

Affordable Housing and Planning Obligations SPD

Public Participation Statement (summarising representations) Regulation 12 (a) Town and Country Planning (Local Planning) (England) Regulations 2012

www.oxford.gov.uk



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1 Introduction

- 1.1 This Public Participation Statement sets out how Oxford City Council has engaged and consulted with stakeholders to date on the Affordable Housing and Planning Obligations Supplementary Planning Document (SPD) in accordance with Regulation 12 of the Town and Country Planning (Local Planning) (England) Regulations 2012¹, and the adopted Statement of Community Involvement (SCI). It updates the Interim Public Participation Statement published in April 2013, following the period of statutory public consultation (12th April – 24th May 2013). It includes summaries of the issues raised during the consultation period, and details how these issues have been addressed in the SPD.

2 Purpose of the SPD

- 2.1 The purpose of the Draft Affordable Housing and Planning Obligations SPD is to provide detailed advice regarding implementation of the affordable housing and planning obligations policies contained in the Oxford Core Strategy (March 2011), Sites and Housing Plan (February 2013), West End Area Action Plan (June 2008), Barton Area Action Plan (December 2012) and the Oxford Local Plan 2001-2016 (November 2005).
- 2.2 The City Council has an adopted Planning Obligations SPD (April 2007) and an adopted Affordable Housing SPD (November 2006). The Draft Affordable Housing and Planning Obligations SPD is intended to replace both these documents.

3 Early stage consultation

- 3.1 There has been early stage consultation on the topics of affordable housing and planning obligations in advance of the production of the Draft SPD. The policies that the SPD will support have been subject to thorough consultation and examination through their respective plan production processes. In addition, the work to produce the Community Infrastructure Levy Draft Charging Schedule has involved a wider discussion of the issues.
- 3.2 In particular, as part of the production process of the Sites and Housing Plan and the Community Infrastructure Levy Draft Charging Schedule, there has been significant consultation and wider debate of the issues addressed in the Draft SPD including developer contributions and development viability for example.

¹With effect from 6th April 2012, the Town and Country Planning (Local Development) (England) Regulations 2004 (Statutory Instrument 2004 No. 2204) were replaced by the Town and Country Planning (Local Planning) (England) Regulations 2012 (Statutory Instrument 2012 No. 767). Therefore 2004 Regulation 18 was replaced by 2012 Regulations 12(b) and 13.

3.3 To aid the production of both the Sites and Housing Plan and the Draft Charging Schedule viability evidence gathering has been carried out at various stages since 2011. The following evidence base documents have been produced:

Residential development:

- Affordable Housing Viability Study (June 2011) King Sturge
- Community Infrastructure Levy Analysis (also referred to as: CIL Residential Addendum) (July 2012) Jones Lang LaSalle
- Update note to Affordable Housing Viability Assessment (also referred to as: Residential Sensitivity Testing) (September 2012) Oxford City Council and Jones Lang LaSalle
- Affordable Housing Viability Assessment (also referred to as: Additional Viability Testing – Smaller Sites) (October 2012) Jones Lang LaSalle
- Residential Community Infrastructure Levy Analysis – Addendum to Housing Viability Evidence Report (also referred to as Residential Update) (January 2013) Jones Lang LaSalle

Student accommodation development:

- Affordable Housing Viability Study – Student Accommodation (December 2011) CBRE
- Student Accommodation – Community Infrastructure Levy Analysis (also referred to as: CIL Student Addendum) (March 2012) CBRE

Non-residential development:

- Updated Viability Evidence Report Community Infrastructure Levy Assessment (also referred to as: CIL Non-residential Assessment) (January 2013) Jones Lang LaSalle (Please note this study updates the July 2012 JLL Study that was published at Preliminary Draft Charging Schedule stage.)

3.4 All these studies were subject to consultation through the Draft Charging Schedule consultation (January-February 2013). The studies produced prior to September 2012 were also subject to consultation through the Sites and Housing Plan process, undergoing detailed consideration and debate at the Sites and Housing Plan examination.

3.5 A further example of the consultation on the emerging work and draft policies is the workshops that took place with a range of stakeholders. For example two stakeholder briefing sessions were held in July 2011 to discuss the emerging housing policies of the Sites and Housing Plan, and a CIL stakeholder workshop was held in July 2012 to discuss the emerging work on the Charging Schedule and associated evidence base.

3.6 Prior to the consultation period, an early draft of the SPD was made available to Oxfordshire County Council for consideration.

4 Strategic Environmental Assessment Screening Consultation

4.1 A Strategic Environmental Assessment Screening Report has been produced to determine the need for a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004 for the Draft Affordable Housing and Planning Obligations Supplementary Planning Document.

4.2 The screening exercise established that the Draft SPD will not give rise to any significant environmental effects and that a Strategic Environmental Assessment is not required.

4.3 The City Council consulted with the three statutory environmental bodies (English Heritage, the Environment Agency and Natural England) over the findings of the SEA Screening Report to confirm its findings. The consultees agreed with the findings of the Screening Report and as such it was updated and published as the Screening Statement for the SPD (www.oxford.gov.uk/spd).

5 Consultation on the Draft SPD

5.1 Formal public participation on the Draft SPD took place for a six-week period between 12th April and 24th May 2013. The consultation comprised the following:

- the draft SPD and supporting information being made available
 - ✓ as an electronic document, on the City Council’s website,
 - ✓ in paper form, at St Aldate’s Customer Service Centre,
 - ✓ in paper form, at libraries within the city;
- the draft SPD and supporting information being made available using the City Council’s online consultation portal;
- an invitation to comment was sent to statutory bodies, known contacts within the development industry and Registered Providers of social housing, and those who have registered an interest in planning policy documents (approximately 1200 organisations and individuals), and
- a press release.

5.2 Responses received have been processed, analysed and are reported in this statement. Below is set out a summary of the main issues raised through the consultation, and how those issues have been addressed in the final SPD.

5.3 On adoption the Affordable Housing and Planning Obligations SPD will replace the adopted Planning Obligations SPD (April 2007) and adopted Affordable Housing SPD (November 2006).

6 Summary of consultation responses

6.1 The following table sets out a summary of responses to the SPD. It also sets out how the City Council has addressed the key issues, and what changes have been made to the SPD as a result.

Issue	Where it relates to in the SPD	Council’s response	Change to SPD
Urge that account is taken of heritage issues in respect of viability, and opportunities for funding recognised.	General	Comments duly noted, but do not necessitate any change to the SPD.	No change
The scale of planning obligations (including affordable housing) may delay the provision of housing, increasing demand in adjoining districts. Encourage flexible approach to implementing affordable housing policies that does not unduly compromise timely delivery of homes.	General	Comments duly noted, but do not necessitate any change to the SPD.	No change

Concerned that CIL may not raise enough money to satisfactorily provide for the mitigation of off-site educational impacts and would like to discuss potential to retain some flexibility to seek off-site contributions in exceptional circumstances.	General	While these concerns are recognised, legislation is clear that contributions cannot be secured from S106 Agreements for items of infrastructure included on the CIL regulation 123 list. Since school capacity improvements are likely to be on the regulation 123 list, it would not be possible to collect off-site contributions for such improvements.	No change
Student accommodation should not be treated as Use Class C3. It is Sui Generis. Applying C3 to student accommodation is ineffective in relation to Core Strategy objectives. Reference to 'self-contained' should be removed in absence of any definition of 'not self-contained'. Exceptions set out in Policy HP6 should equally apply to self-contained student residential.	Paragraphs 2.2, 2.3	"Self contained student accommodation" is defined in the Sites and Housing Plan. The SPD simply highlights what is already in the SAHP. The Sites and Housing Plan also makes clear that Policy HP6 does not apply to C3 self-contained residential development intended for student occupation.	No change
Policies HP3 and HP4 should only apply to the net increase in housing on a site.	Paragraph 2.4 & paragraphs 2.10-2.14	The SPD clarifies what is set out in the Sites and Housing Plan, i.e. that Policies HP3 and HP4 are applied on the basis of site capacity. Therefore it is the gross number of units, not net increase, that is relevant.	No change
There is no basis for adjusting the red line of an application site.	Paragraph 2.4	The SPD clarifies that the City Council will not accept artificial subdivision of a site, reflecting that Policies HP3 and HP4 will apply to the gross site capacity.	No change
Rules of thumb on site capacity, and floorspace for mixed-use development, are not an appropriate basis for considering affordable housing requirement. Clear thresholds should be set. Question practicality of providing 50% of housing on-site where a mix if uses proposed. The SPD should not imply that the Council will seek contributions for, or provision of, affordable housing for all mixed-use sites with a capacity for 4 or more dwellings.	Paragraphs 2.5-2.7	The SPD clarifies the Council's approach to judging whether a proposal makes efficient use of the site, and gives guidance in interpreting and applying Policies HP3 and HP4 to mixed use development, to aid consideration on a site-by-site basis. However it is agreed that the text of the SPD can be made clearer to reflect that the City Council will only seek provision of, or contributions towards, affordable housing from mixed-use development where reasonable to do so.	Amend paragraphs 2.6-2.8 to make clearer the circumstances in which the City Council will seek a contribution towards affordable housing from mixed-use development.
Affordable Rent tenures should be seen as equivalent to Social Rent tenures in new development, in line with the direction of the Homes and Communities Agency. The initial share of ownership for shared ownership units is too low. There should be more flexibility on tenure to ensure that sites come forward.	Paragraphs 2.15-2.21	The definitions relating to affordable housing, shared ownership and affordable rent are set out in the adopted Sites and Housing Plan, and the SPD definitions are consistent with this. Similarly the tenure split is already set out in the Sites and Housing Plan. It should be noted that Policy HP3 allows flexibility on the tenure split where viability is an issue (the cascade approach).	No change
The SPD sets out a cascade approach to reducing on-site affordable housing, but does not explain whether the financial contribution can be reduced below 15% of GDV until the scheme does become viable.	Paragraphs 2.22, 2.23.	Appendix 2 of the Sites and Housing Plan provides scope for a reduced contribution if viability evidence demonstrates this is justified.	Sentence added to paragraph 2.23 to cross-refer to Appendix 2.
Consideration could be given to subsidising provision of 40% affordable housing on a site that lacks viability, from financial	Paragraph 2.23	The cascade approach is set out in the adopted Sites and Housing Plan. This does not preclude alternative funding arrangements that may support on-site AH provision.	No change

contributions collected from other developments.			
There should be no requirement, or qualification, for affordable housing to be in small clusters throughout the development.	Paragraph 2.26	Clustering of affordable units is widely considered good practice for achieving a socially integrated community, and is similar in approach to the adopted Affordable Housing SPD. Other material considerations can be considered on a case-by-case basis.	No change
There should be further evidence for / a less prescriptive approach to the strategic mix of affordable unit sizes, and the minimum floorspaces for affordable units.	Tables 1-3	The strategic mix reflects discussions with the City Council's Housing Strategy and Affordable Housing Allocations teams. Tables 1 and 2 provide greater flexibility than the adopted Affordable Housing SPD (2006). Table 3 is sourced from the Homes and Communities Agency, and provides certainty for both developers and registered providers.	No change
Core Strategy Policy CS25 and Sites and Housing Plan HP5 should be referenced (relating to the universities and student accommodation). The exceptions to where HP6 applies should be mentioned in the SPD. There is no reference to the potential non-viability of student accommodation.	Paragraphs 2.30-2.35 & 1.4	Appendix 1 includes Policy HP6 as an extract and this need not be repeated further. Agreed that there should be reference to a reduced financial contribution being possible on viability grounds. There is no need to refer to Local Plan policies that are not directly related to affordable housing. The Local Plan should be read as a whole.	New sentence added to paragraph 2.30, to cross-refer to Sites and Housing Plan Appendix 4 in respect of non-viability.
Object to paragraph 2.32 on the basis that it relates to Sites and Housing Plan Policy HP5 and Core Strategy Policy CS25, which are themselves subject to question.	Paragraph 2.32	The paragraph relates specifically to Sites and Housing Plan Policy HP6 (part d). Policies in the Sites and Housing Plan are adopted and therefore not open to question.	No change
Affordable housing contributions should not be sought from University-related development.	Paragraph 2.36 & Appendix 4 (Table A7)	Table A7 clarifies which uses Policy CS24 (in relation to non-residential uses) applies to. The scale of contribution will depend on the number of employees, as set out in paragraph 2.41.	No change
There is no justification for the indicative thresholds relating to affordable housing contributions from commercial developments. An "indicative" threshold is too vague.	Paragraphs 2.37 & 2.38	The indicative threshold of 2,000 m ² for commercial development is consistent with the adopted Affordable Housing SPD, and reflects a scale of increase that is considered to generate a significant further need for affordable housing. An indicative threshold provides more certainty for applicants.	No change
Viability appraisals should be undertaken in accordance with the NPPF, which requires competitive returns for a willing landowner and willing developer. The Council should not prescribe the methodology and assumptions for viability appraisal. Method proposed is not appropriate (various points raised). Details should not be open to public scrutiny where information is commercially sensitive. Expectation of three independent RICS valuations is inappropriate, and will add delay to the planning process.	Appendix 3	The methodology for viability appraisal set out in Appendix 3 is considered appropriate and consistent with the NPPF, and provides clarity on what the City Council expects. There is no need to repeat the NPPF in the SPD. As part of the open book approach to viability, it is not normally necessary or appropriate to maintain full confidentiality. However the City Council will have regard to where information is considered commercially sensitive on a case by case basis. It is considered that three independent valuations by RICS qualified surveyors is appropriate. In most circumstances, these need not be full property valuations, provided they are prepared by a suitably qualified, independent professional and properly justified. Therefore this is not an overly onerous requirement.	Amend paragraph A.22 third bullet point to refer to site servicing <u>and</u> <u>infrastructure</u> costs (but also to make clear that infrastructure covered by S106 Agreement must not be double counted).
For commercial development, a change of use will not always generate a significant further need for affordable housing. Policy should be modified to ensure that contributions are only sought where there is a material impact.	Paragraphs 2.37 & 2.38	Agree that further clarification is appropriate.	Addition to first bullet point of paragraph 2.38, to except changes of use where it can be clearly shown that the change would result in no net

			increase in employees working on that site.
SPD states that CIL will replace obligations securing “ <i>off-site infrastructure</i> ”. We understand that all infrastructure works located outside a red line boundary are to be funded by the CIL and all within are to be provided by the development - a double levy. Seek clarification on how the relationship between CIL, S.106 and S.278 will be aligned to avoid double charging.	Paragraph 3.11	Arrangements to avoid double charging are already set out in the SPD. It is incorrect to state that the position of the red line on an application plan determines what will or will not be funded by CIL. This will be determined by what measures are included on the Council’s Regulation 123 list. In any event, it is the applicant for planning permission who decides where the red line is drawn.	No change
It may also be necessary for large scale development to secure public transport mitigation measures through S106.	Table 4	The SPD does not prevent such arrangements taking place, but in the future it is anticipated that CIL will be the mechanism for funding identified public transport improvements.	No change
Suggest clarification of the wording for biodiversity to avoid use of the term ‘minor’ in relation to instances of off-site mitigation, which we consider would be hard to define. Recommend that reference is included to the mitigation requirements outlined in the Sites and Housing Plan for Oxford Meadows SAC, which constitute planning obligations, in particular where mitigation is proposed for specific sites within that plan.	Table 4	Accept the point in principle, although not the entirety of the wording changes suggested. The text already refers to off-site mitigation of identified impacts on areas of high biodiversity interest. It is agreed that a brief additional cross-reference to the site specific requirements in the Sites and Housing Plan would be helpful.	Amend the wording of the second column (S106) in relation to biodiversity by removing reference to ‘minor’ off-site mitigation, and adding a cross-reference to measures in the Sites and Housing Plan. Add wording relating to ‘significant’ off-site measures in third column (CIL)
Request that unique nature of Westgate is explicitly acknowledged with reference to: site-specific constraints and requirement for a comprehensive approach to S106, S278 and CIL.	Paragraphs 4.1 - 4.4	The importance of the Westgate proposals to the future retail health of the City centre is acknowledged, and the City Council is conscious of the need to ensure that the viability and deliverability of the development is not compromised. However, it is inappropriate to include text about specific sites within the SPD. The SPD is intended to provide general advice to users of the planning system, not to address the circumstances/requirements of specific sites.	No change
There is no reason why unilateral undertakings should not be used for funding above £15K. There is no justification for the limit included in the draft SPD	Paragraph 4.12	A limit was included in the previous Planning Obligations SPD, but it is accepted that UU’s may be used for funding above the level set out in the draft SPD. This point is accepted	Delete limit of £15k
UUs can also be with the County Council	Paragraph 4.14	Agree that a reference to the County Council should be added as it is possible that a developer could offer UU’s to the County	Add sentence to paragraph 4.14 to indicate that applicants may also offer unilateral undertakings to the County Council
County should also be party to S106 agreements where substantial highway works are required that are integral to the development and cannot be secured by condition. The draft legal agreements only consider City S106s and not County requirements.	Paragraph 4.16	It is recognised that there may be cases, usually on large strategic sites, when the County Council (or a statutory undertaker) may be a signatory to a S106 Agreement. A change is proposed to this effect. However this will be the exception as most highways infrastructure will be secured under CIL or via planning conditions for on-site works.	Add new wording to paragraph 4.13 to clarify that the standard agreement relates to agreements between the City Council and the applicant, and that

			the City Council may request other authorities or statutory undertakers to be parties to relevant S106 agreement as and when required.
County also need to be party to S106s agreements where a planning obligation is appropriate to ensure that a S278 is entered into.	Paragraph 4.16	A S106 will not positively require that a S278 is entered into. It can provide the funding and/or prevent development/occupation until a S278 is entered into or works are carried out. However, the County Council does not need to be party to a S106 for that purpose. If development cannot commence or be occupied, either at all or per phase, until off site (or on site) highway works are complete that can be done by S106 enforceable by the City Council or, usually, by planning condition.	No change

Appendix 1 List of organisations consulted

Colliers CRE
David Ames Associates
Gerald Eve
Rapleys
Hives Planning Ltd
W S Atkins
Oxfordshire Community and Voluntary Action
Berkeley Homes
Home Builders Federation
Hinksey Park Area Residents' Association
Bellway Homes Ltd
Banner Homes Group
Building Design
Friends of Warneford Meadow
Architects Design Partnership
Magdalen College
Barton Willmore
Oxford University Estates
Cluttons Styles and Whitlock
RPS Group plc (Head Office)
Manches
Friends of Old Headington
TH Kingerlee
PCT
Rectory Homes
Darbys Solicitors LLP
Savills
CgMs
Ridge
Divinity Road Area Residents' Association
Oxford and Cherwell Valley College (OCVC)
McCarthy & Stone Plc
Friends of Iffley
David Wilson Homes Southern
TSH Architects
Highfields Residents' Association
Smiths Gore
Somerville College (Finance & Estates Bursar)
Oxford Science Park
Shaw Gibbs LPP
West Waddy
Galliford Try
HMG Law
Oxford Preservation Trust
Northway Tenants' & Residents' Association
Bellmark Homes Ltd
Nathaniel Lichfield And Partners
Turley Associates
Friends of Old Headington
Tanner and Tilley Planning Ltd
Blake Laphorn
Persimmon Homes
Blue Sky Planning Limited
Oxford Inspires
New Marston Residents' Association
The Anderson Orr Partnership
Riach Architects
University Hospital Trust
Lambert Smith Hampton
Shaw Gibbs LPP
St Cross College
Marriotts
Savills
Embling Associates Ltd
Ashley House plc
Oxford Architects
Unipart Logistics
John Philips Planning Consultancy (JPPC)
Architects Design Partnership
Highfield Resident's Association
Original Field of Architecture Ltd
Savills
Oxford Brookes University
Holmes Antill
Benedicts
The Anderson Orr Partnership
Oxford Brookes University
Stansgate Planning Consultants
Manches
ECS Consulting
Jones Day
Goodmans
ENGAGE Oxford
VSL and Partners
Stephen Bowley Planning Consultancy
Lambert Smith Hampton
Allied Design Partnership
Darbys Solicitors LLP
Kemp & Kemp LLP
Smith Stuart Reynolds
J A Pye (Oxford) Ltd
Oxford Civic Society
DPDS Consulting Group
University of Oxford
A H Munsey Construction Consultant
Homespace
Oriol College (Estates Bursar)
Gosford and Water Eaton Parish Council

Littlemore Parish Council
Sandford on Thames Parish Council
Woodeaton Parish Council
Kidlington Parish Council
Blackbird Leys Parish Council
South Hinksey Parish Council
Environment Agency
Scottish and Southern Energy
West Oxfordshire District Council
Old Marston Parish Council
Natural England
Office of Rail Regulation
Thames Water Property Services
National Grid UK
Oxfordshire PCT
Cherwell District Council
Homes and Communities Agency
Mono Consultants
Civil Aviation Authority
Elsfield Parish Council
Kennington Parish Council
Oxfordshire County Council
English Heritage
South Oxfordshire District Council
Vale of White Horse District Council
North Hinksey Parish Council
Horspath Parish Council
Secretary of State for Transport
Thames Valley Police Authority
The Coal Authority
Highways Agency
Risinghurst and Sandhills Parish Council
Stanton St John Parish Council
Wytham Parish Council
Network Rail
Garsington Parish Council
Gerald Eve
Hives Planning Ltd
Barton Willmore
RPS Group plc
Smiths Gore
West Waddy ADP
BNP Paribas Real Estate
Riach Architects
Carter Jonas
Oxford Architects

John Phillips Planning Consultancy
Savills
Stansgate Planning Consultants
Bloombridge
Stephen Bowley Planning Consultancy
Lambert Smith Hampton
Kemp & Kemp
DPDS Consulting Group
BP Oil (UK) Ltd
Sainsbury's Supermarkets Ltd
Unipart
Oxford High Street Business Association
BMW Group
CEREP
Costco Wholesale UK Ltd
Goodman
J A Pye (Oxford) Ltd
Oxford University Students Union
Oxford and Cherwell Valley College (OCVC)
Oxford Brookes University
EF International
Headington School
University Of Oxford
Oxford Brookes University Student Union
Oriol College and the Estates Bursars Committee
Department of Public Health
The Ridgeway Partnership
Oxfordshire PCT
Oxford Radcliffe Hospitals NHS Trust
Oxford Health NHS Foundation Trust
South Central Ambulance NHS Trust
Oxfordshire Fire & Rescue Service
Beckley & Stowood Parish Council
Bromford Housing Group
Jephson Housing Group
Anchor Trust
Thames Valley Housing Association
Greensquare Group
Paradigm Housing Group
Catalyst Housing Group
SOHA
A2 Dominion Group
Housing 21
Homegroup

In addition, a total of 1,102 further people and organisations were invited to participate in the consultation. These were people and organisations who had registered an interest in City Council consultations relating to planning and regeneration.

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