

Denbighshire County Council

# **Draft SPG: Planning Obligations**

Consultation Report



# Draft Supplementary Planning Guidance: Planning Obligations

## Consultation Report November 2016

### 1. Background

- 1.1 This report accompanies the draft Supplementary Planning Guidance: Planning Obligations which will be submitted to Denbighshire County Council (DCC) Planning Committee when considering adoption of the draft Supplementary Planning Guidance (draft document) on 16<sup>th</sup> November 2016.
- 1.2 Supplementary Planning Guidance and Site Development Briefs should only be adopted by a local planning authority and, hence, regarded as a material consideration if they have been subject to comprehensive public consultation. Accordingly, this report also aims at compliance with Welsh Government LDP Manual 2, paragraph 7.3.1 and Planning Policy Wales (PPW) Edition 8, paragraph 2.4.4.

### 2. Consultation undertaken

- 2.1 This public consultation ran from 4th July 2016 to 2nd September 2016 for a period of 8 weeks. The draft document was available at the Council's website ([www.denbighshire.gov.uk](http://www.denbighshire.gov.uk)) and the Local Development Plan website for interested parties to view. Hardcopies were also available at Council libraries and one-stop-shops. Comments as part of the public consultation could be made by letter, email or comments form to the Strategic Planning & Housing team by the 2nd September 2016.
- 2.2 All City, Town and Community Councils were consulted along with key stakeholders and people registered on the LDP database.

### 3. Consultation responses

- 3.1 The Council received 10 representations from interest groups and members of the Public; including Natural Resources Wales, Cadw and Clwyd-Powys Archaeological Trust.
- 3.2 The following suggestions were put forward to the Council:
  - Reference to Clwydian Range and Dee Valley AONB and Pontcysyllte Aqueduct & Canal World Heritage Site should be included in Section 14 – Natural and Built Environment
  - Concerns that the SPG introduces additional requirements which could impact the viability of development. The Council should be looking to improve the

delivery of housing rather making sites more costly and unviable by seeking additional developer contributions.

- Reference to the built & natural environment should be added to the background information.
- Reference to scheduled monuments and registered historic parks and gardens should be included in Section 14 – Natural and Built Environment
- Clarifications to requirements suggested to ensure that the guidance complies with national policy and legislation.
- Reference to health care provision made more explicit

3.3 Copies of all public consultation responses can be obtained by contacting the Planning Policy team in Denbigh by phone: 01824 706916 or by email: [ldp@denbighshire.gov.uk](mailto:ldp@denbighshire.gov.uk). A summary of the consultation responses are included in the attached table at the end of this report.

#### 4. **Changes proposed to the draft document**

4.1 After carefully considering the representations received, Officers are recommending a number of proposed changes, amendments or amplifications as laid out in individual submissions. The main changes proposed include the addition of references to Clwydian Range and Dee Valley AONB and Pontcysyllte Aqueduct & Canal World Heritage Site, scheduled monuments and registered parks and gardens; minor alterations to ensure compliance with relevant legislation; and amendment to the title of Section 15 to include reference to health care provision.

4.2 Proposed changes are shown as highlighted or ~~strikethrough~~ text in the attached draft SPG document.

## **Draft SPG: Planning Obligations**

Summaries of representations received and Council's responses

Reference number	Name, Organisation	Summary of Representation	Council’s response	Changes proposed to draft document
142	Adrian Lloyd Jones, Wildlife Trust North Wales	<p>The NWWT is generally happy with the guidance but questions why within 11.5 the tables showing <i>Standards for Open Space Provision</i> and <i>Requirements for Open Space Provision</i> only list outdoor sport fields and children’s spaces. There seems to be no standards or requirements for other spaces such as informal natural green space. If the table is supposed to provide a guide for these other types of green space as well it should state this. If there are indeed no standards or requirements for other types of green spaces, in particular, informal green space, it is recommended that these are developed as easy access to local natural areas is recognised as an important factor in quality of life and helps achieve multiple aims of the Well-being of Future Generations (Wales) Act 2015. It is noted that a ‘comprehensive open space assessment’ is being undertaken by the Council. Perhaps this assessment will help address this issue.</p>	<p>The Council’s Local Development Plan sets standards for the provision of open space for outdoor sport; children’s equipped playspace and children’s informal space. These standards are repeated in the draft SPG. Planning Policy Wales clarifies that standards for provision should be set in the LDP.</p> <p>The LDP does not currently set standards for other types of open space. However, a comprehensive open space survey is currently being undertaken and the results of this work will form the basis for reviewing open space standards as part of the wider LDP Review.</p>	No changes proposed
	Angharad W Crump, Natural Resources Wales	<p>We note the inclusion of Section 14 ‘Natural and Built Environment’ which includes consideration for obligations relating to ecology and nature conservation. Section 14.1 - inclusion of Clwydian Range and Dee Valley AONB and Pontcysyllte WHS as bullet points is needed to complete the list of the county’s key resources here.</p>	Section 14.1 will be amended to include reference to the Clwydian Range and Dee Valley AONB and Pontcysyllte WHS.	<p>Section 14.1 to be amended to include additional bullet points as follows:</p> <ul style="list-style-type: none"> <li>• Clwydian Range and Dee Valley AONB</li> <li>• Pontcysyllte Aqueduct &amp; Canal World Heritage Site</li> </ul>

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277	Mike Pender, Anwyl Construction Company Limited	<p>Anwyl responded to previous SPGs on Site Development Briefs for Meliden and St Asaph which contained various planning obligations. In particular we draw your attention to the responses made to the Council proposing to seek additional planning obligations by way of developer contributions in respect of Education Contributions and any further developer contributions post-LDP adoption. We draw particular attention to the issue of viability and the fact that the LDP was evidenced and subsequently adopted based on a Viability Report which did not include any allowance for developer contributions – other than Affordable Housing at 10% requirement. Paragraph 3.1 of the Main Report clearly states “ at this stage no other planning obligations costs have been included”.</p> <p>At no stage either in the report or since has any allowance made for these additional contributions.</p> <p>We now have the Council as LPA seeking a raft of additional developer contributions with no updated Viability Report or any further evidence to support the basis for seeking any additional developer contributions. No updated Viability Report has been prepared/published/approved.</p> <p>We object therefore that without such an updated Report this later SPG on Planning</p>	<p>The intention of the draft SPG is to help ensure that development contributes towards the provision of the necessary measures required to mitigate its impact. This is in line with the approach clearly set out in policy BSC3 of the Council’s adopted Local Development Plan and reflects national policy set out in Planning Policy Wales (Edition 8), paragraph 3.7. The SPG has been produced to provide guidance and clarity on the range of potential requirements.</p> <p>In line with national policy and legislation, the SPG makes it clear that any requirements will be fairly and reasonably related in scale to the development and its resulting impact. The SPG also acknowledges (paragraph 6.12) that there may be circumstances where requirements may affect the viability of the scheme. In this situation, however, it is for the applicant to demonstrate why the requirements are inappropriate, including the submission of a viability assessment.</p>	No changes proposed

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		<p>Obligations – in seeking additional developer contributions – has no Evidence base for these possible additional contributions.</p> <p>The SPG leaves the viability responsibility on the developer – rather than the Council – which is unsupportable and unjustified.</p> <p>The Council has a serious problem of under-performance/undeliverability of housing targets in the LDP as well as a pattern of the lack of a 5 year Housing Land Supply.</p> <p>The Council should be looking at ways to improve the delivery of housing but instead is doing the opposite – putting obstacles in the way by making sites more costly and unviable by seeking additional and unjustified developer contributions on housing developments.</p> <p>All this will do is make sites less viable and less deliverable , cause uncertainty , a lack of confidence and as a result less – not more - development.</p>		
760	Tony Hughes, Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) Joint	<p>The Joint Committee welcomes recognition of the potential for planning obligations to protect and enhance the natural and built environment, including the AONB (Section 14). The committee would however suggest that for the avoidance of doubt, paragraph 5.1 which sets out other Council priorities for seeking obligations should also specifically refer to the natural and built environment.</p>	<p>Support is welcomed. Paragraph 5.1 repeats the priorities set out in policy BSC3 of the adopted Local Development Plan. Reference to natural and built environment will be added to paragraph 5.1 and the text will be amended to better reflect the wording in Policy BSC3.</p>	<p>Amend paragraph 5.1, bullet point 5 as follows:                      5. <del>Other</del> Council priorities current at the time of the application in line with other issues identified in the LDP or by the local community (for example, education, Welsh language and culture,</p>



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	Advisory Committee			natural and built environment)
782	Jo Hall	“why bother as you don't listen to us anyway”	All representations that were received by the Council during the public consultation period are carefully considered by officers and reported to Members of the Planning Committee. Text amendments are discussed by Members of the LDP Steering Group.	No changes proposed.
1077	C H R Martin, Clwyd-Powys Archaeological Trust	CPAT welcomes this SPG and has no comment of any substance to put forward. However, it may be worth noting the introduction of the Historic Environment (Wales ) Act 2016 and in particular the expected TAN24 that will deal with the implications of the new Act for planning matters. Reference to TAN24 may in due course be needed in section 14.2.	Welsh Government is currently consulting on draft TAN 24: The Historic Environment, which is likely to be introduced in 2017. Once this is in place, additional reference to this guidance can be included in the SPG.	No change proposed
3130	Helen May, Welsh Government - Cadw	Section 14 of this document (Natural and Built Environment) explains that a development may require a planning obligation to be agreed when there is need to protect and enhance the character of the countryside, landscape and built heritage of Denbighshire. This is welcomed, however we consider that the addition of scheduled monuments and registered historic parks and gardens to the list given in the first bullet point of section 14.1 would potentially clarify and improve this section of the document.	Change agreed.	Include reference in paragraph 14.1, first bullet point to scheduled monuments and registered historic parks and gardens
XXXX	Tim Bettany-Simmons, The	Thank you for your recent consultation in respect of the Denbighshire Planning	Support welcomed. Section 14: Natural and Built Environment does refer to the	Section 14.1 to be amended to include

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	Canal and River Trust	<p>Obligations SPG the production of which is welcomed and supported.</p> <p>We own and manage the Shropshire Union Canal Llangollen Branch and the adjacent towpath. The waterways pass through both urban and rural locations through the south-eastern part of the authority area. Waterside development and changes of use of land adjacent to the canal will place extra liabilities and burdens upon the canal infrastructure in relation to ongoing management and maintenance costs.</p> <p>Waterside development and regeneration schemes by third parties are exploiting the waterside settings to maximise development value uplift generated by waterside location, yet these third party schemes are not always being obliged to contribute to the development, improvement, restoration and maintenance of waterways. The Local Plan and Planning Obligations SPG provide a great opportunity for the Council and the Trust to work together to address this issue.</p> <p>The Trust will seek to maximise opportunities for partnership working to secure funding and will request developer funding from planning applications where appropriate and linked to the development. This could include the upgrading of canal towpaths recognised where additional usage is likely to result from a specific development. We note that S106</p>	Pontcysyllte Aqueduct and Canal World Heritage Site and it is proposed to add additional reference in paragraph 14.1.	<p>additional bullet points as follows:</p> <ul style="list-style-type: none"> <li>• Pontcysyllte Aqueduct &amp; Canal World Heritage Site</li> </ul>

Appendix 1 – Summary of representations received on draft document

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		<p>planning obligations can be used for off-site mitigation and we hope that this would allow the Council to consider and be supportive of our requests in the future, provided that the meet the tests laid down in the regulations. We suggest that where an improvement is required to make the development acceptable, it should be secured by s106 in order to provide more certainty that it will be delivered. We would welcome this being clarified within the documentation. Such a provision would link with policies ASA1 and ASA2 of the LDP</p>		
	<p>Nathaniel Lichfield &amp; Partners – on behalf of Bourne Leisure</p>	<p>Bourne Leisure considers the approach set out in paragraph 5.3 of the SPG to be appropriate and that it aligns with Regulations which set out tests that must be satisfied in order for planning obligations to be required.</p>	<p>Support welcomed</p>	<p>No changes proposed</p>
		<p><u>Sustainable transport</u>                      Bourne Leisure considers that whilst it is important to encourage the use of sustainable modes of transport, the Design Guidance: Active Travel (Wales) Act is not applicable to every development and suggests the SPG should be amended to reflect this.</p>	<p>Comments noted and amendments will be made to the SPG to reflect this issue.</p>	<p>Amend Paragraph 12.4 as follows:                      ...the Active Travel (Wales) design guidance will be applied to all new developments where appropriate.</p>
		<p>In relation to paragraph 12.16, the requirement to always provide public transport contributions prior to the occupation of a development would not meet the tests in</p>	<p>Comments noted and amendments will be made to the SPG to reflect this issue.</p>	<p>Amend paragraph 12.16 as follows:                      In terms of requirements obligations coming from the Travel Plan, public transport</p>

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		Regulation 122 of the CIL Regulations 2010. This paragraph should be amended.		contributions <del>should</del> may be <del>required</del> <del>provided</del> before the development is occupied
		<u>Natural and built environment</u> Bourne Leisure supports the Council’s approach in not applying a set threshold. This approach reflects the fact that the environmental context for each development proposal will be different.	Support welcomed	No change proposed
		<u>Training &amp; employment</u> Bourne Leisure considers that contributions should be sought only where appropriate and that the statement in paragraph 16.4 is unclear in this respect and should be amended.	Comments noted, paragraph 16.4 will be amended as suggested	Amend paragraph 16.4 as follows: All appropriate developments Where appropriate, developers will be encouraged to engage with Job Centre Plus to maximise opportunities for local training and employment.....
		<u>Streetscape improvements and public art</u> LDP does not refer to public art, therefore the policy basis for this provision is unclear. However, Bourne Leisure notes that the Council is seeking to encourage but not require the provision of public art and consider this position to be acceptable. It is important to recognise that the suitability of providing public art as part of a new development will depend on its relationship to the landscape	Comments noted, paragraph 18.1 will be amended as suggested.	Amend paragraph 18.1 as follows: Streetscape and public art is an important contributor to the achievement of high quality urban design and can help raise the quality of development. Therefore, where appropriate, the Council will <del>therefore</del> encourage public art

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		and public realm and paragraph 18.1 should be amended accordingly.		features to be included within any a new development, depending on its relationship to the public realm, the physical environment and its setting. <del>which will have a significant impact on its physical environment and setting.</del>
		<u>Welsh language and culture</u> Mitigation measures should be appropriate in scale to the level of harm caused by the development in order to comply with the CIL Regulation requirements. It is considered that paragraph 19.5 should be amended accordingly.	Comments noted, paragraph 19.5 will be amended as suggested.	Amend paragraph 19.5 as follows: Mitigation measures should be related to the proposal, <del>and</del> relevant to planning and fairly and reasonably related in scale and kind to the level of harm to Welsh language and culture caused by the development. Each proposal will be treated on its own merits and therefore mitigation measures will vary between different types of development.
	Jane Jones, BCUHB	Cannot find any reference to understanding and considering the impact on both primary and secondary health care services of residential developments within the County.	Section 15 – Community Development and Leisure of the draft SPG includes reference to health care facilities. However, this could made more explicit and the title will be amended to reflect this. Officer s are currently working with BCUHB on health care provision required as part of the key	Amend the title of Section 15 to: <u>Health care provision,</u> Community Development and Leisure

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*Denbighshire County Council Local Development Plan 2006 - 2021*

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			strategic site at Bodelwyddan and will continue to work with BCUHB to identify the potential impacts of other major housing development proposals on health care provision.	