

To: City Executive Board

Date: 10th April 2013

Report of: Head of City Development

**Title of Report: DRAFT AFFORDABLE HOUSING AND PLANNING
OBLIGATIONS SUPPLEMENTARY PLANNING
DOCUMENT**

Summary and Recommendations

Purpose of report: To approve the draft Affordable Housing and Planning Obligations Supplementary Planning Document (SPD) for public consultation

Key decision? No

Executive lead member: Councillor Colin Cook

Policy Framework: The SPD will assist in the delivery of the planning policies of the Local Development Framework/Local Plan

Recommendation(s): That City Executive Board:

1. Approves the Draft Affordable Housing and Planning Obligations Supplementary Planning Document for public consultation
2. Approves the Draft Affordable Housing and Planning Obligations Supplementary Planning Document as a material consideration in determining planning applications;
3. Authorises the Head of City development to make any necessary editorial corrections to the document prior to publication

Appendix 1 – Draft Affordable Housing and Planning Obligations SPD

Appendix 2 – Risk Assessment

Introduction

1. City Executive Board is asked to consider the Draft Affordable Housing and Planning Obligations Supplementary Planning Document (SPD) (Appendix 1) prior to formal public consultation.
2. The City Council has an adopted Affordable Housing SPD (November 2006) and adopted Planning Obligations SPD (April 2007). It has become necessary to replace both these documents because of recent

changes in the planning policy framework. The adoption of the new affordable housing policies of the Sites and Housing Plan and the forthcoming introduction of the Community Infrastructure Levy mean that both these adopted SPDs are (or are soon to be) out-of-date. The new Affordable Housing and Planning Obligations SPD will replace both these documents.

3. The SPD will be a material consideration in the determination of planning applications, supporting the policies of the adopted Core Strategy, Sites and Housing Plan and saved Local Plan policies in particular. The SPD does not set out any additional policy requirements, but instead provides clarity and advice on how the City Council's adopted planning policies will be implemented.
4. The purpose of the SPD is to set out the City Council's approach to all forms of planning obligations when considering applications for development, and to clarify how the use of planning obligations will operate alongside the Community Infrastructure Levy. The SPD will provide clarity to all users of the planning system regarding the basis on which planning obligations will be sought and the process by which they will be negotiated and calculated. It also deals with procedural matters relating to the provision of planning obligations. The SPD will also help to ensure both the delivery of affordable housing and the provision of the necessary measures required to mitigate the impact of development of all types.

Affordable Housing

5. The recently adopted Sites and Housing Plan (together with the Core Strategy) sets the policy framework for affordable housing. The Sites and Housing Plan takes every opportunity to ensure affordable housing is delivered, with new policies that seek financial contributions from small sites (4-9 homes) and student accommodation, in addition to the established affordable housing requirements from large housing sites (10 or more homes) and from commercial development.
6. The SPD provides helpful details and sets out the procedures that the City Council will use in the application of these policies. This will help ensure that they are complied with and will deliver the much needed affordable housing that the City Council wishes to see.

Planning Obligations and the Community Infrastructure Levy

7. Members will be aware of the current project to prepare for implementation of the Community Infrastructure Levy (CIL). CIL is a non-negotiable levy on development to help fund infrastructure to support new development. It is calculated in pounds per square metre of new floor space generated by most new development. CIL applies to

new buildings or extensions that create 100m² or more of new build floorspace, or that involve the creation of one or more dwellings, even when that is below 100m². CIL differs fundamentally from planning obligations in that the funds collected are not tied to a specific development or the provision of specific infrastructure.

8. In 2010, the Government introduced CIL as the preferred mechanism for securing developer contributions towards infrastructure. The regulations which introduce CIL also require planning obligations to be scaled back to generally cover only affordable housing and other site-specific obligations. The reason for this scaling back is to avoid so called “double dipping”; the scaling back of site specific planning obligations will ensure that no developer is requested to pay for the same piece of infrastructure twice.
9. For the avoidance of doubt, larger off-site infrastructure projects such as transport schemes, education provision and environmental or public realm projects will receive developer funding through the Community Infrastructure Levy. The new scaled-back Section 106 mechanism will be focused on on-site infrastructure provision directly related to the proposed development.
10. The Draft SPD has been produced alongside the work on the CIL Charging Schedule. The SPD addresses all developer contribution issues not covered under CIL; together these documents provide all the information required to help deliver the City Council’s planning policies on affordable housing and planning obligations.
11. The project timelines for the CIL Charging Schedule and SPD have been co-ordinated in order that both documents can be reported to the same Council meeting in October 2013 to be approved / adopted together. This will mean that applicants and planning officers have a suite of up-to-date information to aid the planning process. More details on later stages of the process are outlined in paragraph 13 below.

Content of the SPD

12. In brief the main matters covered in the SPD are:

Affordable Housing

Explanation of the policies and procedures governing the:

- delivery of affordable housing from residential developments of 4-9 homes (Sites and Housing Plan Policy HP4)
- delivery of affordable housing from residential developments of 10 or more homes (Sites and Housing Plan Policy HP3)
- delivery of affordable housing from student accommodation (Sites and Housing Plan Policy HP6)
- delivery of affordable housing from commercial development (Core Strategy Policy CS24)

- tenure mix and size of units
- assessment of viability and the cascade mechanism

Planning Obligations

Explanation of the policies and procedures governing the:

- types of infrastructure for which contributions will be sought
- maintenance contributions and transfer of land
- use of legal agreements
- calculation of fees and indexing

The next stages

13. City Executive Board is asked to approve the draft SPD for public consultation and also to authorise the Head of City Development, in consultation with the Board Member, to make any editorial corrections necessary prior to consultation. Following approval of the document for consultation, it will be published, advertised and made available for public comment. The consultation period will last for six weeks from 19th April to 31st May 2013.
14. Representations made during the consultation period will be carefully considered and where appropriate will inform revisions to the SPD. They will also be reported in a Consultation Statement that will be presented to Council in October 2013, and published on the website alongside a final version of the SPD. SPDs are not subject to independent examination; therefore Council will be asked to approve the Supplementary Planning Document for adoption.

Environmental impact

13. Sustainability Appraisal is no longer required for SPDs under UK law, however to comply with European regulations, a Strategic Environmental Assessment (SEA) Screening Statement has been produced to identify whether the SPD would have any significant environmental impacts. This exercise concluded that the SPD would not give rise to any significant environmental effects and as such no further SEA work is required.

Equalities impact

14. Consideration has been given to the public sector equality duty imposed by s149 of the Equality Act 2010. Having paid due regard to the need to meet the objectives of that duty and of the SPD the view is taken that the duty is met.

Financial implications

15. The consultation and further work on the production of the Supplementary Planning Document will be met from the current resources of the Planning Policy team.

Legal implications

16. The information contained in the SPD will assist in the implementation of the planning policies of the Local Development Framework/local plan and in this regard will assist with the determination of planning applications.
17. Officers consider that the Draft Affordable Housing and Planning Obligations SPD has been produced in compliance with the statutory requirements governing SPDs in the regulations.

Risk assessment

18. A risk assessment has been undertaken and the risk register is attached (Appendix 2). All risks have been mitigated to an acceptable level.

Name and contact details of author:-

Name Rachel Williams
Job title Principal Planning Officer
Service Area / Department City Development
Tel: 01865 252170 e-mail: rwilliams@oxford.gov.uk

List of background papers: None
Version

Appendix 2 – Risk Register

Risk ID	Risk						Corporate Objective	Gross Risk		Residual Risk		Current Risk		Owner	Date Risk Reviewed	Proximity of Risk (Projects/ Contracts Only)
Category -000- Service Area Code	Risk Title	Opportunity/ Threat	Risk Description	Risk Cause	Consequence	Date raised	1 to 6	I	P	I	P	I	P			
	Legal challenge	Threat	There is a risk of a legal challenge to the SPD once adopted	Any person with sufficient interest may apply to the High Court for permission to apply for judicial review of the decision to adopt it. Applications must be made no later than 3 months after the date of adoption	If successful the High Court would rule that the SPD be quashed, wholly or in part.	17.12.12	2	3	2	2	1	3	2	Michael Crofton Briggs		

Risk ID	Risk Title	Action Owner	Accept, Contingency, Transfer, Reduce or Avoid	Details of Action	Key Milestone	Milestone Delivery Date	%Action Complete	Date Reviewed
	Legal challenge	Michael Crofton Briggs	Reduce					

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