
REPORT OF THE STRATEGIC DIRECTOR PLACE

TO THE LEAD MEMBER FOR PLANNING AND SUSTAINABLE DEVELOPMENT

ON 15 JANUARY 2019

TITLE: SALFORD REVISED PLANNING OBLIGATIONS SPD

RECOMMENDATION:

It is recommended that the Lead Member for Planning and Sustainable Development:

i) Approves the Draft Planning Obligations SPD for the purposes of public consultation from Friday 25 January 2019 to Friday 22 March 2019.

EXECUTIVE SUMMARY:

Salford City Council adopted a Planning Obligations Supplementary Planning Document (SPD) in June 2015. The SPD seeks to secure planning obligations from developments that are usually directed towards affordable housing, open space, education, transport, and public realm. It supplements policies in the saved Unitary Development Plan (UDP)

The adopted Planning Obligations SPD is being updated for three main reasons:

- To reflect changing national policy and legislation
- To respond to the latest information on development viability in Salford
- To provide additional guidance on the implementation of local policies on planning obligations in light of experience in applying the existing SPD

The update takes forward the general approach and also the priorities for planning obligations that are within the adopted SPD. A more comprehensive update will be prepared to supplement the city council's Local Plan upon its adoption.

Between March and April 2018 the city council sought the views of stakeholders and consultees on its intention to undertake a review of the current Planning Obligations SPD. The responses received have informed the draft SPD.

Public consultation on the Revised Planning Obligations SPD will run from Friday 25 January 2019 to Friday 22 March 2019, providing an opportunity for all stakeholders to comment on the Revised Planning Obligations SPD and associated documents.

BACKGROUND DOCUMENTS:

- Draft Planning Obligations SPD
 - Salford Revised Draft Local Plan assessment of residential viability (January 2019)
 - Determination statement on the need for sustainability appraisal and strategic environmental assessment
 - Consultation statement
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KEY DECISION: NO

This stage of public consultation on the Draft SPD is to seek views on the proposed policy approach to planning obligations. As no alterations are being made in relation to the city council's policy approach at this stage, the decision to approve the documents for the purposes of consultation is not considered to have a significant impact on communities in two or more wards in the city.

ON FORWARD LOOK: YES

DETAILS:

1. Introduction

- 1.1 The city council currently secures planning obligations from new development within the city via section 106 of the Town and Country Planning Act 1990. Planning obligations are sought in order to mitigate the impact of new development, and to make development acceptable in planning terms. Planning obligations can be secured to support the delivery of a wide range of infrastructure, services and facilities, such as the provision of affordable housing, the improvement of open space, the delivery of transport improvements, or the expansion of schools to create additional places.
- 1.2 Planning obligations are secured through a legal agreement entered into under section 106 of the Town and Country Planning Act 1990 (s106). They may only constitute a reason for granting planning permission for a development where they meet the following tests¹:
- a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development; and
 - c) Fairly and reasonably related in scale and kind to the development.

¹ Regulation 122(2) of the Community Infrastructure Levy Regulations 2010

2. Adopted Planning Obligations SPD

2.1 The city council adopted a Planning Obligations Supplementary Planning Document (SPD) in June 2015. The adopted SPD specifically supplements the following saved Unitary Development Plan (UDP) policies:

- DEV5 – Planning conditions and obligations
- ST5 – Transport networks
- DES3 – Design of public space
- H1 – Provision of new housing development
- H4 – Affordable housing
- H8 – Open space provision associated with new housing development
- EHC3 – Provision and improvement of health and community facilities
- A8 – Impact of development on the highway network
- CH3 – Works within conservation areas
- CH7 – Manchester, Bolton and Bury Canal
- R2 – Provision of recreation land and facilities

2.2 The SPD focuses upon the following:

- Affordable housing – new housing developments are required to contribute to a balanced mix of dwellings within the local area in terms of tenure and affordability. Developers are required to provide an element of affordable housing where appropriate in order to assist in meeting local housing need.
- Open space – new housing developments create additional demand for open space facilities, and therefore appropriate provision for formal and informal open space is required, together with its ongoing maintenance. In some instances the most effective means of achieving this is through providing some open space on-site. In other instances a financial contribution is sought towards off-site provision.
- Education – new housing development generates an additional requirement for school places. A developer contribution is therefore sought towards the expansion of primary schools within the city in order to accommodate the additional requirement for pupil places. In certain instances where there are no opportunities to expand existing schools within the surrounding area, a developer is required to set aside land for a school.
- Transport – new development places additional pressure on existing transport networks within the city, and may in turn generate a requirement for improvements to transport infrastructure and services. Planning obligations is one mechanism used in order to secure the provision of necessary transport works and improvements.

- Public realm – new development generates a requirement for investment in the public realm, where a development will generate intensified use of the public realm, or to provide a high quality setting for new development and ensure its positive integration within the urban form. Planning obligations may therefore be sought in order to secure the provision or improvement of the public realm.
- Other contributions – there are instances where a development results in a material increase in the need or demand for other types of infrastructure or services. In these cases the city council negotiates with a developer on a case by case basis having regard to site specific circumstances, and planning obligations may be the mechanism

2.3 Whilst the adopted SPD does not form part of the development plan, it is an important material consideration in the determination of planning applications.

3. Review of the Planning Obligations SPD

3.1 The adopted Planning Obligations SPD is being updated for three main reasons:

- To reflect changing national policy and legislation
- To respond to the latest information on development viability in Salford
- To provide additional guidance on the implementation of local policies on planning obligations in light of experience in applying the existing SPD

3.2 The update takes forward the general approach and also the priorities for planning obligations that are within the adopted SPD. A more comprehensive update will be prepared to supplement the city council's Local Plan upon its adoption.

Scoping consultation

3.3 Between March and April 2018 the city council sought the views of stakeholders and consultees on its intention to undertake a review of the current Planning Obligations SPD. The city council issued a scoping consultation letter which set out the intention to undertake a review of the SPD, and welcomed both general comments and responses to a number of specific issues.

3.4 Responses to this scoping consultation were received from 13 organisations. These responses have been used to inform the production of this draft SPD. Details of the scoping consultation, together with the representations received and the city council's response to these is set out in the consultation statement which is published alongside this draft SPD².

Draft planning obligations SPD

² Salford City Council (January 2019) *Planning Obligations SPD – Consultation Statement*

3.5 The main changes in the draft SPD when compared to the adopted SPD are as follows:

- Informed by a new strategic viability assessment³
- Updated to reflect new/revised national planning policy and guidance, including an expectation that all viability assessments will be made public
- Shortened some text to improve readability and remove duplication
- Added new policies on the artificial splitting of sites and reduced planning obligations
- Revised the affordable housing requirements so that there is a minimum requirement of 20% across the city
- New policies on build to rent developments and the application of the vacant building credit
- Amended thresholds in some policies:
 - For affordable housing, in the case of residential sites over 1 hectare the policy now applies to all schemes involving 10 or more dwellings rather than 11 or more
 - For education contributions, the policy now applies to all schemes involving a net increase of 10 or more dwellings rather than 11 or more houses
 - For open space, transport and public realm, the policies now apply to all schemes involving a net increase of 10 or more dwellings rather than 11 or more

3.6 Regulation 123 of the CIL Regulations currently places limitations on the pooling of planning obligations. It effectively provides that since 6 April 2015 no more than five separate planning obligations may be entered into which provide for the funding or provision of an infrastructure project, or for the funding or provision of a type of infrastructure. For the purposes of this pooling restriction, the limit of five planning obligations is applied retrospectively to all obligations signed by an authority after 6 April 2010.

3.7 The draft SPD has been written on the assumption that the government implements draft regulations amending the Community Infrastructure Levy Regulations 2010, as set out in a current consultation that closes on 31 January 2019⁴. In particular, the Government has signalled its intention to lift the restriction on the pooling of planning obligations (i.e. the number of planning obligations that can contribute to the same infrastructure project), and to make clear that local authorities can seek a fee from applicants towards monitoring planning obligations.

3.8 It should be noted that the policies within the draft SPD will only be applied for the purposes of decision making upon any future adoption of the document. In

³ Salford City Council (January 2019) *Salford Revised Draft Local Plan Strategic Assessment of Viability*

⁴ MHCLG (December 2018) *Reforming developer contributions – technical consultation on draft regulations*

advance of this, the existing approach to planning obligations as set out within the adopted Planning Obligations SPD will continue to be applied.

Sustainability appraisal and strategic environmental assessment

3.9 The review of the Planning Obligations SPD has been screened for the need to undertake a sustainability appraisal and strategic environmental assessment, and it has been determined that such assessments are not required.

4. Revised Planning Obligations SPD consultation

4.1 The period of public consultation on the Revised Planning Obligations SPD will run from Friday 22 January 2019 to Friday 22 March 2019, and will provide an opportunity for stakeholders to comment on the Revised Planning Obligations SPD and the associated consultation documents.

4.2 The city council will consider all responses received and will make amendments to the draft SPD where appropriate. It is intended that the final SPD will be adopted by the city council in the Summer of 2019.

5. Recommendation

5.1 It is recommended that the Lead Member for Planning and Sustainable Development approves the Revised Draft Local Plan and supporting documents for the purposes of public consultation from Friday 25 January 2019 to Friday 22 March 2019.

KEY COUNCIL POLICIES: UNITARY DEVELOPMENT PLAN SAVED POLICIES

COMMUNITY IMPACT ASSESSMENT AND IMPLICATIONS:

A full CIA statement will be completed following the end of the formal consultation period and will inform the final version of the SPD.

ASSESSMENT OF RISK: MEDIUM

It is recognised that various policies and proposals in the Revised Planning Obligations SPD may be subject to challenge through both the formal consultation period, and potentially also to its subsequent adoption.

SOURCE OF FUNDING:

The non-staff costs associated with the consultation are limited in scale (associated with the printing of the documents) and will be met from existing revenue budgets.

LEGAL IMPLICATIONS: Comments received from Robert Irvine (Group Manager – Planning and Infrastructure).

Before adopting a Supplementary Planning Document, a Local Planning Authority is required to undertake a public consultation for a period of at least four weeks. As part of the consultation, the Draft SPD must be made available along with a statement setting out who has been consulted during the preparation of the document, the main issues raised by them and how those have been addressed in the Draft SPD. This report seeks approval to carry out a consultation in accordance with the statutory provisions.

The Council is also required, during the preparation of a plan such as a SPD to consider whether an Environmental Assessment is required, and should consider whether a sustainability appraisal is required. The determination statement addresses these issues.

FINANCIAL IMPLICATIONS: The city council currently secures planning obligations from developers as a result of new developments in line with the adopted Planning Obligations SPD (June 2015). In 2017/18 the city council received £3,218,304 of planning obligations, with expenditure in the period of £2,304,666. Once adopted planning obligations will be secured having regard to the policies in the revised SPD.

PROCUREMENT IMPLICATIONS: Not applicable

HR IMPLICATIONS: Not applicable

OTHER DIRECTORATES CONSULTED:

The Draft SPD has been prepared through engagement with directorates across the Council including Regeneration, and also the development management section of Urban Vision.

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WARD(S) TO WHICH REPORT RELATE(S): ALL