
Meeting	Cabinet
Date	18 April 2013
Subject	Barnet's Local Plan – Planning Obligations Supplementary Planning Document - Adoption
Report of	Cabinet Member for Planning and Regulatory Services

Summary The Local Plan is one of the most important statutory plans in Barnet. The Planning Obligations Supplementary Planning Document (SPD) implements the policies contained in the Local Plan Core Strategy and Development Management Policies documents.

The Planning Obligations SPD has been revised to consolidate existing guidance documents, focus on when Planning Obligations will be required, and explain how they will be agreed in relation to Barnet's Community Infrastructure Levy (CIL). The SPD sets the requirements for different scales of development as well as the procedures and processes for delivering the appropriate legal agreements and supplements policies in the Local Plan Core Strategy and Development Management Policies documents.

Officer Contributors	Assistant Director – Strategic Planning & Regeneration Planning Policy Officer
Status (public or exempt)	Public
Wards Affected	All
Key Decision	Yes
Reason for urgency / exemption from call-in	Not applicable
Function of	

Enclosures

Appendix A: Planning Obligations SPD
Appendix B: Schedule of consultation responses

Contact for Further
Information:

Mike Carless – Principal Planner (Policy) - 0208 359
4657

1. RECOMMENDATION

- 1.1 That Cabinet approve the Planning Obligations Supplementary Planning Document (attached at Appendix A) for adoption.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 On 27 February 2006 Cabinet (Decision item 7) approved the Supplementary Planning Document on Planning Obligations Framework (Section 106) for adoption.
- 2.2 On 21 February 2008 Cabinet (Decision item 8) approved the Supplementary Planning Documents on Education and Contributions to Library Services for adoption.
- 2.3 On 6 July 2009 Cabinet (Decision item 4.1) approved the Supplementary Planning Document on Contributions to Health Facilities from Development for adoption.
- 2.4 On 28 February 2012 Cabinet Resources Committee (Decision item 16) approved that Council progress towards adopting a Community Infrastructure Levy.
- 2.5 On 11 September 2012 the Council (Decision item 4.1) approved the Local Plan Core Strategy and Development Management Policies for adoption.
- 2.6 On 28 November 2012 the Cabinet Member for Planning approved a Delegated Powers Report (Report number 1863) authorising seven weeks consultation on the draft Planning Obligations SPD.
- 2.7 On 25 February 2013 Cabinet (Decision item 9) approved the Community Infrastructure Levy for referral to the next meeting of the Council for adoption.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 All three priorities in the Corporate Plan 2012 -2013 are embedded within the Planning Obligations SPD.
- In providing better services with less money it ensures that :-
 - clear, concise and up to date guidance on Planning Obligations is provided reflecting Barnet's priorities.
 - In sharing opportunities and sharing responsibilities it ensures that :-
 - development contributes towards meeting its wider infrastructure impact through for example providing contributions for education and health or a new school.
 - residents lead healthy and independent lives through ensuring development provides play facilities on site if appropriate or contributes to improving open space facilities locally.
 - In enabling Barnet to continue to be a Successful London Suburb it ensures that:-

- Barnet is kept moving through ensuring the transport impacts of new development are mitigated by necessary travel planning arrangements and junction improvements
- the environment is protected through ensuring new development is located and constructed in a sustainable way, does not adversely impact on air quality and neighbouring amenity nor is affected by noise and air pollution.

4. RISK MANAGEMENT ISSUES

- 4.1 The proposed changes to the 2006 Planning Obligations SPD are necessary updates to reflect the changes made at a national level and the introduction of the Community Infrastructure Levy. The changes proposed in the revised SPD are designed to clarify the relationship between CIL and Planning Obligations to reduce the planning risk of 'double charging' major developments and the Council's regeneration schemes.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Planning Obligations SPD implements policy contained in the Core Strategy which has been subject to an Equalities Impact Assessment (EqIA). The Core Strategy is the overarching planning policy document for Barnet. The Planning Obligations SPD implements the approach set out in the higher level Core Strategy and has therefore not been subject to an EqIA. It will draw from the EqIA supporting the Core Strategy which was based on the seven corporate equalities questions set out in the Corporate Plan.
- 5.2 The SPD has been subject to seven weeks public consultation and the responses have been considered and changes made to the final document.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 The cost of preparing the Local Plan is included in the Strategic Planning Service approved budget for 2012/13 of £1.063m. The Planning Obligations SPD is one part of the Local Plan and the cost of preparing the SPD is incorporated within the approved budget. Officer time amounted to 169 hours at a cost in staff time of £4,628.
- 6.2 The revision of this SPD follows the adoption of the Local Plan Core Strategy and Development Management Policies in September 2012 and the proposed adoption of the Community Infrastructure Levy in Barnet. The adoption of this Planning Obligations SPD does not add any additional resource implications to the existing resources in the approved budget.

7. LEGAL ISSUES

- 7.1 The Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 provide guidance on

the preparation and adoption of the Local Plan. Upon adoption the Planning Contributions guidance becomes a statutory Supplementary Planning Document that provides part of Barnet's formal planning policy.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution, Part 3 (Responsibility for Functions), Section 3 (Responsibilities of the Executive) – details that the adoption of Supplementary Planning Documents (SPD) are the responsibility of the Cabinet.

9. BACKGROUND INFORMATION

- 9.1 The original Planning Obligations SPD, published in 2006 set out the framework for the two SPDs on contributions towards Education and Libraries published in 2008 and contributions towards Health Facilities SPD published in 2009. The 2006 Planning Obligations SPD was supplemented by an Interim Guidance Note published in September 2009 in order to respond to the recession by setting out clear processes for assessing development viability, as well as providing measures to allow deferment of contributions if developers chose to kick start building works sooner than they were required. The main purpose of the Planning Obligations SPD was to provide guidance on when, where, and how the council will seek to use Planning Obligations and the procedural process for doing so. The revised SPD updates the guidance on current processes and the matters which will be considered in relation to planning applications.

- 9.2 Since the original SPD was written, the legislative, national and local planning framework within which planning obligations are considered has changed, with the following effects:

(a) The Planning Act 2008 enabled the introduction of Community Infrastructure Levy (CIL) Regulations 2010 which have fundamentally changed the role of Planning Obligations by limiting their use once an adopted (CIL) is in place.

(b) In March 2012 the Government published the National Planning Policy Framework (NPPF) as the replacement for 44 planning documents which previously formed Government policy towards planning. The NPPF duplicates the three tests for Planning Obligations contained in the CIL Regulations giving a stronger legal footing to their application. (The three tests were previously contained in Circular 05/05 guidance which has now been replaced by the NPPF)

(c) The London Plan published in July 2011 has also been subject to a full review which has recognised the move from a system in which planning obligations operate alone, to one in which they sit alongside the operation of both a mayoral and a local CIL.

(d) In 2007 work commenced on replacing the UDP with the Core Strategy and Development Management Policies documents. In September 2012 these documents were adopted and the UDP was replaced. The Local Plan Core Strategy recognises the NPPF and CIL Regulations and the need for a

suitable local policy framework to be put in place to manage the interrelationship between Planning Obligations and CIL.

- 9.3 As referred to in 9.1, the original SPD has been revised to focus on when Planning Obligations will be required, and how they will be managed in relation to the CIL applying in Barnet. The SPD sets the requirements for different scales of development as well as the procedures and processes for delivering the appropriate legal agreements.
- 9.4 This revised SPD has been timetabled to be adopted alongside the CIL Charging Schedule in April 2013. It will replace the existing 'tariff' SPD's for Education, Libraries and Health and it will set out the approach towards Planning Obligations for open spaces, transport, community facilities and environmental requirements.
- 9.5 This revision continues and enhances the framework for enabling the viability of a development to be considered during the application process to ensure the combined weight of planning requirements and conditions, CIL, planning obligations and affordable housing on a scheme can be assessed and reviewed in an appropriate way. To date in response to the economic downturn, where viability concerns over an individual development have been shared with the Local Planning Authority then significant flexibility in the negotiation of planning obligations has been provided. The Council intends this approach to continue in the future to ensure that sustainable development continues to be delivered despite the current challenges for the development industry.
- 9.6 This revised Planning Obligations SPD was made available for public consultation for a period of seven weeks. All the comments received within that period were reviewed, assessed and as necessary, revisions have been made to the document. The consultation generated 60 responses from respondents including residents, community and amenity groups, landowners and developers.
- 9.7 The following sub-headings reflect the main issues raised by representations received during the consultation and the Councils action follows in *italics*. The full schedule of responses and the Councils response are set out in Appendix A2.

Double charging – A number of developers consider that the SPD is not clear enough on what would be covered by CIL and what would be delivered through Planning Obligations with some noting that the Regulation 123 list has not been published and therefore double charging could occur.

The Council considers that the purpose of the SPD - to clarify when CIL will apply and when planning obligations will apply is clearly set out in the document. The Regulation 123 list will be published on 1 May 2013 alongside the charging schedule. The supporting text in relation to play space has been amended to make it clear when a planning condition would be used and the circumstances when a planning obligation would be used. The supporting text in relation to educational facilities has also been amended to clarify the average cost per pupil place for new schools / expanded schools in the borough.

Economic Viability – Various responses from residents and developers which on the one hand wanted to exempt the delivery of community infrastructure from viability considerations to whether the assessment of the CIL charging schedule had considered the wider impact on development viability of 'local' planning obligations and were in line with national policy.

The SPD sets out in figure 1 that the combined impact of CIL, Planning Obligations, Planning Conditions, Affordable Housing, 'in kind contributions' of land and any other costs upon development will all be considered when reviewing a developments viability. As part of the examination of CIL, viability was adequately considered. The Affordable Housing and Community Infrastructure Levy: Viability Study included a residual level of Planning Obligations for localised requirements and this was considered alongside varying levels of affordable housing and levels of CIL including the Mayoral CIL

Travel Planning – In consultation with Transport for London, Transport colleagues have made suggestions on additional incentive measures for residential Travel Plans which could be included.

The suggestions have been incorporated

Decentralised energy – A developer requested that the requirements in relation to decentralised energy are revised to remove the legal requirement via a planning obligation to provide a future connection to a proposed decentralised heat network.

The requirements have been amended to remove the requirement that a developer will be required to enter into a planning obligation, although developers will still need to demonstrate a commitment to future connection.

New education facilities – Various developers made representations stating that the approach where land is to be transferred to the council for a school is too prescriptive and should be considered on a site by site basis and that double charging may occur.

The text has been amended. It is made clear that only large scale developments where provision is on-site would provide a school through a section 106 agreement. Further detail on the costs per place of a pupil have also been included.

Flood Risk – The Environment Agency requested that further detail is added on delivering flood defences and reducing flood risk beyond a developments site boundary. Reference to the Water Framework Directive was also required.

A further paragraph has been added to help clarify when this would be acceptable.

10. LIST OF BACKGROUND PAPERS

10.1 Planning Obligations SPD, 2006

10.2 Education Contributions, 2008

10.3 Contributions to Library Services, 2008

10.4 Contributions to Health Facilities from Development, 2009

10.5 Anyone wanting to inspect these papers should contact Mike Carless on 0208 359 4657.

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	CH