

Report of: Executive Member for Housing and Development

Executive	Date: 21 July 2016	Ward(s): All
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SUBJECT: Consultation on Planning Obligations (Section 106) Draft Supplementary Planning Document (SPD)

1. Synopsis

- 1.1 Planning obligations are used as part of the planning application process to address specific planning issues and impacts arising from a development proposal. They are either agreed between the Council, land owners and developers in a legal agreement called a Section 106 (S106) agreement, or are offered by land owners in a deed without the Council being party, and are then called unilateral undertakings or unilateral planning obligations. Both types of document are made under Section 106 of the Town and Country Planning Act 1990 and their purpose is to make a development acceptable that would otherwise be unacceptable in planning terms, and can together be referred to as Planning Obligations.
- 1.2 The Council's current adopted version of the Planning Obligations (Section 106) Supplementary Planning Document (SPD) was finalised and adopted in 2013. It therefore pre-dates the 2015 London Plan, Islington's Community Infrastructure Levy (CIL) and the following SPDs: Basement Development, Cally Plan, Development Viability, Inclusive Design in Islington, Draft Location and Concentration of Uses and Preventing Wasted Housing Supply. The adoption of a Development Viability SPD is particularly relevant, as it supersedes previous Council guidance on the subject of viability, as set out in the 2013 Planning Obligations SPD. The Council's procedures have also undergone changes in some areas.
- 1.3 The purpose of this report is to put forward an updated draft Planning Obligations SPD for public consultation. This new version of the SPD will reflect up to date policies, the adoption of Islington's CIL charging schedule and will outline how infrastructure investment is now coordinated between the use of CIL and planning obligations, in line with CIL Regulations 2010 (as amended).
- 1.4 Subject to public consultation and adoption by the Executive, this new version of the Planning Obligations SPD will provide further explanation of existing national, regional and local policies affecting planning obligations, as well as further detail on the procedure for agreeing planning obligations since the adoption of the Islington's CIL and Development Viability SPD.

2. Recommendations

- 2.1 To approve the draft Planning Obligations (Section 106) SPD for public consultation.
- 2.2 To note that public consultation on the draft Planning Obligations (Section 106) SPD is scheduled to take place from 29 July to 23 September 2016.

3. Background

- 3.1 Islington has the highest population density of any local authority area in the UK, with a population that has grown by 30,000 (17%) to 206,100 residents between 2001 and 2011¹, and is estimated to grow by a further 17% (34,100 people) between 2011 and 2021². Islington also has the fourth highest employment density in the capital³, and this is projected to increase significantly in the future. High population and employment densities place pressure on infrastructure and other public facilities, and this pressure will increase with each new development.
- 3.2 Planning obligations are an essential tool for the Council to ensure that development remains sustainable and accessible within the constraints of such a diverse and densely-developed borough, thus helping to deliver the Council's policies.
- 3.3 Section 106 of the Town and Country Planning Act 1990 provides the legal means by which planning obligations are secured, allowing the Council to require obligations to make development acceptable which would otherwise be unacceptable.
- 3.4 Islington's Local Plan (Core Strategy and two of three associated Development Plan Documents (DPDs)) make numerous mention of the use of planning obligations to ensure sustainable development, as does the London Plan (2015). The following key policies may be delivered partially or fully through planning obligations:
- Sustainable development (DM9.2)
 - Affordable housing (CS 12)
 - Infrastructure (CS 18 & DM9.1)
 - Planning Obligations (London Plan Policy 8.2)
 - Social and strategic infrastructure and cultural facilities (DM4.12)
 - Crossrail (DM8.3& London Plan Policy 6.5)
 - Transport / Public Transport (DM8.2 & DM 8.3)
 - Strategic Approach to Integrating transport and development (London Plan Policy 6.1)
 - Walking & Cycling (DM8.4 & London Plan Policy 6.9)
 - Car Clubs (DM8.4)
 - Accessible Parking (DM8.5)
 - Open space and green infrastructure (CS 15 & DM6.2)
 - Play space (CS 16)
 - Employment spaces (CS 13)
 - Sustainable Design (CS 10, DM7.1 & DM7.2)
 - Student Accommodation (CS 12)
 - Small Shops (London Plan Policy 4.9)
 - Health / Health impact assessments (CS 19 & DM6.1)
 - Air Quality (London Plan Policy 7.14)
 - Priority projects of the Finsbury Local Plan (BC 10)
- 3.5 The purposes of the Planning Obligations SPD are to:

¹ 2001 and 2011 Census, Office for National Statistics (ONS)

² Comparing the Census 2011 with previous ONS and GLA population estimates/ projections - implications for service planning Islington, ILBC (2012).

³ London Datastore, Jobs and Job Density, Borough, 2014

- Help deliver the above policies and sustainable development;
 - Provide greater certainty for developers by explaining what level and types of obligations are likely to be required from what size and type of development;
 - Detail the process for agreeing planning obligations and how this is integrated with the development management process;
 - Set out the justification for the level and nature of each obligation;
 - Show how investment in infrastructure to support local development is coordinated between planning obligations and CIL.
- 3.6 The draft Planning Obligations SPD sets out the type and level of planning obligations required from each type and size of development. Planning obligations were tested through the viability assessments considered as part of the Islington CIL Examination in Public and are subject to site specific viability testing as a part of the application process. The SPD also sets out changes to the operation of planning obligations since the adoption of Islington's CIL.
- 3.7 The Islington CIL, which came into effect in 2014, provides funding for the development of the borough, and has replaced Section 106 as the primary mechanism available to the Council to secure contributions from developers for many types of infrastructure. However, even where the CIL applies, Section 106 is still necessary to secure certain other types of financial contributions and other benefits, affordable housing, impact mitigation measures and in-kind provisions from developers. Since Islington adopted its CIL charging schedule, some of the previous Section 106 infrastructure requirements have been scaled back to those matters that are both directly related to the specific site, and will not be addressed by CIL.
- 3.8 The government have commissioned a review of CIL from an industry led panel which is due to report shortly. It is anticipated that the panel will recommend significant changes to the operation of CIL and S106 obligations. If accepted by the government, these may require changes to legislation and could impact on the level of infrastructure funding secured by the Council. The Council will monitor this and may need to update its guidance further depending on changes introduced by the government and if new legislation comes into effect.
- 3.9 The statutory policies in Islington's Core Strategy, Development Management Policies and Finsbury Local Plan DPDs that this SPD supplements have undergone extensive public consultation and examination in public. The Core Strategy was adopted in 2011, and the other DPDs were adopted in 2013.
- 3.10 As well as bringing the SPD in line with the Council's adopted CIL and up to date policy, guidance and legislation, the SPD also includes a change to the formula for calculating the provision of a mix of uses in Central Activities Zone (CAZ) office proposals and off-site affordable housing contribution to support implementation of London Plan Policy 4.3 and DM policy 5.1 (see SPD Chapter 6; this will increase but not above the levels tested out in the council's combined policy viability study undertaken as part of the CIL adoption process).

Consultation

- 3.11 The statutory policies in Islington's Core Strategy, Development Management Policies and Finsbury Local Plan DPDs that this SPD supplements have undergone extensive public consultation and Examination in Public. The Core Strategy was adopted in 2011, and the other DPDs were adopted in 2013.
- 3.12 Internal consultation has been undertaken in the development of this draft SPD with relevant officers responsible for a variety of areas including planning policy, development management, traffic and engineering, learning, skills and employment, energy, environmental health, legal and other teams. These internal consultation responses have helped inform the draft SPD.
- 3.13 On 20 June 2016 an external pre-consultation letter was also sent to a number of interested parties.

The purpose of this letter was to notify those who had previously shown an interest and made comments during the previous round of consultations on the now adopted Planning Obligations SPD (2013) to give them advanced notification of the public consultation process as well as to allow them to share their opinions on the subject to help shape the updated draft.

- 3.14 Public consultation on the draft SPD will be in line with the statutory requirements set out in the relevant planning regulations. An eight week consultation will take place from 29 July to 23 September 2016. Following public consultation, it is proposed that the comments will be assessed and that amendments may be made to the draft SPD prior to a report recommending adoption to Executive.

4. Implications

Financial implications:

- 4.1 The cost of preparing the Supplementary Planning Document is being met from the existing revenue budget of the Spatial Planning and Transport service, which sits within the Planning and Development division. Once in place, this Supplementary Planning Document will be used in determining all planning applications that are expected to enter into a Section 106 agreement. The greater clarity afforded by this SPD is likely to support the negotiation of financial resources for the Council. Allocation and expenditure of S106 funds will be carried out in accordance with planning regulations and the specific legal agreements signed by the Council and land owners /developers.

Legal Implications:

- 4.2 This draft Supplementary Planning Document has been prepared in line with the relevant planning regulations. There are policy foundations for the SPD within the Core Strategy, Development Management Policies and Finsbury Local Plan DPDs (see above). The Town and Country Planning (Local Development) (England) Regulations 2012 require that the council carries out public consultation before making a decision about adoption. Following consultation and adoption, the SPD will be a material consideration in the determination of future planning applications.

Environmental Implications

- 4.3 The policies on which this SPD is based have been subject to extensive Sustainability Appraisal at each stage of plan preparation. The Planning Obligations (Section 106) SPD has not been subject to Sustainability Appraisal because the SPD does not introduce new policies – it supports implementation of existing policies established within the Core Strategy, Development Management Policies DPD and Finsbury Local Plan DPD. These policies have been sufficiently appraised through the SAs carried out for the Core Strategy and the DM Policies DPD.
- 4.4 In addition, a screening exercise has been carried out to determine that this SPD does not require a Strategic Environmental Assessment (SEA) in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 and European Directive 2001/42/EC. This is because the Planning Obligations (Section 106) SPD will not result in any significant effects in addition to those already identified through the higher level sustainability appraisals discussed above. The SPD will only provide further guidance on the implementation of policies in the Core Strategy, DM Policies DPD and Finsbury Local Plan DPD. The Screening Statement will be updated after the Public Consultation has taken place.

Resident Impact Assessment:

- 4.5 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.
- 4.6 An equalities impact assessment (EqIA) was undertaken on each of the documents that form the basis for this SPD – the Core Strategy, the Development Management Policies DPD and the Finsbury Local Plan DPD. The Planning Obligations SPD itself has also been subject to a Resident Impact

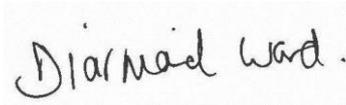
Assessment.

- 4.7 This RIA indicates that there were no negative equality impacts for equalities target groups which will arise from the publication of the SPD. The SPD supports the Council's planning policies in ensuring that the maximum reasonable affordable housing is provided and will additionally ensure that other policy requirements and site-specific infrastructure are provided to support development, which are likely to cause indirect benefits to equalities target groups. However, direct positive impacts are difficult to predict, prove or measure in this case.

5. Reasons for the recommendations / decision:

- 5.1 The Planning Obligations SPD will provide further explanation of existing national, regional and local policies affecting planning obligations, as well as further detail on the procedure for agreeing planning obligations since the adoption of Islington's CIL. After public consultation running for 8 weeks from 29 July to 23 September 2016, the SPD will be amended if necessary and recommended to Executive for formal adoption.

Signed by:



13 July 2016

Executive Member for Housing and Development Date

Appendices

- Appendix 1 – Draft Planning Obligations (Section 106) SPD
- Appendix 2 – Consultation Statement on Draft Planning Obligations (Section 106) SPD

Background papers: none

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