



Representation Form

A27 Chichester Bypass Mitigation Supplementary Planning Document Consultation

Ref:

**(For official use
only)**

The consultation on the draft Supplementary Planning Document (SPD) will run from 22 September 2023 to 3 November 2023. The document and more information on the consultation can be viewed on our website at www.chichester.gov.uk/currentplanningpolicyconsultations

All comments must be received by 5pm on Friday 3 November 2023.

There are a number of ways to submit your comments:

- Online via our consultation portal accessed via our website www.chichester.gov.uk/currentplanningpolicyconsultations **(Recommended)**
- By emailing an electronic version of this form to planningpolicy@chichester.gov.uk
- By posting a copy of this form to us at: Planning Policy Team, Chichester District Council, East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY

How to use this form

Please complete Part A in full. Please note anonymous comments cannot be accepted, a full address including postcode must be provided.

Please complete Part B overleaf, using a new form for each separate SPD section that you wish to comment on. Please identify which paragraph your comment relates to by completing the appropriate box.

For more information, or if you need assistance completing this form, please contact the Planning Policy Team by email at planningpolicy@chichester.gov.uk or telephone 01243 785166.

Part A

1. Personal Details*

**If an agent is appointed, please complete only the Title, Name and Organisation (if applicable) boxes below but complete the full contact details of the agent in 2.*

Title

First Name

Last Name

Job Title
(where relevant)

2. Agent's Details (if applicable)

Organisation	CEG AND THE LANDOWNERS (D C HEAVER AND EUREQUITY LIMITED)	NEXUS PLANNING
Address Line 1	C/O AGENT	[REDACTED]
Line 2		[REDACTED]
Line 3		[REDACTED]
Line 4		[REDACTED]
Post Code		[REDACTED]
Telephone Number		[REDACTED]
E-mail Address		[REDACTED]

Part B

Please use a new form for each representation that you wish to make. Please note anonymous comments cannot be accepted. Any personal information provided will be processed by Chichester District Council in line with the General Data Protection Regulations 2018. More information is available at:

<http://www.chichester.gov.uk/dataprotectionandfreedomofinformation>.

3. To which part of the SPD does this representation relate?

Section
Title

SECTION 1.0: INTRODUCTION
- RELATIONSHIP WITH THE ADOPTED CHICHESTER LOCAL PLAN AND
THE LOCAL PLAN REVIEW

4. Please indicate if you wish to:

(a) Support

(b) Object

(c) Comment

Please tick as appropriate

5. Please use this box to provide a short explanation for your response

PLEASE SEE ENCLOSED REPRESENTATIONS

Continue on a separate sheet /expand box if necessary

6. Please provide details of any modification(s) you would like the Council to consider.
Please be as precise as possible.

PLEASE SEE ENCLOSED REPRESENTATIONS

Continue on a separate sheet /expand box if necessary

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3. To which part of the SPD does this representation relate?

Section
Title

SECTION 4.0: PLANNING CONTRIBUTIONS
- CALCULATION OF PLANNING CONTRIBUTIONS

4. Please indicate if you wish to:

(a) Support

(b) Object

(c) Comment

Please tick as appropriate

5. Please use this box to provide a short explanation for your response

PLEASE SEE ENCLOSED REPRESENTATIONS

Continue on a separate sheet /expand box if necessary

6. Please provide details of any modification(s) you would like the Council to consider. Please be as precise as possible.

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Continue on a separate sheet /expand box if necessary

Part B

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<http://www.chichester.gov.uk/dataprotectionandfreedomofinformation>.

3. To which part of the SPD does this representation relate?

Section
Title

SECTION 4.0: PLANNING CONTRIBUTIONS
- DEVELOPMENT TO WHICH THE CONTRIBUTIONS WILL AND WILL NOT APPLY

4. Please indicate if you wish to:

(a) Support

(b) Object

(c) Comment

Please tick as appropriate

5. Please use this box to provide a short explanation for your response

PLEASE SEE ENCLOSED REPRESENTATIONS

Continue on a separate sheet /expand box if necessary

6. Please provide details of any modification(s) you would like the Council to consider. Please be as precise as possible.

PLEASE SEE ENCLOSED REPRESENTATIONS

Continue on a separate sheet /expand box if necessary

Draft A27 Chichester Bypass Mitigation Supplementary Planning Document

Representations on behalf of CEG and the Landowners (D C Heaver and Eurequity Limited)

October 2023

1. On behalf of CEG and the Landowners (D C Heaver and Eurequity Limited), please find enclosed representations to the Chichester District Council ("CDC") consultation on the Draft A27 Chichester Bypass Mitigation Supplementary Planning Document ("the SPD"). The SPD is subject to consultation between 22nd September 2023 and 3rd November 2023.
2. CEG and the Landowners have land interests within Chichester District, and these representations are made in this context.

Tests for Planning Obligations

3. Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010 (as amended) sets out the statutory tests for imposing planning obligations on development, as follows:
 - a) *"necessary to make the development acceptable in planning terms;*
 - b) *directly related to the development; and*
 - c) *fairly and reasonably related in scale and kind to the development."*
4. This is reflected at paragraph 57 of the National Planning Policy Framework ("the Framework").
5. It is against these tests that the suitability of the proposed planning obligations must be considered, and these representations review the requirements of the SPD against the above tests.
6. The National Planning Practice Guidance ("PPG") note titled 'Planning Obligations' provides additional detail in relation to the imposition of planning obligations. Paragraph ref. ID: 23b-004-20190901 of the PPG reads as follows:

"Policies for planning obligations should be set out in plans and examined in public. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land.

Such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability. This evidence of need can be standardised or formulaic (for example regional cost multipliers for providing school places. See the guidance from the Department for Education on 'Securing developer contributions for education'. However, plan makers should consider how needs and viability may differ between site typologies and may choose to set different policy requirements for different sites or types of development in their plans.

It is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. Whilst standardised or formulaic evidence may have informed the identification of needs and

costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in regulation 122. This means that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area, while planning obligations will be appropriate for funding a project that is directly related to that specific development.

Planning obligations assist in mitigating the impact of development which benefits local communities and supports the provision of local infrastructure. Local communities should be involved in the setting of policies for contributions expected from development.”

(Emphasis added)

Planning Considerations

Timescales of introducing the requirements of the SPD

7. Having regard to the requirements of the PPG, it is essential that the justification for the financial contributions from development sought by the SPD is subject to a local plan examination process prior to the adoption of the SPD. This will enable a robust assessment of the compliance of the proposed planning obligations with the statutory tests and is required to be undertaken prior to SPD coming into force. Failure to do so would mean that it will not have been demonstrated that the statutory tests are satisfied and would conflict with the requirements of the PPG.
8. To ensure that a proper process has been undertaken in accordance with, the SPD should not be brought into force until the emerging Chichester District Local Plan Review, which provides the basis for the need for the mitigation, has progressed through its examination.

Forms of development that contributions are sought from

9. Notwithstanding this, paragraph 2.2 of the consultation draft of the SPD identifies that mitigation works to the A27 are required to avoid the additional housing and employment proposed within Chichester District increasing congestion further. However, the SPD is clear that financial contributions towards the mitigation works is only sought from new residential development, with no contributions sought from employment developments.
10. Paragraph 2.15 of the consultation document explains that viability testing to support the emerging Local Plan considered various scenarios, but this seems to have only related to differing ranges of per-dwelling contributions with no examination of the viability of securing contributions from employment development. Indeed, paragraph 1.1.21 of the Chichester District Council Local Plan 2021-2039 Viability Assessment – Stage 2 (January 2023) explains that the viability assessment has focused on residential development. Such an approach is inconsistent with the PPG.
11. It is clear that the traffic impacts on the A27 are caused by both residential and employment development, and it is therefore disproportionate to seek for the full-scale of additional funding required to be provided for by residential development alone. Such an approach is inconsistent with criteria b) and c) of the Regulation 122(2) tests.

Evidencing that contributions are fairly and reasonably related in scale and kind

12. The previous approach taken by CDC in seeking financial contributions towards A27 mitigation works was to base the level of contribution upon the evidenced impact on the A27. This allowed for a case-by-case consideration of each planning application to ensure that contributions sought would be fairly and reasonably related in scale and kind to the development (i.e. criterion c) of the Regulation 122(2) tests).

13. As an example, the per-dwelling contributions sought from the Phase 1 of the Weshampnett and North East Chichester Sustainable Development Location were notably greater than the per-dwelling contribution sought from the Phase 2 development. This reflected the conclusions of the respective Transport Assessment submitted as part of the planning applications for these developments, which identified that the Phase 1 development would result in greater traffic generation onto the A27 by virtue of its location in closer proximity of a junction onto the A27.
14. Furthermore, development located within the most sustainable locations in the district (notably at Chichester city) will benefit from a range of sustainable transport modes that will discourage car travel, in accordance with the aspirations of the National Planning Policy Framework (paragraph 105), and will result in less traffic generation onto the A27. Therefore, the opportunities to utilise sustainable travel modes should also influence the levels of contributions sought from new developments towards transport mitigation to ensure that the SPD meets the CIL 122(2) tests.
15. Accordingly, a blanket dwelling-size approach toward calculating the contributions sought from new developments towards A27 mitigation works, as proposed by the SPD, does not meet the Regulation 122(2) tests as it cannot be concluded that, on a case-by-case basis, the level of contributions sought are directly related to the impacts of the development (criterion b) or reasonably related in scale and kind (criterion c).
16. Indeed, the imposition of a blanket cost per-dwelling size proposed by the SPD is not underpinned by evidence demonstrating that all new residential developments on land to the south of the South Downs National Park (where paragraph 4.27 of the consultation document outlines that contributions will be sought) will have an impact on the A27.
17. The PPG is clear that planning obligations should be informed by evidence. In the absence of such evidence, it is not possible to conclude that the blanket requirements for consistent contributions for all new development to the south of the South Downs National Park meets the Regulation 122(2) tests.

Summary

18. CEG and the Landowners (D C Heaver and Eurequity Limited) do not object to the principle of seeking contributions from new residential development towards works to mitigate traffic pressures on the A27. However, it is essential that the planning obligations meet the tests outlined at Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).
19. It is particularly notable that CDC is seeking to bring forward the SPD in advance of the examination of the Chichester Local Plan Review, where the evidence underpinning the mitigation sought will be subject to robust scrutiny. The PPG is clear that such an approach would not be appropriate, and it is imperative that the Council waits for the outcome of the Local Plan Review examination before it brings the SPD into force.
20. For the reasons set out earlier in these representations, we do not consider that the proposed means of calculating the contributions from development towards raising the funds needed to put the mitigation in place, as set out within the consultation document, meets the Regulation 122(2) tests.