

Executive

Planning Obligations Draft Supplementary Planning Document

23 May 2011

Report of Strategic Director, Planning, Housing and Economy

PURPOSE OF REPORT

To report back on the progress of the Planning Obligations Draft Supplementary Planning Document (SPD) and to approve the use of the draft SPD as informal guidance with immediate effect.

This report is public

Recommendations

The Executive is recommended:

- (1) To approve the use of the draft Supplementary Planning Document as informal guidance with immediate effect.

Executive Summary

Introduction

- 1.1 Members considered a report to Executive on 10 January 2011 seeking:
 - a) the endorsement of the Planning Obligations Draft Supplementary Planning Document for public consultation;
 - b) approval to use the document as informal guidance; and
 - c) the authorisation for the Strategic Director, Planning Housing and Economy in consultation with the Portfolio Holder, Planning and Housing, to make any further minor non-substantive changes as necessary to the draft Supplementary Planning Document prior to the publication for public consultation.
- 1.2 The recommendation however was amended by officers at the meeting and approval was not sought for the use of the document as interim guidance with immediate effect as it had not been possible to complete parts of the document due to outstanding information. During the course of the debate members made a number of detailed comments and observations, in light of which it was agreed, would be considered prior to public consultation.

- 1.3 Members therefore resolved:
- a) That the Planning Obligations Draft Supplementary Planning Document be noted and subject to the consideration of observation raised at the meeting endorsed for public consultation, the timing of which to be at the discretion of the Portfolio holder.
 - b) That the Strategic Director, Planning, Housing and Economy, be authorised in consultation with the Portfolio Holder Planning and Housing, to make any further minor non-substantive changes as are necessary to the draft Supplementary Planning Document prior to the publication for public consultation.

Proposals

- 1.4 The full Draft SPD (Appendix 1) has been placed on deposit in the Member Room. Full copies are available on request to the report author.

The Executive is now being asked to note that full public consultation on the draft SPD will now take place with the Local Development Framework (LDF) Core Strategy, but to agree the use of the draft SPD as informal guidance with immediate effect.

Conclusion

- 1.5 Following the completion of the document, and the consideration of the comments and observations made by Members, the draft SPD is now ready for public consultation. This consultation will be carried out at the same time as the consultation for the LDF Core Strategy (See report and recommendations elsewhere on the agenda). After the consultation period has ended the representations made will be brought back to the Executive to consider and Members will be asked to approve the SPD for formal use in development control. At this point the document will have some weight, but will still depend for full effect on the final adoption process for the Core strategy.
- 1.6 The Executive is now asked to approve the draft SPD as informal guidance with immediate effect. There is an urgent need to replace the now outdated current guidance 'Planning Obligations – Interim Planning Guidance 2007'. The draft SPD can be used as a practical and up to date basis for development control negotiations whilst the document is finalised and formalised through the LDF process.
- 1.7 The draft SPD replaces and supersedes all previous documents relating to planning obligations including the Affordable Housing Code of Practice Supplementary Planning Guidance (SPG) 2004 (with addendum 2007) and the Residential and Amenity Open Space Provision SPG (2004 and revised adoption procedures 2006)

Background Information

- 2.1 This report is a companion to the report on the Local Development Framework elsewhere on the agenda. The SPD has been prepared in the context of the agreed LDF strategy and is to form part of the LDF. The SPD offers more detailed guidance to supplement the policies in the Core Strategy on how the Council as LPA will decide what new infrastructure and facilities need to be provided as a consequence of development and assess requirements for 'in-kind' provision and/or financial contributions towards provision.
- 2.2 Whilst it is recommended that the draft SPD is used as interim guidance with immediate effect it will only be an informal tool in negotiations on planning obligations. It will not carry the full weight of an SPD until it has undergone public consultation and is adopted by the Council. Given that the SPD supports the policies in the Core Strategy it is considered that the public consultation should take place at the same time as that for the Core Strategy. This is likely to be later this year.
- 2.3 The County Council raised concerns regarding the document in response to the report considered at January's meeting. The concerns were noted at the Committee at the meeting (OCC letter circulated). The County Council's concerns were closely related to issues of how local authorities should prepare for the introduction of Community Infrastructure Levy (CIL) in 2014, a matter that the SPD specifically tries to address. The main points raised were as follows:
 - a) Proposal not to seek contributions from affordable housing – such development creates additional pressure on services provided by the County Council
 - b) Cherwell District Council to normally be the only local authority party to future legal agreements.
 - c) Timing of consultation prior to that on the Core Strategy
- 2.4 In response to these concerns:
 - a) CIL specifically excludes affordable housing provision from making general financial contributions and this draft SPD has to prepare the way for CIL. On major sites the overall scale of housing proposed, including affordable, will still be a relevant consideration in making direct, on site, infrastructure provision
 - b) The draft SPD is clear that with planning agreements where the County Council needs to make a formal legal commitment to an implementation project they will be a party to the agreement. The Local Planning Authority's decisions will still deal with important County infrastructure considerations, but a simpler / speedier method of securing straightforward financial contributions via unilateral undertaking and standard CDC planning agreements is needed to handle routine cases effectively and prepare for CIL.
 - c) It is recommended that the timing of the public consultation is now to

coincide with that of the Core Strategy

- 2.5 This report is also is to update Members of the progress on the document since January's Executive. There has been time for further technical work and consultation including with the County Council. One of the main areas of work that was outstanding was the section on 'General Transport and Access Impacts'. This work has now been completed following further information being provided by the County Council.
- 2.6 At January's Executive Members requested a seminar to cover the planning obligations and affordable housing and to allow a number of detailed matters raised by members of the Committee to be addressed. This took place on 29 March and also included an update on the progress of the LDF and how planning obligations and CIL tie in with the LDF.
- 2.7 In the run up to public consultation it is intended to carry out further technical consultation and checks with the many public agencies that have contributed to the document. This is to ensure that all information within the SPD is as correct and up-to-date as it can be. The delegation agreed at the previous meeting will allow any necessary changes to be made before the LDF Core Strategy consultation.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The main issue for consideration is whether to approve the use of the draft SPD as informal guidance for Development Control purposes with immediate effect.
- 3.2 If approved as informal guidance for development control purposes the SPD will be used to assist in officer negotiations and the determination of planning applications, which means that planning applications that do not comply with the draft SPD may be recommended for refusal. It should however be recognised that the draft SPD will not have been through any public consultation and will not carry full statutory weight until it has been through public consultation and is formally adopted in the context of progress on the LDF Core Strategy.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

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| Option One | To approve the use of the draft SPD as informal guidance for development control purposes with immediate effect. |
| Option Two | To approve the use of the draft SPD as informal guidance for Development Control purposes following amendment. |
| Option Three | Not to approve the use of the draft SPD as informal guidance for Development Control purposes. |

Consultations

Public sector
Stakeholder
discussions and
consultation

All public sector stakeholders have provided information and evidence to enable the compilation of the document.

Implications

Financial:

There are no direct financial implications arising from this report. However, the contents of the SPD will influence the level of contribution received towards infrastructure and community facilities.

Comments checked by Joanne Kaye, Service Accountant
01295 221545

Legal:

It should be noted that, even after public consultations have been completed and when the SPD has been approved for development control purposes, it will remain an informal document only, until formally adopted and this is unlikely to occur before adoption of the Core Strategy.

Comments checked by Nigel Bell, Team Leader –
Planning & Litigation, 01295 221687

Risk Management:

There are no significant direct risk management implications arising from this report.

Comments checked by Claire Taylor, Community and
Corporate Planning Manager 01295 221563

Equalities

There are no equality issues arising from this report

Comments checked by Caroline French, Equalities and
Diversity Officer 01295 221586

Wards Affected

All

Corporate Plan Themes

All

Executive Portfolio

Councillor Michael Gibbard
Portfolio Holder for Planning and Housing

Document Information

Appendix No	Title
Appendix 1	Planning Obligations Draft Supplementary Planning Document – The full Draft SPD has been placed on deposit in the Member Room.

Background Papers

Handouts from Member Training/Briefing held on 29/3/11 and list of points raised by Members at the session

Report Author

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