

**Decision Maker:** Development Control Committee  
Executive Committee

**Date:** 23<sup>rd</sup> November 2010  
8<sup>th</sup> December 2010

**Decision Type:** Non-Urgent                      Non-Executive                      Non-Key

**Title:** SUPPLEMENTARY PLANNING DOCUMENT (SPD) ON  
PLANNING OBLIGATIONS

**Contact Officer:** Terri Holding, Planning Officer  
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**Chief Officer:** Bob McQuillan, Chief Planner.

**Ward:** Boroughwide

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1. **Reason for report**

The draft Supplementary Planning Document (SPD) on Planning Obligations was endorsed by the Council's Development Control Committee (12/1/2010) for a six week period of public consultation. This document seeks to provide guidance on the requirements and mechanisms for s106 planning obligations to development proposals in the Borough. A number of responses were received as a result of the consultation process and answers to these are attached at Appendix 1 of the report. Consequently, the draft has been updated (Appendix 2) and Members are asked to consider the responses and endorse the document for adoption by the Council's Executive. Once adopted the SPD will be a material consideration in the determination of planning applications

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2. **RECOMMENDATIONS**

**Development Control Committee:**

- 2.1 Members are asked to consider the responses received (set out in Appendix 1) and;
- 2.2 Endorse the document as amended for adoption by the Council's Executive.

**The Executive:**

- 2.3 Members are asked to adopt the Planning Obligations Supplementary Planning Document in the light of representations received, comments made by Development Control Committee on 23/11/10 and other comments made by Members of the Executive.

### Corporate Policy

1. Policy Status: Existing policy. IMP1 (UDP 2006)
  2. BBB Priority: Children and Young People. Excellent Council, Quality Environment, Safer Bromley, Supporting Independence and Vibrant Town Centres
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### Financial

1. Cost of proposal: N/A
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: Planning Division
  4. Total current budget for this head: £3.3m
  5. Source of funding: Existing Revenue Budgets
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### Staff

1. Number of staff (current and additional): 1fte
  2. If from existing staff resources, number of staff hours: N/A
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### Legal

1. Legal Requirement: Statutory requirement. S106 of the Town and Country Planning Act 1990, Circular 05/2005, CIL Regulation.
  2. Call-in: Call-in is not applicable.
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Boroughwide
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes.
2. Summary of Ward Councillors comments: Comment from Councillors on the Section 106 Working Party addressed at Appendix 1 item 4.

### **3. COMMENTARY**

- 3.1 The draft Supplementary Planning Document (SPD) on Planning Obligations was endorsed by the Council's Development Control Committee (12/1/2010) for a six week period of public consultation. A number of responses were received as a result of the consultation process and answers to these are attached at Appendix 1 of the report. Consequently, the draft has been updated (Appendix 2). Once adopted the SPD will be a material consideration in the determination of planning applications.
- 3.2 The aim of the SPD is to provide general guidance on the requirements and mechanisms for infrastructure contributions and related social, economic, environmental and cultural provision when considering and negotiating development proposals in the Borough.
- 3.3 The Council's Local Development Scheme (LDS) sets out the Council's intention to produce an SPD on Planning Obligations with adoption mid 2010. Representations were due to have been reported to committee in June however, the coalition Government was still discussing the future of Community Infrastructure Levy (CIL) and how it will relate to the continued use of planning obligations throughout the summer/autumn. On 8<sup>th</sup> November the DCLG announced the publication of its 'Business Plan 2011-2015', which confirmed that the CIL will be reformed and continued.
- 3.4 This SPD on Planning Obligations has been prepared in accordance with government Circular 05/2005, Community Infrastructure Levy Regulations 122 and 123, and the London Plan (2008). This SPD elaborates and gives guidance on policies in the Unitary Development Plan (UDP) 2006, outlines procedures and includes a sample of the Bromley section.106 (s106) legal precedent and affordable housing definitions, interpretations and schedule. Further information on developer contributions and planning obligations for the Bromley Town Centre is dealt with separately in the Area Action Plan.

#### **Public Consultation**

- 3.5 The draft consultation was subject to a six week period of public consultation from 17<sup>th</sup> February to the 31<sup>st</sup> March 2010.
- 3.6 A consultation statement in addition to SPD matters, was produced prior to the consultation period outlining pre-production issues that arose through consultation with a number of agents, developers and officers and how the draft SPD was formally consulted upon. The following consultation was undertaken:
- A letter was sent with notification of the consultation process to specific consultation bodies, key stakeholders and associations; consultees on the Council's Local Development Framework (LDF) Consultee Database who specifically expressed an interest in receiving details of the draft SPD or being consulted on LDF documents and other consultees the Council considers to have an interest in the SPD.
  - Posting details on the Council's website;
  - Posting a Notice under Regulation 17 (Town and Country Planning (Local Development) (England) Regulation 2004 in the News Shopper Newspaper.
- 3.7 As a result of the consultation we received responses from 29 bodies and public individuals and a total of 135 representations were made. The main issues included:
- The need to update Section 1 in the light of Community Infrastructure Levy (CIL) Regulation (April 2010).

- The need to introduce flexibility into the document and prioritise.
- Clarification on developer viability in the current market.
- Clarification of the nursery cost place figure and child yield factor.
- Links to Bromley Town Centre Area Action Plan required.
- Mitigation areas needed clarification.
- Table in the SPD needed clarification regarding the 'requirement' in light of CIL regulation and tests of Circular 05/2005 on Planning Obligations.

### **Responses to Representations made**

3.8 Appendix 1 consists of the tabled responses to representations made. In response to the representations a number of paragraphs have been edited and one new paragraph included, along with minor additions or clarifications on topic areas.

- Paragraph 1.8 expanded to explain the impact of CIL regulation.
- Section 1 para 1.24 and 1.25 have been edited to reflect priorities and flexibility.
- Paragraph 2.10 on pooled contributions expanded to reflect CIL regulation.
- Clarification on circumstances where Financial Viability Appraisal is required.
- Improved references to the Bromley Town Centre Area Action Plan
- Areas of transport demand expanded including paragraph 3.8 on the impact on a strategic road network.
- New paragraph at 3.26 explaining detail on the child yield factor and Nursery place cost per place included.
- Use of the Healthy Urban Development Unit (HUDU) model clarified at paragraph 3.29.
- Clarification that 'identified needs' will be set out in advance paragraph 3.31.
- Mitigation of environmental impact topic clarified that mitigation measures cannot alleviate an existing problem, and expanded to refer to groundwater Source Protection zones.
- The table heading in Appendix 1 edited from 'requirement' to 'types of obligation sought where they are directly related to the proposed development' in line with CIL regulation tests of Circular 05/2005 on Planning Obligations.
- The Public Transport Accessibility Levels map updated.
- Affordable Housing Schedule at Appendix 9 updated to reflect that the Code for Sustainable Homes is now Level 4.

3.9 The use of section 106 is restricted the terms of the Circular 05/2005 and CIL regulation. This draft SPD on Planning Obligations is important for ensuring that our procedures are clear to applicants and developers. Legislation regarding CIL from 2014 onwards will see a scaling back of s106 affecting tariffs and standard charges. At such time the SPD on

Planning Obligations would need to be reviewed in respect of Education and Health elements, as these are social infrastructures that, should the Council choose to create and adopt a CIL Schedule, would fall into the CIL collection category rather than relate to site specific mitigation. Until such a time the detail and guidance in the SPD in conjunction with the UPD 2006 and London Plan 2008 and CIL regulation will be necessary.

**4. POLICY IMPLICATIONS**

4.1 The Supplementary Planning Document on Planning Obligations is in accordance with the UDP 2006, Circular 05/2005, Community Infrastructure Levy Regulation 122 and 123, and The London Plan 2008.

**5. FINANCIAL IMPLICATIONS**

5.1 All contributions sought via development proposals must comply with Circular 05/2005 and CIL regulation. Over the next few years there will be an emergence of the Mayoral element of the Community Infrastructure Levy, chiefly designed for Crossrail but could include other strategic transport infrastructure at a later stage, which may put further pressure on development viability and s106 receipts locally.

**6. LEGAL IMPLICATIONS**

6.1 Once adopted the SPD will be a material consideration in the determination of planning applications.

<b>Non-Applicable Sections:</b>	PERSONNEL
Background Documents: (Access via Contact Officer)	UDP2006 Planning Act 2008 The London Plan 2008 and Draft London Plan 2009 DCC report 20 <sup>th</sup> October 2009 – Community Infrastructure Levy DCC report 12 <sup>th</sup> Jan 2010- SPD on Planning Obligations Community Infrastructure Levy Regulation – April 2010 DCLG Business Plan 2011-2015