

To: City Executive Board

Date: 11th September 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 adopt the Affordable Housing and Planning Obligations Supplementary Planning Document (SPD).

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. Adopt the Affordable Housing and Planning Obligations Supplementary Planning Document.
2. Authorises the Head of City Development to make any necessary editorial corrections to the document prior to publication.

Appendix 1 – Affordable Housing and Planning Obligations SPD

Appendix 2 – Risk Assessment

Introduction

1. City Executive Board is asked to consider the final Affordable Housing and Planning Obligations Supplementary Planning Document (SPD) (Appendix 1). Please note that this version includes track changes in order that proposed amendments can be easily viewed. These will be removed from the final published version.
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forthcoming introduction of the Community Infrastructure Levy mean that both these adopted SPDs are (or are soon to be) out-of-date.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 the implementation of the Community Infrastructure Levy (CIL). CIL is a non-negotiable levy on development to help fund infrastructure to support new development. 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. 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 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. A separate report will go to Council on 30th September to approve the bringing into force of CIL on 14th October 2013. Linked to this, a report will come to the CEB meeting on 9th October to agree the "Regulation 123 list". This list will detail those infrastructure projects that may be funded (in part or in whole) by CIL.

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

Results of consultation

13. Public consultation took place from 12th April to 24th May 2013. In total, approximately 1,300 organisations and individuals were contacted and invited to submit representations on the content of the SPD. A total of 112 comments were made by 25 organisations and individuals during the consultation period.

14. The key issues raised were:

- Support from neighbouring local authorities, but noting some concern that impact on delivery of housing in Oxford due to viability issues could increase demand for housing in adjoining districts;
- Objections to classification of self-contained student accommodation as dwellings falling within Use Class C3;
- Objections to wording of parts of SPD relating to how the City Council will consider affordable housing on mixed use developments;
- Question as to whether the mix and distribution of unit tenures and sizes on a site should be prescriptive, and suggestion that more flexibility should be applied (including allowing for more affordable rent units);
- Consistency with the Core Strategy and Sites and Housing Plan questioned with respect to student accommodation;
- Objection to threshold for affordable housing contributions from commercial development;
- Objections to the methodology for viability assessment set out in the SPD, particularly Appendix 3;
- A request from the developers of the Westgate for further clarity on the future use of Section 106 agreements;
- Support from several local planning consultancies for the clarity provided on the future use of Section 106 agreements
- Request from the County Council to further explore the implications for County legal agreement processes

15. Representations made during the consultation period were carefully considered and a number of minor revisions to the SPD have been made as a result. A Consultation Statement has been prepared, which summarises the main issues raised, and the Council's response to these issues. This is available on the Council's website at www.oxford.gov.uk/spd.

The next stages

16. City Executive Board is asked to adopt the SPD and also to authorise the Head of City Development, in consultation with the Board Member, to make any editorial corrections necessary prior to publication. When adopted, the SPD will be a material consideration in considering planning applications submitted to the Council. The SPD will replace the Affordable Housing SPD

(2006), and the Planning Obligations SPD (2007), these documents will no longer be material for planning purposes.

17. It should be noted that the parts of the SPD relating to CIL and planning obligations other than affordable housing apply to planning applications that are determined once the CIL schedule is implemented. It is possible that one or more planning applications which require planning obligations to mitigate the impact of development may be considered by planning committee and then be formally determined (i.e. have a decision notice issued) prior to the implementation of CIL. In the unlikely event of this happening, the old Planning Obligations SPD (April 2007) will be used as the basis of negotiation regarding planning obligations set out in the legal agreement.

Environmental impact

19. 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

20. 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

21. Following its adoption, the SPD will have a positive impact on the City Council's financial position, as it will support the provision of affordable housing units, and financial contributions towards further off-site provision, which directly supports the corporate priority of 'More and Better Housing for All'. Financial contributions in particular will provide a source of funding to support the provision of new Council Housing.

Legal implications

22. 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.
23. Officers consider that the Affordable Housing and Planning Obligations SPD has been produced in compliance with the statutory requirements governing SPDs in the regulations.

Risk assessment

24. 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 Matt Bates
Job title Senior Planning Officer
Service Area / Department City Development
Tel: 01865 252277 e-mail: mbates@oxford.gov.uk

List of background papers:

Public Participation Statement (Consultation Statement) (August 2013)
Screening Assessment for Affordable Housing and Planning Obligations SPD
(March 2013)

Version 1.1