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| Committee(s): Planning & Transportation Committee | Date(s): 14/07/2020 |
| Subject: Consultation on draft s106 Planning Obligations Supplementary Planning Document | Public |
| Report of: Carolyn Dwyer - Director of the Built Environment | For Decision |
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Summary

The City Corporation adopted a Planning Obligations Supplementary Planning Document (SPD) in 2014. The SPD needs to be updated to reflect changes in national legislation, national planning guidance, revised policies in the Intend to Publish London Plan and draft policies in the emerging City Plan 2036. In particular, there is a need to update provisions in the SPD in relation to affordable housing to ensure that sufficient provision is made in new development to address local housing needs. Changes are also needed to reflect updated guidance on carbon offsetting, to ensure that training, skills and local procurement provisions align with City Corporation priorities and ensure that appropriate provision is made for the mitigation of the impacts of development. These changes will ensure that mechanisms are in place to help fund training and skills initiatives, provide affordable housing and mitigation of carbon emissions and help deliver other infrastructure necessary to support the City recover from the economic and social impacts of the Covid-19 pandemic.

Draft revisions to the Planning Obligations SPD will be subject to public consultation for a period of 6 weeks. This consultation will take place in September and October 2020 alongside the pre-submission consultation on the draft Local Plan. The SPD will then be brought back to this Committee for approval.

Recommendation(s)

Members are asked to:

- Approve the draft Planning Obligations Supplementary Planning Document, attached as Appendix 1, for public consultation.

Main Report

Background

1. Planning obligations are used to mitigate the impact of development in order to make it acceptable in planning terms. The legislative basis is contained within the Town and Country Planning Act 1990 and the Community Infrastructure Levy Regulations 2010 (as amended). Community Infrastructure Levy (CIL)

Regulation 122 sets out three statutory and policy tests for the use of planning obligations, indicating that:

“A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is-

- necessary to make the development acceptable in planning terms;*
- directly related to the development; and*
- fairly and reasonably related in scale and kind to the development.”*

2. CIL Regulations also set out how planning obligations should operate alongside the CIL. Previous guidance, which restricted the use of planning obligations where a CIL is in place, has been amended to allow for CIL and planning obligations to operate in concert to deliver the infrastructure needed to deliver development and Local Plan objectives.
3. In July 2014, the City Corporation adopted a Planning Obligations Supplementary Planning Document (SPD). This set out how the City Corporation would seek planning obligations from development and complemented the policies in the 2015 Local Plan and the City of London Community Infrastructure Levy. It set out that the City CIL would be the primary source of development-related infrastructure funding, with planning obligations concentrated on the delivery of affordable housing, training, skills and employment provision, site specific mitigation and carbon offsetting.

Current Position

4. The City Corporation is preparing a revised Local Plan, City Plan 2036. The Plan is at an advanced stage of preparation. At its meeting on 21 May 2020, the Court of Common Council approved the draft Plan for its final stage of pre-submission public consultation (Regulation 19 consultation) in autumn 2020, with the aim of moving to Public Examination and adoption in 2021.
5. The draft Local Plan sets out new policy requirements for development in the City. It updates policy in line with changes to the National Planning Policy Framework and the national Planning Practice Guidance and the Intend to Publish London Plan. Draft Local Plan policy aligns with the aims and objectives of the City’s Transport Strategy, other Corporation strategies and the emerging City Corporation Climate Action Strategy.
6. The draft Plan is supported by an evidence base, including a Local Plan Viability Assessment, undertaken in March 2020. This Assessment concluded that the policies in the draft Plan would not have a detrimental impact on the overall viability of development in the City. The Assessment also considered the potential impact of changes in planning obligations and the City’s Community Infrastructure Levy upon development viability, clarifying that changes would have a marginal impact on the overall cost of development in the City.
7. The Planning Obligations SPD now needs to be updated to bring it into line with changes in national and London-wide guidance and to provide a framework for delivery of planning obligations to support the draft Local Plan and other City

Corporation strategies. These changes will ensure that policies are appropriate to meet the City Corporation's priority needs and that mechanisms are in place to help fund training and skills initiatives, provide affordable housing and mitigation of carbon emissions and other infrastructure necessary to support the City recover from the economic and social impacts of the Covid-19 pandemic.

Proposals

8. Draft revisions to the Planning Obligations SPD are attached at Appendix 1 to this report. The proposed changes have been tested through the wider Local Plan Viability Assessment undertaken to support the draft Local Plan. This Assessment has demonstrated that the proposed changes to planning obligations would have a marginal impact on the overall cost of developing in the City and not have a detrimental impact on the overall viability of development. The Assessment also considered that there is sufficient flexibility built into the draft Local Plan to address, as an exception, any individual development viability concerns.
9. The key changes proposed in this draft SPD are:
 - Updated explanation of the legislative basis for Planning Obligations and the Community Infrastructure Levy and changes to the Mayoral Community Infrastructure Levy.
 - Providing further guidance on development viability testing, emphasising that land value should take into account the full cost of meeting Development Plan policies. The price paid for a site will not be accepted as a justification for not meeting Local Plan requirements. Any viability information submitted by a developer should be publicly available.
 - Changes to the requirements for contributions towards affordable housing, seeking increased requirements from commercial development; emphasising that affordable housing should be provided on-site on residential development; and, where commuted sums are agreed, requiring that there is no financial benefit to the developer in not providing the affordable units on-site.
 - Updated provisions for contributions towards local skills, training and employment and local procurement, which are essential to put in place mechanisms to support the City's recovery from the Covid-19 pandemic.
 - A new contribution from developments within and close to the City Cluster to contribute towards the design and implementation of area-wide security measures.
 - An update to the cost of carbon used to calculate carbon offsetting contributions, reflecting London Plan guidance and the direction in the emerging City of London Climate Action Strategy.
 - Other provisions to ensure that development meets the policy requirements in the draft Local Plan, including for transportation, for urban greening, for the provision of cultural plans and public art and for site specific mitigation.
10. Following approval of this draft SPD, it will be subject to public consultation for a period of 6 weeks in September and October, at the same time as the pre-submission (Regulation 19) consultation on the draft Local Plan. Comments and

any proposed changes to the SPD would then be brought back to this Committee for consideration and for formal adoption.

Corporate & Strategic Implications

11. The proposed changes will support the delivery of the draft City of London Local Plan, the Transport Strategy, the emerging Climate Action Strategy and other City Corporation Strategies. The SPD will ensure that the impacts of development are mitigated and contribute towards meeting the strategic aims of the City Corporation's Corporate Plan and towards the social, environmental and economic recovery of the City from the Covid-19 pandemic.

Implications

12. The proposed changes will update funding provisions to assist in the delivery of new infrastructure in the City necessary to allow development to take place and contribute towards the delivery of affordable housing. The proposals in the draft SPD have been considered through the draft Local Plan Viability Assessment and will not have an adverse impact on the overall viability of development across the City. There is sufficient flexibility built into the draft Local Plan and the SPD to allow for variation on individual sites in exceptional circumstances.

Conclusion

13. The City of London adopted a Planning Obligations Supplementary Planning Document in 2014, providing a mechanism for developer contributions towards affordable housing, local training and skills initiatives and local procurement, carbon offsetting and the necessary mitigation of development to make it acceptable in planning terms.

14. Since 2014, changes to the relative role of Planning Obligations and the Community Infrastructure Levy and the approach to viability assessments have been published in the National Planning Policy Framework and the national Planning Practice Guidance. The London Plan has been updated and is due to be adopted shortly. A pre-submission draft Local Plan has also been agreed for consultation by the City Corporation. The Planning Obligations SPD needs to be reviewed and updated to reflect this changing policy framework to ensure that it provide an effective mechanism for financial contributions and the mitigation of the impacts of development in the City.

15. The proposed draft Planning Obligations SPD will be subject to public consultation for a period of 6 weeks in the autumn, alongside the draft Local Plan. The SPD will then be brought back to the Planning & Transportation Committee for approval.

Appendices

- Appendix 1 – Draft City of London Planning Obligations Supplementary Planning Document

Background Papers

City of London Local Plan Viability Assessment, March 2020

<https://www.cityoflondon.gov.uk/services/environment-and-planning/planning/planning-policy/local-plan/Documents/local-plan-viability-assessment-march-2020.pdf>

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