

	Cabinet 17 January 2022
	Report from the Strategic Director Regeneration and Environment
Draft Planning Obligations Supplementary Planning Document – Approval for Consultation	

Wards Affected:	All excluding parts of Harlesden, Kensal Green, Stonebridge and Tokyngton where Old Oak and Park Royal Development Corporation is the Local Planning Authority
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	One Appendix 1: Draft Planning Obligations Supplementary Planning Document
Background Papers:	None
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1 Purpose of the Report

- 1.1 This report sets out the need for the Council to replace its existing Planning Obligations Supplementary Planning Document (SPD) which was adopted in July 2013.
- 1.2 The SPD is a key document in setting out a range of non-financial and financial planning obligations required to mitigate potential adverse impacts that would otherwise make development requiring planning permission unacceptable.
- 1.3 Consistent with regulations, the document will need to go through a statutory consultation process before it can be adopted. It will provide further guidance and detail on how to implement policies in the forthcoming new Brent Local Plan.

2 Recommendations

Cabinet is asked:

- 2.1 To note the content of this report and Appendix 1 'Draft Planning Obligations Supplementary Planning Document'.
- 2.2 To approve the draft Planning Obligations SPD for public consultation.
- 2.3 To delegate authority to the Lead Member for Regeneration Property & Planning, in consultation with the Strategic Director for Regeneration and Environment, to consider representations made during consultation and adopt the Supplementary Planning Document as part of the Council's suite of Local Plan related documents, and provide authority to revoke the existing 2013 Planning Obligations SPD once superseded.

3 Detail

- 3.1 The Council secures legally binding obligations against planning applications to make them acceptable in planning terms. This is in order to mitigate against site-specific impacts. Legal obligations are used when addressing matters that otherwise cannot be dealt with through conditions attached to a planning permission. This might be for securing affordable housing or for mitigations, such as requiring improvements to an access road, or securing a financial contribution to secure other mitigation measures. This is done under Section 106 (S106) of the Town and Country Planning Act 1990 (as amended).
- 3.2 The Council currently has a Planning Obligations SPD that was adopted in July 2013. This was produced in association with, and complementary to the Council's adoption of the Community Infrastructure Levy (CIL). It was and still is the case that CIL will be the main mechanism for delivering financial contributions towards general infrastructure requirements across the borough resulting from the cumulative impacts of development.
- 3.3 Since 2013 however, there has been a significant change in development plan policies. The London Plan was replaced in 2015 and more recently in 2021. In addition, the Brent Local Plan has been subject to wholesale review and is likely to be adopted in 2022. This has greatly expanded the range of requirements from development, for example the need for training, residents being prioritised for some jobs associated with development, meeting and monitoring energy standards, carbon off-set payments and achieving the urban greening factor. Development within the borough has also changed significantly. Greater densities mean wholly on-site mitigation measures can be more difficult to achieve. Off-site provision is more often required, e.g. meeting shortfall in private on-site amenity standards by obligations to improve local open spaces.
- 3.4 The draft SPD seeks to address these new policy requirements. To assist in simplifying and speeding up the process of issuing timely planning permissions, it seeks to standardise the Council's most commonly sought S106 obligations. In making clear the Council's requirements, the document will provide stakeholders with more certainty when assessing the development potential of

land earlier on in the development process. In doing so, this should speed up negotiations, and help the Council secure a greater range of provisions toward the implementation of the Brent Local Plan, and wider visions for the borough, as outlined in the Council's Borough Plan and other strategies.

- 3.5 The document includes 18 broad planning obligations. Full detail can be found in section 5 of the draft SPD. The planning obligations address the following policy issues:
- affordable housing;
 - affordable workspace;
 - social infrastructure;
 - employment opportunities;
 - open space and children's play space;
 - trees,
 - air quality;
 - carbon-offsetting and decentralised energy;
 - sustainable transport and parking;
 - heritage and design; and
 - other site obligations and administrative fees.
- 3.6 Affordable workspace, social infrastructure, children's play space, trees, air quality, carbon-offsetting, heritage, and design are all new categories of obligation within the new SPD. In addition to these new requirements, existing obligations have been updated to better reflect the new policy context. Notably, this now includes a financial contribution from residential developments delivering between 5 and 9 dwellings. This will help the Council in delivering its strategic target of 50% of all housing to be delivered as affordable. This requirement was derived from a small sites viability assessment. This determined that small sites can viably provide fixed contributions per dwelling towards off-site affordable housing in most cases.
- 3.7 Obligation 6 on Employment Opportunities ensures emphasis remains on securing 20% of construction jobs for unemployed Brent residents. This was drafted with the needs of the 'Brent Works' service, and deliverability in mind.
- 3.8 Each obligation is secured according to National, London Plan, and Brent Local Plan policy requirements. In doing this, the document provides additional guidance on the Council's interpretation and implementation of the policies within its Development Plan.
- 3.9 Once adopted, the document will be a material consideration in the determination of planning applications. The Council will work with applicants early on in the application process seeking compliance with the SDP to ensure acceptable developments. Once adopted, it will supersede the existing Planning Obligations SPD (2013) which will also need to be formally revoked.
- 3.10 As new policies emerge or change, this document will be revised to better reflect the new planning environment, providing the most up to date guidance. In terms of the Local Plan this will likely be every 5 years in accordance with national regulations.

4 Next steps

- 4.1 Subject to consideration by Cabinet, the draft SPD document will have to undergo a formal consultation process, consistent with regulations and the Council's Statement of Community Involvement. The draft SPD's consultation will be for a minimum of 6 weeks, to take place in early 2022.
- 4.2 The Council will receive and respond to representations, and where necessary make proposed amendments to the document prior to its adoption.

5 Alternative Options Considered

- 5.1 To continue using the existing Planning Obligations SPD. This option would be insufficient in dealing with the Council's emerging Local Plan policies, and those of the new London Plan. This would not provide developers with any more certainty around requirements and processes. Greater clarity at the outset is more likely to result in the financial impacts of the full range of obligations being factored into development costs and the price paid for land, which might not be the case with the current outdated SPD.
- 5.2 To revoke the existing SPD and continue without any S106 guidance document. This would result in the same as the above, but would be more significant in reducing the Council's control over obligations sought, and the resulting quality of development outcomes.

6 Financial Implications

- 6.1 Publicising the consultation and the adoption process will require a small amount of expenditure. This is accounted for within the existing planning policy budget.

7 Legal Implications

- 7.1 The document's content is in accordance with national, regional (London Plan), and emerging Brent Local Plan (2019-2041) policies. Consistent with legislation, it does not seek to make new planning policy. It will go through the appropriate processes of adoption as set out in the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

8 Equality Implications

- 8.1 The Equality Act 2010 introduced a new public sector equality duty under section 149. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council must, in exercising its functions, have "due regard" to the need to:
 - 1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - 2. Advance equality of opportunity between people who share a protected characteristic and those who do not.

3. Foster good relations between people who share a protected characteristic and those who do not.

8.2 The Planning Obligations SPD has been established to support the draft Local Plan which has been subject to Equality Impact Assessment. This has informed the policies and projects including analysis of potential alternatives. It seeks to reduce adverse impacts and wherever possible improve the outcomes for those with protected characteristics and the social, economic and environmental outcomes of the Plan.

8.3 The SPD has also been subject to its own dedicated Equality Impact Assessment. This concluded the following: 'the Planning Obligations SPD, in accordance with the emerging Local Plan and the adopted London Plan will assist the Council in securing a range of measures which will be crucial toward the realisation of the Brent Local Plan, and wider Borough Plan visions. This will positively impact upon a range of protected characteristics, helping to level the playing field for Brent residents, improving equity across the borough, and quality of life generally.

9 Any Other Implications (HR, Property, Environmental Sustainability - where necessary)

9.1 No implications at this stage.

10 Consultation with Ward Members and Stakeholders

10.1 To date the document has been through extensive internal consultation with a wide range of internal services that are directly related to the subject matter it contains. There has also been engagement with other parties such as the Environment Agency. The document will be subject to a minimum 6-week public consultation following consideration by Cabinet. This will include ward members and other stakeholders, as are included in the extensive Local Plan Consultation Database. The document will be made available on the Council's website as well as in the Council's libraries, and details of the consultation will be outlined in the Members' Bulletin.

Report sign off:

Alan Lunt

Strategic Director of Regeneration and Environment