viable and possible”</p> | <p>All policies within the Local Plan have been viability tested, and contributions required are part of this process. It will be up to the developer to provide evidence that particular requirements would make particular schemes unviable, as stated in the SPD, and this would be assessed on a case by case basis.</p> <p>Were biodiversity net gain to become a national requirement, this may no longer be subject to viability. The Council will apply this in accordance with national guidance.</p> <p>The provision of measurable net gains for biodiversity is to become a mandatory requirement of all new development; although it is likely that certain types of development will be exempt.</p> | N/A |
| | <p>Part 3 Implementation and monitoring</p> <p>In relation to the monitoring of various obligations the policy</p> | Monitoring fees have been set at a level to be considered appropriate. | N/A |

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| | <p>should include an explanatory note that states there where multiple obligations are being monitored on the same site visit, a reduction in the fee to be paid should be applied. For example, if a single visit to review both affordable housing and public open space being delivered was undertaken, a single fee of £517.26 should be charged, as opposed to £1034.52.</p> | <p>Site visits are only one element of the monitoring process and rarely are for the purpose of monitoring more than one obligation as they are often implemented at different times.</p> | |
| | <p>Appendix 3 – Viability Assumptions Summary – Residential Development As we have noted above, the background information (2018 DVR) used to form the viability assumptions is not based on the most up to date viability information. For an area such as Gateshead, where viability is a major limiting factor, decision making and policy should be based upon the most up to date and accurate information. We understand that this is an approach which has been undertaken recently in Sunderland City Council, who despite adopting a local plan in early 2020 are reviewing the viability parameters used to form its emerging allocations plan. Our client objects to the continued use of the 2018 DVR data to form the viability assumptions used in Appendix 3 of the SPD.</p> | <p>All policies within the Local Plan have been viability tested, and contributions required are part of this process. Evidence on viability is regularly updated to inform Local Plan preparation. It will be up to the developer to provide evidence that particular requirements would make schemes unviable, as stated in the SPD, and this would be assessed on a case by case basis.</p> | N/A |
| Natural England | <p>It is unclear within the SPD how increases, enhancement or net gain in biodiversity will be monitored. Natural England provides the following standing advice pertaining to the development of a Local Plan for your consideration. This may help inform the monitoring framework. Your plan should include requirements to monitor biodiversity net gain. This should include indicators to demonstrate the amount and type of gain provided through development. The indicators should be as specific as possible to help build an evidence base to take forward for future reviews of the plan, for example the total number</p> | <p>Monitoring requirements will be in line with national guidance once published and will be set out in a future common Biodiversity SPD to be produced with Sunderland and South Tyneside councils.</p> | N/A |

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| | <p>and type of biodiversity units created, the number of developments achieving biodiversity net gains and a record of on-site and off-site contributions.</p> <p>LPA's should work with local partners, including the Local Environmental Record Centre and wildlife trusts, to share data and consider requirements for long term habitat monitoring. Monitoring requirements should be clear on what is expected from landowners who may be delivering biodiversity net gains on behalf of developers. This will be particularly important for strategic housing allocations and providing as much up-front information on monitoring will help to streamline the project stage.</p> | | |
| Persimmon Homes | <p>On/off Site contributions</p> <p>While we appreciate that some obligations will likely be calculated on a site by site basis on the level of perceived impact things such as off site ecological improvements need to be considered at a county / LPA wide level. We would suggest that as part of the Council's guidance process schemes to improve local ecological assets be identified through this SPD in order to justify / give additional information regarding how monies off site will be used.</p> <p>While we see the importance of having pooled contributions towards larger infrastructure items such as highways, the strategic flood risk infrastructure items is concerning. S106 items can only be requested where the development itself creates the need or requires direct mitigation. As such existing flood problems within the borough should not and cannot form part of this process.</p> | <p>Details of particular schemes are not to be included in the SPD as this would not reflect the numerous potential projects, and these may change over time.</p> <p>S106 contributions will not be required where there is no direct or indirect impact resulting from development. Collection of monies for strategic projects without a direct link can be sought through CIL.</p> | N/A |
| | <p>Indexation</p> <p>The document states that all contributions will be index linked, however no further information is provided as to which indexation rate or standard will be utilised or how this</p> | <p>Reference to agreements being index linked was included in the SPD since adoption. A specific form of indexation has not been</p> | N/A |

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| | will be worked into agreements. It is considered that further detail and thought is required in this element as it can have significant bearing on overall costs associated with development and vary the viability for the scheme | included to help ensure the SPD does not become outdated. | |
| | <p>Viability</p> <p>It is encouraging to see that the Council consider viability as part of the process. In relation to all contributions contained within this SPD, we would like to see the wording reflect that all contributions will be subject to viability in accordance with the requirements of both NPPF and the adopted Core Strategy. In addition to this, an idea of prioritisation of the required contributions if a site is subject to viability would be helpful and informative guidance.</p> | <p>All policies within the Local Plan have been viability tested, and contributions required are part of this process. Evidence on viability is regularly updated to inform Local Plan preparation. It will be up to the developer to provide evidence that particular requirements would make particular schemes unviable, as stated in the SPD, and this would be assessed on a case by case basis.</p> <p>A priority list of requirements is not provided to reflect that all requirements are needed to make schemes acceptable.</p> | N/A |
| | <p>Types of Obligation</p> <p>Affordable housing is an intrinsic part of any on site contribution through S106 agreements. We are glad to see that the Council are applying the policies as agreed through the recently adopted Core Strategy however would make the following key points about the “Standards” indicated within this document. The overall provision of 15% is agreed. It appears however that the Council are intending to utilise the target split of house types as set out in the supporting text of the Core Strategy. This is not considered policy and was not subject to the viability assessment. For the reasons set out below we do not consider it appropriate to adhere to this as a standard.</p> | <p>The level and tenure split of affordable housing provision was informed by the SHMA and was tested in the viability work underpinning the CSUCP.</p> <p>The 15% requirement on developments of 15 or more dwellings is subject to viability, whilst the actual tenure split will be considered on a case by case basis, which the Council considers a reasonable and flexible</p> | N/A |

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| | <p>We appreciate that the affordable housing “standard” is subject to a case by case assessment of suitability. In order to provide comfort in light of getting Registered Providers on board with new schemes given the constraints they may face, we request that the guidance itself is changed to specifically reference this issue and state that the split be no more or up to 65/35% split. We also request further flexibility in light of NPPF para 64. We welcome the flexibility included for in relation to the provision of specific house types and that this will be considered on a case by case basis. We consider, especially in relation to single bedroom properties, that very few sites are actually suited to this and in relation to how these are viewed by Registered Providers, we have had very limited success in sales even at the height of the market. With the above described difficulties we feel that single bed dwellings on all sites would be un-viable and not appropriate and this needs to be assessed on a site by site basis as set out within the document.</p> | <p>approach.</p> | |
| | <p>Open Space</p> <p>Open space is an important element of development especially in relation to residential development. Persimmon Homes agree that the inclusion as an intrinsic part of the development process is key to delivering well proportioned and attractive developments which both improve the health and wellbeing of occupants. The matrix in relation to open space sets out how this will be delivered and states “payments in lieu of provision will only be acceptable where it has clearly been demonstrated that neither on site, nor off site provision by the developer are possible.” It is unclear what is meant by off site provision in this respect, on the basis that a payment in lieu would be</p> | <p>Where the creation of new open spaces is not feasible through either on-site, or off-site provision, policy MSGP40 allows for the qualitative enhancement of existing open spaces that will increase their recreational and/or amenity value.</p> <p>We note that the Planning Obligations SPD may benefit from clarity on this point, and will therefore amend accordingly.</p> | <p>Amendment to Public Open Space, and Facilities for Children and Young People tables, to read:</p> <p>Payments in lieu of provision will only be acceptable where it has been clearly demonstrated that neither on-site, nor off-site provision <u>of new open space</u> by the developer are possible. <u>MSGP40 provides potential for the enhancement of existing areas of open space to increase their recreational and/or amenity</u></p> |

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| | <p>off site provision. Further clarity should be provided.</p> | | <p><u>value, and the contribution required would be calculated on the same basis as the provision of new open space.</u></p> |
| | <p>Whilst we appreciate that the open space standard set within this document and MSGP has been assessed in light of provision across various Wards within the Borough, the cost per sqm as part of an off site contribution has increased by over £31 per sqm from the previous iteration of the SPD and no background or justification for this cost has been provided. The cost per person for off site open space provision now equates to £756.20 per person however previously the cost equated to £206.40 per person. We question whether this is consistent with the Deliverability and Viability Report in support of the MSGP and the assumptions made for developments types and open space provision.</p> | <p>The costs per sqm for off-site provision have been calculated using standard and up-to-date unit costs for provision of new open spaces. However, the Council has identified that the cost per sqm for open space provision in the draft SPD is incorrect and should have been changed to £20psqm taking into account assumptions in the viability and deliverability report. A correction is therefore required to the per sqm charge for open space.</p> | <p>Amend the cost of open space per sqm from £38 to £20.</p> |
| | <p>Appendix 2 of this SPD sets out the formula for calculating an off site contribution, with the number of persons within a development generated using Table 1 of the Technical Housing Standards – NDSS (March 2015). This would suggest that a 3 bed dwelling would have an occupancy of a minimum of 4 persons. This occupancy figure per dwelling as part of this SPD is much higher than other north east Local Authorities such as North Tyneside and Newcastle where space standards are included for as part of the adopted policy position. This would have a significant impact on any off site contribution and possible site viability.</p> | <p>The Council intends to apply an ‘occupancy adjustment’ to the assumed capacity of a development using NDSS. This would reduce the number of residents by 40% (number of residents assumed using NDSS x 0.6), giving a closer approximation of the borough’s average household size. The council will adjust the Planning Obligations</p> | <p>After relevant text in Appendix 2 (...with regard to the dwelling types set out in Table 1 of the Technical housing standards - nationally described space standard, March 2015) add: “An occupancy adjustment will be included in the calculation, to multiply the number of residents generated from NDSS by 0.6. The resulting figures give an</p> |

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| | | SPD to clarify this. | approximation of average household size in Gateshead at the time of the SPD's preparation (2.27 people per dwelling)" |
| | In the matrix provided the document states that the maintenance will be required through developer/landowner which we take to mean through a residential management company taking this on. If this is what is meant, provision for this should ideally be included within the document as we strongly consider that this is the most appropriate way for open spaces to be managed in the absence of Local Authority adoption. | The maintenance of on-site provision will be through management companies and are not adopted by the Council. Contributions for off-site provision will include a contribution to maintenance costs. | Add text to maintenance section stating; Landowner in accordance with an agreed management plan. <u>Off-site provision will usually be maintained by the Council and the cost for this included in the contribution</u> |
| | Further to the above point and lastly in relation to open space, the Appendix 2 calculation methodology refers to a commuted sum to be paid to the Local Authority. If indeed the ongoing management and maintenance will be left with the landowner through residential Management Company it is completely unacceptable to also require a commuted sum payment when the liability and costs will not be taken by the authority. Further clarification should be provided as to when the commuted sum will be required. | A commuted sum will only be only be required where onsite provision is not secured. | |
| | Children's Play As with open space Persimmon Homes see the importance of including such play facilities within developments. The cost per sqm for off site provision has increased since the First Review SPD document, with no supporting information provided to provide further information in relation to the change in costs. Again as with the open space element, reference to the commuted sum is sited within Appendix 2 of the document. We again would point out that this is only appropriate where the Council | The costs per sqm for off-site provision have been calculated using standard and up-to-date unit costs for provision of new play provision. The costs set out in the Obligations SPD are consistent with those used in the Delivery and Viability Report that supports MSGP. | Add text as above to clarify offsite contributions. |

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| | <p>themselves will be taking on the ongoing management and maintenance of such spaces as part of the off site provision. It should be made clear that if on site provision and future maintenance and management is to be with the developer/owner then no commuted sum would be payable. In the matrix provided the document states that the maintenance will be required through developer/landowner which we take to mean through a residential management company taking this on. If this is what is meant could provision for this be included within the document as we strongly consider that this is the most appropriate way for play space to be managed in the absence of Local Authority adoption.</p> | <p>A commuted sum will only be only be required where onsite provision is not secured. The maintenance of on-site provision will be through management companies and are not adopted by the Council. Contributions for off-site provision will include a contribution to maintenance costs.</p> | |
| | <p>Highways and Transport Improvements to the local highway network are a standard requirement alongside new residential developments and the Council’s previous work associated with the Infrastructure Delivery Plan has provided a good starting point for new sites moving forward as to the potential costs associated with this. Whilst we welcome the ability for off site contributions to help mitigate the impacts of a development, it is important to remember that any S106 contributions sought are limited to contributions which are as a direct result of the development. This should be secured within the wording of the document in relation to such monetary contributions. The Maintenance section of the matrix states that “new or improved pedestrian or cycle routes in particular will sometimes involve works outside the adopted highway. Provision for continued maintenance of such infrastructure will need to be agreed as part of negotiations on the agreement.” It should be acknowledged in this instance that the Council cannot request the delivery of infrastructure on</p> | <p>Noted. S106 contributions will only be sought where there is a link to development. Further clarification can be added to this section.</p> | <p>Add text in the how delivered section; ‘where there is a direct link to the development.’</p> |

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| | <p>third party land and in most instances, where the land is not located within the adopted highway, it will be in the developers control and as such offered for adoption as part of the S38/s278 process or within private management.</p> | | |
| | <p>Training and Employment Management Provision It is noted that the developments which require employment and training management provision has significantly changed, with no background and justification for this. The requirement has now changed from developments of 100 or more units to developments of 30 or more units. It is unclear how the Council's strategic approach justifies this requirement, particularly at this level. The requirements as set out in the consultation document are not suitably clear in order for us to make a complete and detailed representation. At present the "standard" is set but not clear as to how it will be applied. There is no clear indication of how provision and/or a contribution will be calculated. Approaches to how this can be delivered are set out within the document however the approaches as shown are not considered appropriate. The residential development industry provides more training and employment opportunities within the North East than nearly all others combined, the inclusion of a specific requirement which is related to site specifics is additional regulatory burden and unnecessary as much of the requirements or aims of the policy supporting this requirement are already met by the industry regardless. In addition to this setting targets for labour within an arbitrary set local authority boundary is unacceptably restrictive as training and recruitment are issues which span the region. As a company which operates within all authorities of the region would provide unacceptable burden and additional administration work which would detract from the actual process of house</p> | <p>Reflection of the examination process of Making Spaces for growing Places has led the Council to conclude that a threshold of 100 dwellings or more is a more appropriate figure. The Council would seek to encourage training and recruitment schemes for developments smaller than 100 dwellings, but this will not be required. Delivery of this requirement will be decided on a case by case basis through a Training and Employment Management Plan. Alternatively, where a developer has an existing training and recruitment programme, this could be used. Where the developer is unable to deliver on site training or employment an equivalent financial contribution will be required.</p> | <p>Amend figure from 30 to 100 in the 'which developments' section.</p> |

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| | <p>building and our ability to continue to employ as many skilled and unskilled workers as we currently do. At present we can see no evidence or need presented through any documentation that would justify the requirement of a specific or additional burden on development in relation to training and employment. Given this we object to the current wording and request the Council remove it from the proposed SPD.</p> | | |
| | <p>Sustainable Urban Drainage (SUDs)</p> <p>Firstly I would like to take the opportunity to clarify that new obligations such as SUDS or any obligations included within this document only apply to new developments or planning permissions. This means an Outline or Detailed Application. If an Outline application has been approved and Reserved Matters submissions made, the Council cannot ask for additional regulatory burden such as SUDS or any of the included requirements as these would have to be set by a Planning Permission. A Reserved Matters does not constitute Planning Permission but is tantamount to the submission of condition discharge and cannot have anything more onerous imposed which is not set through the Outline permission. The NPPF clearly sets the requirement to include SUDS and through further guidance documents, we understand that developments should detail how they have cascaded through the required options to show how the drainage of the site will be met. At present we are obviously unable to provide detailed comments on the requirement for SUDS within Gateshead until the SUDS SPD is provided. We appreciate that time is required to get these documents drafted and would appreciate to be included as part of the consultation process for this document. At present the document suggests that the Council can be the adopting</p> | <p>Noted. A SuDS Technical Guidance Note, rather than a SPD, is currently being prepared which will provide more detailed guidance about the range of available maintenance and management options for SuDS.</p> <p>Alternative SUDS maintenance models using planning conditions will be considered provided maintenance arrangements are in place to ensure an acceptable standard of operation for the lifetime of the development, supported by a SuDS maintenance plan. The text will be modified to reflect this.</p> | <p><u>Standards</u> Forthcoming Gateshead SuDS SPD Technical Guidance Note. Local design, construction and maintenance standards for adoption by the Council.</p> <p><u>How delivered</u></p> <p>Refer to the forthcoming SuDS Technical Guidance Note for advice on the range of maintenance and management options available to developers for SuDS.</p> <p>SuDs are usually delivered through Planning Conditions.</p> <p>A planning obligation will be required if the Council's preferred maintenance model, which will be detailed in the SuDS SPD Technical Guidance Note, is taken up. This will set out the obligation on the</p> |

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| | <p>authority in the event that the Council's preferred maintenance model is taken up. It is welcomed that alternative management options can be put in place for lifetime maintenance (assuming this would become a Management Company responsibility) however there still remains an onus on a developer to demonstrate why it is not feasible to follow the Council's preferred maintenance model. Should a developer be able to demonstrate that other maintenance arrangements can be put in place for lifetime maintenance, there should not be the need to demonstrate and justify why the Council's preferred model is not the approach being delivered. At this stage it is unknown what the Council's preferred maintenance model is, until the forthcoming SUDs SPD is published for consultation.</p> | | <p>developer to construct and secure the maintenance of the SuDS in accordance with a SuDS management plan and/or a SuDS agreement. This will set out the minimum standard of maintenance over the lifetime of the development, funding, and the roles and the responsibilities of the developer, the Council, service management companies (if applicable) and Northumbrian Water.</p> <p>Where the developer demonstrates it is not feasible to follow the Council's preferred maintenance model</p> <p>Other maintenance models may will be considered provided the proposed minimum standards of operation are appropriate and there are clear arrangements for the lifetime maintenance. These will be subject to compliance with the SuDS SPD.</p> <p>Alternative SuDS maintenance models will be secured through planning conditions, supported by a SuDS management/maintenance plan.</p> <p><u>Adoption</u></p> |
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| | | | <p>Under the Council’s preferred maintenance model, the Council will adopt SuDS, situated on open space and public highways after completion, provided the SuDS comply with the forthcoming Gateshead SuDS SPD Technical Guidance Note on local design, construction and maintenance standards and adoption process. Further adoption details will be provided in the forthcoming SuDS Technical Guidance Note SPD.</p> <p><u>Maintenance</u> A SuDS Management Plan will be required describing how the SuDS scheme will be maintained within the open space, highways and private property over the lifetime of the development. This should include: a site plan, and a schedule of work setting out the responsibilities and frequency of maintenance tasks, costs and funding. This should comply with Gateshead’s SuDS Technical Guidance Note SPD when adopted.</p> |
| | <p>Green Infrastructure This obligation should only apply to new developments or planning permissions. This means an Outline or</p> | <p>Green Infrastructure will normally be considered at an Outline application stage. Where it was not</p> | <p>Clarify in Green Infrastructure table ‘Green Infrastructure will normally be considered at an</p> |

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| | <p>Detailed Application. If an Outline application has been approved and Reserved Matters submissions made, the Council should not request additional requirements as these would have to be set by a Planning Permission. A Reserved Matters does not constitute Planning Permission but is tantamount to the submission of condition discharge and cannot have anything more onerous imposed which is not set through the Outline permission. It is also considered that this requirement should not be applied to those sites with an approved masterplan layout or framework strategy, where the site will already have been assessed against the green infrastructure requirements of Policy CS18 of the Core Strategy and Urban Core Plan.</p> | <p>considered at outline stage, it can be considered at reserved matters, and this would be agreed on a case by case basis.</p> | <p>Outline application stage. Where it was not considered at outline stage, it can be considered at reserved matters, and this would be agreed on a case by case basis.'</p> |
| | <p>Ecology Ecological impact of developments are key to ensuring suitable and sustainable development. Ensuring suitable and deliverable mitigation is secured is the central element of that. It is agreed that no "standards" should be set as the impact on a site by site basis should be the basis upon which the mitigation is provided. Where off site mitigation is agreed however it is considered that further guidance on this is required. Sites which cannot achieve a contribution towards ecology should be provided with off site contributions towards identified projects within the borough. It is considered that as part of the Council's Green infrastructure Strategy and Biodiversity Action Plan such projects should and could be identified and included within this. In addition these would provide meaningful improvements to the overall ecology of the Local authority area.</p> | <p>The requirement, or otherwise, for ecological mitigation/compensation and/or biodiversity net-gains measures is determined on a case by case basis. In accordance with good practice guidelines offsite measures should be delivered as close as possible to where the impact(s) occur and seek to achieve the same level of ecological value and function as those habitats/features affected. The delivery of offsite measures will be covered in detail in a Biodiversity SPD to be produced jointly by Gateshead, Sunderland and South Tyneside councils and which will be informed by a</p> | <p>Clarify this in Ecology table 'The requirement, or otherwise, for ecological mitigation/compensation and/or biodiversity net-gains measures is determined on a case by case basis. In accordance with good practice guidelines offsite measures should be delivered as close as possible to where the impact(s) occur and seek to achieve the same level of ecological value and function as those habitats/features affected.'</p> |

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| | | geographical opportunity mapping exercise. | |
| | <p>Flood and Water</p> <p>The contents of this section are noted and seem to overlap heavily with the SUDS section above. With regards to the specific standards, consultation with NWL will be key with this and forms part of the requirements as house builders to ensure suitable connection with the existing water network.</p> | <p>A SuDS Technical Guidance Note, rather than a SPD, is currently being prepared which will provide more detailed advice about the range of available maintenance and management options for SuDS. NWL will be consulted during the preparation of this guidance note.</p> | <p><u>Standards</u></p> <p>The standards of flood and water quality mitigation measures will be determined by individual flood risk assessments, drainage assessments and water quality assessments informed by CSUCP Policies, NPPF and NPPG and the forthcoming SuDS SPD Technical Guidance Note.</p> |
| | <p>Community and Sporting Facilities (Other than Children's Play)</p> <p>It is evident from Policy MSGP41 that unlike the provision of open space and play facilities, there is no recognition of existing facilities and or result in the loss of existing stock. This should be considered and has been reiterated as part of recent representations to the MSGP Modifications Consultation. This should be built into the wording of the policy and not reliant upon interpretation of the Gateshead Playing Pitch Strategy. The Playing Pitch Strategy does not provide a clear indication of how applications will be assessed in terms of existing provision in an area. There is no indication within the document as to how an off site contribution would be calculated. Again there is reference to off site provision however it is unclear whether this is via a monetary contribution or off site within alternative land within the developers control.</p> | <p>Representations to MSGP policies will be considered in the context of the plan's examination. The Playing Pitch Strategy and Built Sports Facilities Strategies take into account existing provision of pitches and other sports facilities.</p> | <p>N/A</p> |
| | <p>Part 3 Monitoring and Implementation</p> <p>This section sets out the fees associated with the monitoring of planning obligations. The fees set out are wholly unreasonable on the basis that there is a large sum</p> | <p>We have introduced monitoring fees following the changes introduced by the Government in September 2019 within the</p> | <p>N/A</p> |

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| | <p>associated with each obligation and trigger point. There is no supporting information and justification for the fees provided. The fees would incur thousands of pounds of additional fees for developments with only the minimum number of obligations and this has not been justified. It is the Council's statutory duty as the Local Authority to monitor obligations as standard and additional costs should not be levied on developers for this. It is also unreasonable to require developers to pay £52 per obligation to confirm compliance with each obligation, this a Council's duty to undertake without any monetary contribution from a developer. The summary of fees also fails to specify a fee for very large or complex developments on the basis that they "may require longer monitoring" therefore the cost is on application and there is no indication of what is considered a "very large" development. This is also considered to be an unacceptable financial burden placed on developers. We question how the inclusion of such contributions within a Section 106 agreement are fairly and reasonably related in scale and kind to the development in accordance with NPPF. We object to the application of monitoring fees as set out within the SPD. With regards to further monitoring end enforcement, we request further guidance on how the Council will publish the use of the monies relating to S106 agreements and also a standard by which the Council will be liable to re-pay any monies not used for their prescribed purposes within a certain timescale (usually 5 years). The elements relating to planning performance agreements and Pre application advice are noted, Persimmon Homes support the principle of both pre application advice and PPA's however would seek to ensure that these are not simply used as tool's to avoid target failure but are meaningful engagement tools by</p> | <p>Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019. These changes included the reintroduction of monitoring fees for clauses in S106 agreements.</p> | |
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| | <p>which the development process is bettered and feedback forthcoming within agreed timescales. The final section relating to the S106 agreements are noted however several concerning comments are made which we would object or require removal from the proposed SPD. The use of standard templates is a positive step towards ensuring speedy delivery in what can be a very slow and convoluted process. In relation to the costs associated with drafting an agreement, it is accepted that the Council's legal costs should be covered however as set out in many recent appeal and high court cases it is unlawful for Council's to require payment for the ongoing monitoring associated with agreements as this is a statutory function of the authority and should not be levied upon developers. The SPD states that trigger points will be phased an approach which is highly material to both the suitable delivery and viability of many schemes. The SPD goes on to state that this is done "usually on commencement or on first occupation of the development" this is a sweeping generalisation and should state that the contributions will be phased according to when the mitigation is required to ensure the harm is fully mitigated.</p> | | |
| Environment Agency | We support the updates to the planning obligations in relation to green infrastructure, ecology and flood and water. | Support noted. | N/A |
| Historic England | No specific comments to make at this time. | Noted | N/A |
| Sunderland Council | No specific comments to make at this time. | Noted | N/A |