

# Chichester District Council

Cabinet

14 May 2024

## Approval of the draft A27 Chichester Bypass Mitigation Supplementary Planning Document (SPD) (May 2024) for public consultation

### 1. Contacts

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#### Cabinet Member

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### 2. Recommendation

- 2.1 That Cabinet approves the draft A27 Chichester Bypass Mitigation Supplementary Planning Document (SPD) (May 2024) for public consultation for a period of six weeks to commence prior to 31 May 2024.**

### 3. Background

- 3.1 Developer contributions to mitigate the impact of residential development on the A27 Chichester Bypass are currently secured through the Planning Obligations & Affordable Housing Supplementary Planning Document (SPD) which was adopted in 2016.
- 3.2 At the time the current Local Plan was adopted, the package of junction improvement measures referred to in Policy 8 was estimated to cost £12.82M. On this basis, the Planning Obligations & Affordable Housing SPD had the objective of securing £11.17M in development contributions. The remainder had already been secured by July 2016, specifically for the improvement works to Portfield Roundabout and Oving Road junction, both of which have since been completed.
- 3.3 The 2016 SPD has been successful in securing more than the target level of developer contributions for A27 improvement works, with a total of £19.54M having been secured, or in the process of being secured. However, the remaining improvement works to Fishbourne, Bognor, Stockbridge and Whyke roundabouts have not been possible to deliver as the costs have increased very significantly, well beyond the funding that has been secured through the SPD.
- 3.4 On 5 September 2023 Cabinet approved a revised SPD which was subsequently subject to public consultation from 22 September to 3 November 2023. That draft SPD sought to secure developer contributions from all uncommitted residential development coming forward in the south of the District, both before and after the

new Local Plan is adopted. That draft SPD was based on securing funding for the reduced A27 mitigation package that was developed as part of preparing the new Local Plan, involving improvements only to the junctions at Fishbourne and Bognor Roads, with an estimated cost of up to £43.4M.

- 3.5 There was a total of 126 responses received to the public consultation on the previous draft SPD. Many of these had some concerns about the proposed approach. The most significant concerns were received from developers and from some parish councils and are summarised below.
- 3.6 The approach was seen as contrary to the Town and Country Planning (Local Planning) (England) Regulations 2012 in that the draft SPD allegedly created a new development management policy without undergoing an Examination. This concern arose because the draft SPD sought to apply the developer contributions not only to dwellings coming forward under the adopted Local Plan, but also to those coming forward under the new Local Plan, which at that time had not been submitted for examination. It was also considered that references in the draft SPD to a 'cap' on development were not appropriate to include until this approach had been fully tested at the Local Plan Examination. These issues could only be addressed by restricting the application of the new SPD to those dwellings (comprising windfall sites and parish housing sites) that may still come forward under Policy 4 of the adopted Local Plan within the period before the new Local Plan is adopted.
- 3.7 The approach to calculating contributions in the draft SPD was criticised as it was not based on the 'proportional impact' that development has on the Chichester Bypass, based on proximity to the A27, but instead treated every development site across the District equally. This was said to give rise to conflict with the 'tests' set out within CIL Regulation 122 as there was no evidence to demonstrate that all dwellings would have a 'broadly equal' impact on the A27 junctions. This approach was also considered to be a retrograde step in that it moved away from what was seen as a reasonable and robust approach in the 2016 SPD, which did focus the calculation of contributions on the proportional impact of development coming forward, based on the development's location.
- 3.8 The previous draft SPD was also criticised as it proposed a sliding scale of contributions, based on the number of bedrooms in each dwelling. This applied a linear scale of contributions, such that a 2-bed dwelling would pay half the contribution of a 4-bed dwelling. This was not thought to be consistent with the CIL Regulation 122 'tests' as there is no clear or linear relationship between the number of dwelling bedrooms and the impact that dwellings have on the A27. Resolving this would require use of a measure more closely related to traffic impact, such as car ownership.
- 3.9 These concerns and all of the other points made in response to the public consultation, have been carefully considered and have informed the preparation of the revised draft SPD that accompanies this report.

#### **4. Outcomes to be Achieved**

- 4.1 The A27 Chichester Bypass Mitigation SPD is required to secure developer contributions, through Planning Obligations, to mitigate the impact of development on the A27 in the period leading up to the adoption of the new Local Plan. The objective of the SPD will be to secure approximately £13.46 million to fund the A27

junction improvements that will facilitate the new development coming forward now under the adopted Chichester Local Plan: Key Policies 2014-2029.

## **5. Proposal**

- 5.1 The draft SPD responds to the consultation responses received and to relevant available evidence. It will provide the guidance needed to ensure that Policy 9 of the adopted Local Plan can address the impact that development coming forward under Policy 4 and within the south of the District will have on the A27 Chichester Bypass and the related local highway network. On adoption of the new SPD, paragraphs 4.46-4.54 of the 2016 SPD will be deleted. However, in all other respects, the 2016 SPD will remain operative until that document is reviewed. The new A27 Chichester Bypass Mitigation SPD will cease to have effect on the adoption of the new Local Plan.
- 5.2 Latest costs evidence has shown that the level of funding required to be able to deliver the package of junction improvement works, anticipated by Policy 8 of the Local Plan, has increased to £33M. The 2016 SPD only sought contributions from development schemes over 50 dwellings and set contributions at a level based on the need to secure only £11.17M, which is no longer sufficient.
- 5.3 The draft SPD addresses this by providing guidance on the application of contributions to all net increases in dwellings within the south of the District, and seeking to increase the level of contributions sought. However, as there are only a limited number of dwellings anticipated to come forward in the period before the new Local Plan is adopted, the proposed approach has been informed by the Council's up-to-date viability evidence. This will ensure that there is an appropriate balance between increasing the level of A27 mitigation contributions sought and the need to ensure that development coming forward remains viable as a whole.
- 5.4 Applying the contributions to all new dwellings is an appropriate measure as it corrects the position within the 2016 SPD which placed the burden of paying contributions only on larger development schemes, even though there was no evidence to suggest that smaller developments do not have an impact on the A27 Bypass. The revised approach is therefore fairer and more closely aligns with the 'tests' for Planning Obligations set out in CIL Regulation 122.
- 5.5 The revised approach to the calculation of contributions has been carefully devised to ensure that a number of important factors are 'built in' to the calculation. This includes the location of development, by reference to the 14 wards south of the National Park. This allows contributions to reflect the likelihood that future occupants of permitted housing schemes will impact the A27. The calculation also considers current and projected car ownership and applies this to dwelling sizes to provide a more appropriate way in which contributions can be adjusted to reflect the size of dwellings coming forward. Finally, the approach allows the scaling of contributions based, as a starting point, on the notional maximum viable contribution

that was recommended within the Council’s 2023 Viability Study, which is £8,000 per dwelling, as an average.

- 5.6 Through the revised approach described above, the key issues raised in the previous consultation have been addressed. However, due to the significance of the changes made, compared to the previous draft SPD, it is considered that the revised draft SPD should be subject to further public consultation before it is finalised and adopted.

**6. Alternatives Considered**

- 6.1 An alternative approach would be to continue to rely on the 2016 SPD. However, doing so would not allow sufficient funding to be secured and would result in the necessary junction improvements not being deliverable. In the continued absence of government funding, this would result in significantly worse traffic congestion and increasing highway safety impacts, not only on the A27 Bypass, but also on the local highway network that feeds onto the A27.
- 6.2 A further alternative would be to adopt the version of the A27 Chichester Bypass Mitigation SPD that was consulted on in the autumn of 2023. However, the consultation responses received highlighted a number of significant legal compliance issues and adopting that version would expose the Council to material risk of Judicial Review.

**7. Resource and Legal Implications**

- 7.1 Preparation of the new SPD can be funded from existing budgets. The legal compliance issues that were raised in response to the version of the SPD consulted on autumn 2023 have been carefully considered and addressed. There are no legal implications of the Draft A27 Chichester Bypass Mitigation SPD (May 2024).

**8. Consultation**

- 8.1 Under Regulation 12 of the Town and Country Planning (Local Planning) (England) Regulations 2012 all draft SPDs must be subject to public consultation prior to adoption. If the Draft A27 Chichester Bypass Mitigation SPD (May 2024) is approved, it will be published for a 6-week public consultation.

**9. Community Impact and Corporate Risks**

- 9.1 There are no community impacts or risks to this council of proceeding to prepare and consult on the Draft A27 Chichester Bypass Mitigation SPD (May 2024).

**10. Other Implications**

	Yes	No
<b>Crime and Disorder</b>		✓
<b>Climate Change and Biodiversity</b> Traffic congestion that results from the overcapacity of the A27 Chichester Bypass leads to additional climate change emissions and the proposed SPD has a role in addressing this by securing funding for infrastructure improvements and other measures that will mitigate the impact of new development coming forward now.	✓	

<p><b>Human Rights and Equality Impact</b>  The decision on how to apply the proposed developer contributions could have impacts on the viability of development, including the deliverability of provision for those with identified needs such as those requiring affordable housing, students, older people and Gypsies and Travellers.</p>	✓	
<p><b>Safeguarding and Early Help</b></p>		✓
<p><b>General Data Protection Regulations (GDPR)</b></p>		✓
<p><b>Health and Wellbeing</b>  The traffic congestion that results from the overcapacity of the A27 Chichester Bypass has health and wellbeing impacts for residents and the proposed SPD has a role in addressing this by securing funding for infrastructure improvements to mitigate the impact of new development coming forward now.</p>	✓	

## 11. Appendices

Appendix 1 – Draft A27 Chichester Bypass Mitigation Supplementary Planning Document (SPD) (May 2024).