

REPORT FOR: **CABINET**

Date of Meeting:	20 June 2013
Subject:	Draft Planning Obligations Supplementary Planning Document
Key Decision:	Yes
Responsible Officer:	Caroline Bruce, Corporate Director of Environment and Enterprise
Portfolio Holder:	Councillor William Stoodley, Portfolio Holder for Planning and Regeneration
Exempt:	No
Decision subject to Call-in:	Yes
Enclosures:	Appendix 1 - Draft Planning Obligations Supplementary Planning Document

Section 1 – Summary and Recommendations

This report introduces the draft Supplementary Planning Document on Planning Obligations, which sets out the Council's approach, policies and procedures in respect of the use of planning obligations alongside the introduction of Harrow's Community Infrastructure Levy.

Recommendations:

Cabinet is requested to:

1. Approve the draft Supplementary Planning Document on Planning Obligations (attached as Appendix 1) for publication for formal public consultation to be undertaken in accordance with the Council's Statement of Community Involvement.

Reason: (For recommendation)

To ensure the SPD, when adopted, is afforded weight as a material planning consideration.

To reflect the Council's proposal to introduce a Community Infrastructure Levy (CIL) and to clarify the relationship between CIL and Planning Obligations to reduce the planning risk of 'double dipping' when seeking or securing contributions from development towards specific infrastructure requirements.

Section 2 – Report

1. Section 106 of the Town and Country Planning Act 1990 (as amended) allows planning obligations to be entered into between landowners and the Council. These legal agreements allow the Council to control the impact of a development, beyond that which can be achieved via planning conditions. Planning obligations are an established mechanism to secure the delivery or funding of services or facilities needed as a result of new development. Contributions to infrastructure are delivered by way of physical works (on or off-site), land transfer or financial contributions.

2. Currently, planning obligations are typically used to secure various matters, including affordable housing provision, contributions towards off-site improvements to open space, education, community and transport facilities, and the mitigation of site specific impacts, such as biodiversity & works within the highway.

3. However, the legislative framework within which planning obligations are considered has recently changed with the introduction of the Community Infrastructure Levy (CIL) Regulations 2010. These changes effectively mean that strategic infrastructure, such as schools and healthcare, should be funded only by CIL, while the role of planning obligations is to be limited to affordable housing and the mitigation of site specific impacts.

4. The Council is currently in the process of bringing into effect its CIL for the Borough. The draft Supplementary Planning Document (SPD) has been prepared to clearly set out the Council's approach, policies and procedures in respect of the use of planning obligations in relation to the CIL to be applied in Harrow.

Options considered

5. The Council does not currently have formal planning guidance on the use of planning obligations. While the Council could continue with this approach, this would be at odds with government guidance that requires local authorities, intent on bringing forward a CIL, to clearly set out the

infrastructure eligible for CIL funding and that which may still fall to planning conditions or obligations to secure. This is so developers know and understand what they are expected to pay for through which route, and avoid any actual or perceived 'double dipping' (i.e. development being charged twice for the same item of infrastructure).

6. Further, the introduction of the SPD also seeks to aid in the negotiations that currently take place with developers about the planning obligations that may be applicable to a particular scheme. Such negotiations are often protracted, slowing down both the planning application process and the process of finalising the legal agreement. Maintaining the status quo would not help to address this issue and could hinder other initiatives by the Council to deal with planning applications in a more timely and efficient manner.

Current Situation and Why a Change is Needed

7. Harrow's CIL is currently the subject of independent examination, and is proposed to be adopted by the Council in July and formally implemented in September. As stated at paragraph 5 above, there is currently no formal guidance issued by the Council on the use of planning obligations for developments in the Borough. The draft SPD has therefore been prepared to clarify the relationship between planning obligations, planning conditions and the Council's Community Infrastructure Levy.

8. While the Council expects most site specific impacts of development to be mitigated through good design and layout, in accordance with Local Plan policies, some impacts are likely to require physical works or other forms of improvement to mitigate them. However, the nature of site specific impacts means they vary widely depending on the site, its local context, and the nature of the development proposed. Therefore, beyond the requirements for affordable housing, the SPD does not propose to ascribe a set of circumstances under which certain types of obligations will be sought as a norm. Rather the intent of the SPD is to assist developers and others to understand the types of obligations that may be sought by the Council depending on the nature of the development proposal, site circumstances, the impacts identified and how these may be best met.

9. The overall purpose of the SPD is to help deliver good quality sustainable development that accords with the policies and requirements of the Harrow Local Plan.

Next Steps

10. Following approval by Cabinet, a four-week period of public consultation will be held during this summer. This may extend beyond the normal four-week period to allow for this being the summer holiday period.

11. The consultation responses will then be assessed and the SPD amended, as necessary or further evidence base research undertaken before the SPD is reported back to Cabinet later in the year for formal adoption.

Implications of the Recommendation

Legal comments

12. A Supplementary Planning Documents (SPD) provides detail to support policies in the local plan and must be consistent with the local plan.

13. The Council is required under the Town and Country Planning (Local Plan) (England) Regulations 2012 (“the Regulations”) to consult formally on an SPD and to take into account any representations received before the SPD can be adopted.

14. The Secretary of State has powers under the Regulations to direct a Council not to adopt an SPD.

Financial Implications

15. The cost of preparing and consulting on the draft Planning Obligations SPD will be met from existing budgets.

16. The effective application of Local Plan policies and the guidance in SPD should ensure that new development mitigates any potential impacts arising directly from the development and will make adequate provision, on-site to meet the immediate needs of the development. It will also ensure that the Council continues to secure affordable housing on applicable residential schemes in accordance with Harrow’s Local Plan and Housing policies. This will mean that the costs that are currently incurred by the Council as a result of new development will be more reasonably borne by both the council and the developer.

Performance Issues

17. With the exception of affordable housing, there are no local indicators relevant to the performance of planning obligations. This is because planning obligations are only triggered when development proposed can not meet the applicable policy requirements of the Local Plan or give rise to specific impacts that require mitigation.

18. With regard to affordable housing, the existing local indicator is a net addition of 165 affordable units per annum. The Authority’s Monitoring Report shows that over the past 11 years, the Council has managed to secure on average 137 affordable units per annum. The provision of affordable housing is very much subject to development viability. It is therefore not anticipated that the SPD will necessarily improve performance in this area but rather will ensure that tenure and mix of affordable housing to be provided is directed at those areas identified by the Council as being of greatest need. Overall the SPD will aid the smooth functioning of the planning application process by making developers and landowners aware of the procedures for securing planning obligations, including the provision of affordable housing.

Environmental Impact

Does the proposal comply with all relevant environmental legislation? Yes

19. The policies that the draft SPD guidance supplements have been the subject of a comprehensive Sustainability Appraisal, incorporating the requirements of Strategic Environmental Assessment, in compliance with the regulatory requirements for preparing local plan documents. The government has confirmed that, where the parent policy has been appraised, it is not necessary to appraise any guidance that simply seeks to give effect to the policy.

Risk Management Implications

Risk included on Directorate risk register? No

Separate risk register in place? No

Potential Risks	Commentary	Mitigation Measures
Compliance with legislation	SPDs are required to comply with the legal requirements for preparation and consultation as set out in the Planning and Compulsory Purchase Act and the Town and Country Planning (Local Plan) (England) Regulations 2012.	Officers will ensure the SPD is subject to public consultation in accordance with the requirements set out in Council's Statement of Community Involvement and that any representations received are logged, analysed, responded to, and the SPD amended, where necessary, to take account of relevant comments prior to its formal adoption.
Changes to the planning system	The government continues to reform the existing legislation applicable to planning in England. A focus of these reforms is on reducing the financial and regulatory burden placed upon proposals for new development. Planning obligations, in particular, requirements for affordable housing, can be a significant development cost and are therefore likely to be the subject of further reforms.	Officers will continue to keep abreast of proposals and consultation on changes to the planning legislation and national planning policy. Where potential issues arise with either the context or processes outlined in the SPD, these will be reported to the LDF Panel to consider alongside office recommendations on review or necessary amendments.
Application of the SPD	In preparing the draft SPD, the Council has sought to apply robust justification for the obligation included. However, there is a degree of professional judgment required in the assessment of likely impacts of an individual planning application that may give rise to potential obligations.	The SPD includes requirements for monitoring its effectiveness that would necessarily trigger an analysis and potential review of the SPD should the monitoring indicate that the processes outlined or obligation types where no the most applicable.

Equalities implications

Was an Equality Impact Assessment carried out? No

20. The Planning Obligations SPD does not include policies but rather supplements existing policies in the Local Plan, which have themselves been the subject of full Equalities Impact Assessment (EqIA). An equalities impact assessment of the SPD is therefore not necessary.

Corporate Priorities

21. The implementation of the SPD should assist in the delivery of the corporate priority to keep neighbourhoods clean, green and safe by:

- ensuring that opportunities to secure new open space on major development schemes are secured;
- securing financial contributions towards local space improvements where on-site amenity space provision is not possible;
- securing off-site improvements to community safety, including new street lighting and CCTV installation;
- ensuring opportunities for the use of renewable resources in new development are secured;
- ensuring appropriate mitigation of flood risk; and
- securing the retention or reinstatement of existing habitat features on a development site

22. The SPD will also contribute to the corporate priority to support and protect people who are in most need by ensuring that the requirements for affordable housing are understood and that the right type of affordable housing is secured in the right locations.

Section 3 - Statutory Officer Clearance

Name: Kanta Halai	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 21 May 2013		
Name: Abiodun Kolawole	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 28 May 2013		

Section 4 – Performance Officer Clearance

Name: Martin Randall

on behalf of the
Divisional Director
Strategic
Commissioning

Date: 21 May 2013

Section 5 – Environmental Impact Officer Clearance

Name: Andrew Baker

on behalf of the
Divisional Director
(Environmental
Services)

Date: 21 May 2013

Section 6 - Contact Details and Background Papers

Contact: Matthew Paterson, Senior Professional Policy
Planning, Development and Enterprise

Tel: 020 8736 6082

Background Papers: Harrow's Core Strategy (February 2012)
http://www.harrow.gov.uk/downloads/file/11418/core_strategy_2012 ;
London Plan (2011)
<http://www.london.gov.uk/priorities/planning/london-plan>
Draft Development Management Policies Local Plan
http://www.harrow.gov.uk/info/856/local_development_framework_policy/2654/examination_in_public_on_three_dpds/2
Harrow's CIL Draft Charging Schedule (including the proposed Regulation 123 list)
http://www.harrow.gov.uk/info/856/local_development_framework_policy/2677/community_infrastructure_levy_cil/3

All of the above are available to view via the links to the Council's website.

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE

[Call-in applies]