

# Executive

## Planning Obligations Draft Supplementary Planning Document

10 January 2011

### Report of Strategic Director, Planning, Housing and Economy

#### PURPOSE OF REPORT

To consider 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

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The Executive is recommended:

- (1) To consider the Planning Obligations Draft Supplementary Planning Document (a copy is available in the Members Room and on request from the Planning Policy Team, it can also be viewed on the website) and endorse it for public consultation.
- (2) To approve the use of the draft Supplementary Planning Document as informal guidance with immediate effect.
- (3) To authorise 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 are necessary to the draft Supplementary Planning Document prior to the publication for public consultation.

#### Executive Summary

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##### Introduction

- 1.1 A Planning Obligations Draft Supplementary Planning Document has been prepared to offer more detailed guidance to supplement the policies in the Core Strategy on how the Council (as Local Planning Authority - 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. Existing guidance on the

Council's requirements for planning obligations is given in the document 'Interim Guidance on Planning Obligations' approved in April 2007.

1.2 The aims of the draft SPD are to provide:

- clarity to developers and minimise time spent on negotiating planning obligations in connection with individual planning applications; and
- assurance, and a full explanation, to existing residents and businesses in the district about how the LPA will meet its policy commitment to ensuring that new development makes a contribution to meeting the infrastructure demands it imposes on the area.

### **Proposals**

1.3 The Executive is being asked to approve the draft SPD for public consultation and to agree the use of the draft SPD as informal guidance with immediate effect.

### **Conclusion**

1.4 The draft SPD has been prepared to supplement policies in the Core Strategy which seek the provision of, or contributions towards, infrastructure and community facilities and services to support new development. It provides a clear indication of the LPA's essential infrastructure and community facilities and services requirements that will be sought through planning obligations and should lead to a more efficient and streamlined planning process

1.5 The Executive is being asked to approve the draft SPD for public consultation. This consultation will be carried out at the same time as the consultation for the Core Strategy. 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 a final SPD document for development control purposes. This is likely to be after the adoption of the Core Strategy.

1.6 The Executive is also being asked to approve the draft SPD as informal guidance with immediate effect, the draft SPD will replace the current interim guidance 'Planning Obligations – Interim Planning Guidance 2007'.

## Background Information

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- 2.1 The system of planning obligations was introduced to enable LPAs to negotiate direct mitigation measures and / or financial contributions on large scale developments, on a site by site basis. This was with the objective of allowing significant development proposals which might not otherwise be acceptable in planning terms, to be permitted. This approach did not readily allow account to be taken of smaller scale developments and their cumulative impact.
- 2.2 Over time the scope of planning obligations has extended beyond the original intention and government has encouraged local authorities to introduce tariff systems with standard charges and pooling of contributions designed to address wider, off site, development impacts and to facilitate contributions from smaller developments. This approach attempts to try to spread the burden of infrastructure costs arising as a result of new development, more fairly and evenly. LPAs may apply standard charges of this kind as a unified and non negotiable levy applied by head of population, dwelling numbers or floorspace.
- 2.3 Regulations are now in force (Community Infrastructure Levy (CIL)) that allow a charge to be levied on most types of new development to contribute towards local and sub-regional infrastructure requirements and needs and this will be used alongside planning obligations which will continue to be sought to cover affordable housing and the direct impacts of development and its mitigation. However the Council has not decided whether the use of CIL will be appropriate and we do not currently collect contributions in this manner. The draft SPD revises the way in which the Council will be seeking planning obligations in preparation for how we may seek contributions towards infrastructure in the future.
- 2.4 The existing document, 'Planning Obligations – Interim Planning Guidance 2007' is to be replaced by the draft SPD which has been prepared with reference to the full range of current national policy and guidance on planning obligations. The main changes in the draft SPD are set out in the following paragraphs.
- 2.5 The proposed draft SPD seeks to fully clarify the procedures for securing planning obligations and to provide a more detailed justification for the requirements making the process more transparent and enabling officers to more robustly defend negotiations of the level and types of planning obligations required.
- 2.6 The infrastructure, services and community facilities required by the Council, as LPA, and the types of development they apply to are detailed in the topic sections of the draft SPD. These have been split into two sections to reflect the current guidance and legislation:
  - On site related items, where some provision is likely to be through “in kind” facilities directly provided by the developer and some will be covered by financial contributions. These will be required as a direct result of the impact which a development scheme places on its site and surroundings and will often necessitate use of land on the site

such as affordable housing and local open space, play space and landscaping etc.

- General infrastructure related items or projects that are suitable for a tariff approach or a future levy approach. The section includes items that are considered to be general community infrastructure or service items where we seek a partial financial contribution towards enhancing provision to meet the needs of the development such as wider transport and accessibility infrastructure, libraries, schools etc.
- 2.7 Due to the state of the economy, especially in the development sector, securing planning obligations in the current economic climate is very difficult. The economic viability of schemes needs to be very carefully considered as part of the planning process and if the cost of planning obligations is too high developments will be unviable.
- 2.8 The document recognises that in dealing with development proposals financial viability concerns may arise. This does not include instances where developers acquire sites without permission at unrealistically high prices and then seek reductions in the level of planning obligations. As a result of these viability issues the draft SPD seeks to set out priorities for obligations so as to manage the most significant impacts of development. For example, providing affordable housing is particularly costly, especially without Homes and Communities Agency (HCA) grant, and as the provision of affordable housing is of high priority, planning obligations of a low priority may not be sought if a scheme is found to be unviable.
- 2.9 The relative priority to be given to competing requirements will be specifically assessed with regard to the Development Plan policies, the needs of the locality and the particular characteristics of the site and its setting.
- 2.10 It is the intention that the general infrastructure or service related items (those in section 2 of the draft SPD) will not normally be applied to affordable housing schemes or the affordable housing element of other residential development to ensure that the planning obligations do not reduce the viability of the development and the provision of affordable housing.
- 2.11 The draft SPD simplifies the method of calculations for contributions introducing a tariff style approach for many of the obligations sought. Unilateral undertakings for purely financial contributions will be used, especially for small developments, rather than legal agreements. Model unilateral undertakings and legal agreements have been produced to further simplify the process. The contributions will be collected by CDC and redistributed to the infrastructure or service providing body (e.g. Oxfordshire County Council) as necessary.
- 2.12 In the preparation of the draft SPD consultation has been carried out with Services within the Council and external bodies such as the County Council, Thames Valley Police Authority, Oxfordshire PCT, and the Environment Agency to ensure that the Council can fully justify and robustly defend seeking the planning obligations. A full list of the background documents and evidence sources that inform the SPD is contained in the appendices of the draft SPD and the relevant sources are referred to in each of the topic sections. The evidence sources will be updated as necessary.

- 2.13 The nature of guidance on infrastructure and other planning obligation requirements is such that there can be a need for relatively frequent update. The draft SPD has been prepared as a 'living document' with self-contained topic sections that can be updated individually as necessary and then slotted into the overall document on a loose leaf basis. Where such update is necessary changes will be subject to appropriate consultation.

### **Key Issues for Consideration/Reasons for Decision and Options**

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- 3.1 The main issues for consideration are whether to endorse the draft SPD for public consultation and 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 after the Core Strategy.

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

- Option One** To endorse the SPD for public consultation and approve the use of the draft SPD as informal guidance for development control purposes with immediate effect.
- Option Two** To endorse the SPD for public consultation with amendments and to approve the use of the draft SPD as informal guidance for Development Control purposes following amendment.
- Option Three** Not to endorse the SPD for public consultation and not to approve the use of the draft SPD as informal guidance for Development Control purposes.

### **Consultations**

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- Stakeholder discussions and consultation** Stakeholders have provided information and evidence to enable the compilation of the document.

### **Implications**

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- 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 Eric Meadows, Service Accountant 01295 221552.

**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, Solicitor 01295 221687.

**Risk Management:** There are no significant direct risk management implications arising from this report.

Comments checked by Rosemary Watts, Risk Management and Insurance Officer 01295 221566.

**Equalities** There are no equality issues arising from this report

Comments checked by Caroline French, Equalities and Diversity Officer 01295 221856.

### **Wards Affected**

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All

### **Corporate Plan Themes**

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Theme 1  
Theme 2  
Theme 3  
Theme 5  
Theme 6  
Theme 7  
Theme 8

### **Executive Portfolio**

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**Councillor Michael Gibbard**  
**Portfolio Holder for Planning and Housing**

### **Document Information**

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| <b>Appendix No</b>         | <b>Title</b>                                  |
|----------------------------|---|
| No documents               |   |
| <b>Background Papers</b>   |   |
| Planning Obligations       | Draft Supplementary Planning Document         |
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