

<b>Committee(s):</b> Planning & Transportation Committee	<b>Dated:</b> 12/05/2021
<b>Subject:</b> Planning Obligations Supplementary Planning Document – Adoption and Implementation	<b>Public</b>
<b>Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?</b>	1,2,3,4,8,9,11,12
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>N</b>
<b>If so, how much?</b>	<b>£0</b>
<b>What is the source of Funding?</b>	
<b>Has this Funding Source been agreed with the Chamberlain’s Department?</b>	<b>N/A</b>
<b>Report of:</b> Director of the Built Environment	<b>For Decision</b>
<b>Report author:</b> Peter Shadbolt, Department of the Built Environment	

### Summary

The City Corporation implemented a Planning Obligations Supplementary Planning Document in July 2014, setting out how it would secure appropriate developer contributions to mitigate the impacts of development, deliver affordable housing, support training, skills and job brokerage and support carbon reduction in new development. This SPD needs to be updated to reflect changes in national legislation, national planning guidance, revised policies in the London Plan 2021 and draft policies in the emerging City Plan 2036.

A draft Planning Obligations Supplementary Planning Document (SPD) was issued for public consultation between 26 October 2020 and 11 December 2020. In response to comments received and to update the SPD following adoption of the London Plan 2021 and the Regulation 19 consultation on the draft City Plan, a number of amendments are proposed to the draft SPD.

### Recommendation(s)

Members are asked to:

- Approve the Planning Obligations Supplementary Planning Document attached at Appendix 2 to this report.
- Resolve to adopt the Planning Obligations SPD today and to implement the SPD from 1 October 2021.

### 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.

2. In July 2014, the City Corporation adopted a Planning Obligations Supplementary Planning Document (SPD). This detailed 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 (CIL). The City CIL is 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.
3. The City Corporation is preparing a revised Local Plan, City Plan 2036, which sets out planning policy for the period up to 2036 and is aligned with national planning policy in the National Planning Policy Framework, and policy in the recently adopted London Plan 2021. The draft City Plan aligns with the aims and objectives of other key City Corporation strategies, including the Corporate Plan, the Climate Action Strategy and the Transport Strategy. The draft City Plan has recently been the subject of public consultation, the Regulation 19 consultation, which ended on 10 May 2021. Comments are currently being considered prior to the next stage of the plan-making process, formal submission of the Plan to the Secretary of State for Public Examination. Subject to the comments received and further consideration by this Committee, submission is programmed for summer 2021.
4. At its meeting on 9 July 2020, the Policy & Resources Committee agreed to the introduction of a time-limited amendment to the City CIL phasing policy. The amendment allowed development commencing between 9 July 2020 and 1 February 2021 to defer payment of CIL monies until 1 April 2021. On 11 March 2021, the Policy & Resources Committee resolved to extend this deferral until 31 July 2021 in recognition of the continuing impacts of the Covid-19 Pandemic on City development and to provide support to the City's development industry and businesses to assist in the recovery from Covid. Deferred CIL payments will now become due within 60 days of 31 July, by 29 September 2021.

### **Current Position**

5. A draft update to the Planning Obligations SPD was approved for public consultation by this Committee in July 2020, with consultation taking place from 26 October 2020 until 11 December 2020.
6. The draft SPD was made available on the City Corporation's website; consultation emails were sent to over 500 consultees on the City Plan consultation database and City Corporation Members notified by email to Planning & Transportation Committee Members and through the October 2020 Members Briefing. Information about the draft SPD was also provided to the Department of the Built Environment Users Panel and through other meetings with developers.

7. Ten responses were received to the draft SPD, making a number of specific and detailed comments and suggested changes to the SPD, including a response from the City Property Association the membership body for the owners, investors, professional advisors and developers of real estate in the City of London, representing more than 150 companies. The level of response was the same as that achieved for the currently adopted Planning Obligations SPD in 2014.
8. A Consultation Statement has been prepared, providing details of the consultation process, summarising the comments received and how these have been taken into account in preparing the final Planning Obligations SPD. A copy of this statement is attached at Appendix 1.

## **Proposals**

9. A range of issues were raised in the responses. Key points raised and the proposed response to these are set out below. More detail is available in the Consultation Statement.
10. Timescale for Implementation. There was concern that the draft SPD did not reflect the short to medium term challenges facing development in the City of London as a result of Brexit and the Covid-19 Pandemic. There was concern that increases in financial contributions above current levels could impact adversely on the financing of development and the ability of the City Corporation to meet strategic policy objectives. Several respondents requested that the proposed increases in contributions should be deferred until the industry had recovered from the effects of the Pandemic. The CPA, in particular, proposed a phased approach with rates slightly above current levels applied in 2021 and 2022, with the full proposed increase applied from 2023.
11. Comment. The proposed increased levels of contribution are aligned with the flexibility in financial contributions tested through the City Plan Viability Assessment in March 2020. An updated commentary on the Viability Assessment undertaken for the City Corporation in February 2021, indicated that the Pandemic had not impacted on the fundamental viability of development in the City, although flexibility was required in considering the impacts of contributions on individual sites. Increased contributions to training and skills provision are also considered to be particularly important in equipping City residents and those in nearby boroughs with the skills and experience required to access employment in the City of London and contribute towards the City's recovery. However, it is recognised that the application of s106 planning obligations has to have regard to other requirements on the development industry, principally through the CIL. The City Corporation has allowed flexibility in payment of CIL charges to assist the development industry, with payments able to be deferred until 29 September 2021. To align with this approach, it is proposed that the financial, and other updated requirements set out in the SPD, should not be implemented until 1 October 2021. New planning obligations entered into after this date would be required to align with the revised contributions.

12. The gap between adoption of the SPD and its implementation will allow for a potential further review of the programme for implementation by this Committee in the event that national progress towards unlocking the economy is delayed or paused.
13. Affordable housing contributions from commercial development. One response drew attention to recently published the Westminster City Plan Inspectors' Report which recommended deletion of policy requiring financial contributions towards affordable housing from commercial development. The response sought clarification of the City Corporation's proposed approach in light of the Inspectors' recommendations.
14. Comment. Although the Westminster City Plan Inspectors' Report is a consideration in taking forward the draft City of London Plan, the approach set out in the SPD is a continuation of a long-standing City Corporation policy on planning obligations which has operated since 2004 and has been considered and approved through 2 previous City Local Plan Examinations. It is considered that this approach aligns with London Plan policy for the Central Activities Zone and no changes are proposed to the SPD. Members should be aware, however, that this is an issue that may well be considered further during the public examination into the draft City Plan later this year.
15. Contributions towards collective security in the City Cluster. There was support from consultees to the proposal for an additional financial obligation on development in and around the City Cluster to contribute towards the design and implementation of area-wide security measures. Whilst one respondent did suggest that this might be delivered through a future City Cluster Business Improvement District, it is considered that the use of planning obligations will enable a consistent approach across developments and enable greater co-ordination with City Corporation public realm and transportation improvements.
16. A number of other changes have been made to the SPD in light of comments received:
  - Further information has been included on the viability evidence supporting the proposed changes, including reference to the Updated Commentary undertaken in February 2021 to consider the potential impacts of the Covid-19 Pandemic on development viability in the City.
  - Further cross reference to the City's Transport Strategy, including the vision, aims and objectives of the Strategy and the role of planning obligations in delivery of these aims and objectives.
  - Additional reference to the potential use of planning obligations and CIL in addressing flood risk, delivering climate change resilience and improving biodiversity.
  - Additional reference to the importance of green skills as a key element of the training, skills and job brokerage package within the SPD.
17. The City Corporation has published a Code of Practice for Deconstruction and Construction Sites, which sets out the standards expected in the City to mitigate the negative impacts of construction activity and includes air quality, community liaison and consultation, noise and vibration, contamination, waste, light and

sustainability. The City Corporation incurs costs in the monitoring of construction practice and in liaising with developers and the community, which should be met by the developer. The City Corporation already uses planning conditions or s106 planning obligations to require compliance with the Code including a construction monitoring contribution. An additional section has been added to the SPD to formalise this existing practice.

18. The revised SPD is attached at Appendix 2, with proposed new text identified in bold underline, and deleted text with bold strikethrough.

## **Corporate & Strategic Implications**

### Strategic implications

19. The proposed changes will support the delivery of the draft City Plan 2036, the Transport Strategy, the 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.

### Financial implications

20. 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. Provision is made within the SPD for the recovery of monitoring costs and legal costs incurred in the drafting, administration and monitoring of s106 planning obligations. The proposals in the SPD have been considered through the City Plan Viability Assessment and Updated Commentary and will not have an adverse impact on the overall viability of development across the City. There is sufficient flexibility built into the City Plan and the SPD to allow for variation on individual sites in exceptional circumstances.

Resource implications – none

Legal implications – none

Risk implications - none

### Equalities implications

21. An Equality Analysis Test of Relevance was undertaken prior to consultation on the draft SPD. This found that the proposed SPD will overall have a positive impact on most City workers, residents, students and visitors as it will provide for improved physical and community infrastructure.

### Climate implications

22. The SPD provides for planning obligations to deliver necessary mitigation of the impacts of development, including climate impacts. Specific provision is made in the SPD for carbon offset funds where on-site zero carbon development is not feasible, in line with the aims of the City Corporation's Climate Action Strategy.

### Security implications

23. Provision is made within the SPD for a financial contribution towards area-wide security measures in the City Cluster.

## **Conclusion**

24. The City Corporation consulted on a draft update to the Planning Obligations SPD between 26 October 2020 and 11 December 2020. Ten responses were received to this consultation, making a number of specific comments and suggestions for change.
25. A number of amendments have been made to the draft SPD in light of the public consultation, including additional reference to the City's Transport Strategy, the need to develop green skills and the need to address flood risk, climate change resilience and biodiversity.
26. In response to comments seeking a deferral of the proposed increased level of contributions in the SPD, it is proposed that the SPD be adopted at this Committee but implemented from 1 October 2021. This will ensure that any financial contributions incurred as a result of the SPD are aligned in terms of payment timescales with the deferral of CIL payments agreed by the Policy & Resources Committee in response to the Covid-19 Pandemic.

## **Appendices**

- Appendix 1 – Planning Obligations Supplementary Planning Document Consultation Statement, May 2021.
- Appendix 2 – Planning Obligations Supplementary Planning Document.

## **Background Papers**

Report to Planning & Transportation Committee 14/07/2020: Consultation on draft s106 Planning Obligations Supplementary Planning Document

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