

Item No. 16.	Classification: Open	Date: 21 June 2011	Meeting Name: Cabinet
Report title:		Draft Affordable Housing Supplementary Planning Document	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Fiona Colley, Regeneration and Corporate Strategy	

FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY

The report asks Cabinet to agree for consultation a new draft supplementary planning document on Affordable Housing.

Affordable housing is undoubtedly one of the most important issues in this borough. Southwark has one of the highest amounts of affordable housing in the country and is the largest landlord in London. We also have one of the best delivery track records of affordable housing in London, but with a long waiting list and major regeneration plans we need to build on this and continue to deliver more affordable housing.

The SPD aims to make it clear which core strategy, saved Southwark plan and area action plans now need to be used. It sets out the mechanisms for complying with our policies, including our new Core Strategy policy requiring student accommodation developments to provide affordable housing.

It also sets out our proposals for sites where developers do not believe they can provide on-site or off-site affordable housing and sets a high premium that developers must pay if they wish to commute that requirement to a payment. We are proposing that this “developers premium” would form the basis of an affordable housing fund for Southwark, which when combined with our own land holdings, will enable us to build more even more new and truly affordable homes in the borough.

If Cabinet agree, this document will go out for consultation until the end of September and a final version be adopted soon after that.

RECOMMENDATIONS

That Cabinet

1. Consider and agree for consultation:
 - The draft Affordable Housing Supplementary Planning Document (SPD). appendix A)
 - The consultation plan (appendix B)
 - The Equalities Impact Assessment (appendix C)
 - The Sustainability Appraisal (appendix D)

BACKGROUND INFORMATION

2. We have prepared a draft supplementary planning document (SPD) to provide more detail and guidance about implementation of our Core Strategy (April 2011) and Southwark Plan (2007) affordable housing policies. The SPD can not set new policy; it can only provide guidance on existing policies. The SPD will become part of the Local Development Framework and will be a material consideration in planning application decisions. The draft SPD will replace our existing adopted Affordable Housing SPD (2008). The revised SPD is required to respond to changes to national, regional and local policies, particularly the new Core Strategy.

Consultation

3. The Planning and Compulsory Purchase Act 2004 (as amended by the Planning Act 2008) and our Statement of Community Involvement requires consultation to be ongoing and informal to guide the overall approach to consultation on the planning policy document.
4. The consultation plan (appendix B) sets out the consultation that will be carried out on the SPD. This is in accordance with the adopted Statement of Community Involvement.
5. The council will consult on the SPD from 14 June to 30 September 2011.

KEY ISSUES FOR CONSIDERATION

6. Once adopted, the SPD will replace the existing adopted Affordable Housing SPD 2008.
7. The Core Strategy (April 2011) and Southwark Plan (2007) set out our local planning policies on affordable housing. The Affordable Housing SPD provides further guidance on the implementation of these strategic plans. In particular it provides guidance on the implementation of Strategic Policies 5 (Providing new homes), 6 (Homes for people on different incomes), 7 (Family homes), 8 (Student homes) and 14 (Implementation and delivery), Strategic Targets Policy 1 (Achieving growth) and Strategic Targets Policy 2 (Improving places) and the area visions of the Core Strategy and policies 2.5 (Planning obligations), 4.2 (Quality of residential accommodation), 4.3 (Mix of dwellings), 4.4 (Affordable housing), 4.5 (Wheelchair affordable housing), 4.6 (Loss of residential accommodation) and 4.7 (Non self-contained housing for identified user groups) of the Southwark Plan.
8. The Core Strategy defines affordable housing including explaining the two types of affordable housing: social rented housing and intermediate housing. The SPD provides further guidance on the strategic definitions of affordable housing to explain the criteria that must be met for housing to qualify as affordable housing. It also sets out when households are eligible for affordable housing and the income thresholds for each type of affordable housing.
9. The Core Strategy and Southwark Plan both set out an overview of why there is a need for more affordable housing in Southwark. The SPD provides further detail on the need for affordable housing, including how much affordable housing

we already have, where it is, and other initiatives we are carrying out to bring forward more affordable housing.

10. The Core Strategy and Southwark Plan set out Southwark's strategy for affordable housing, including requiring the maximum amount of affordable housing financially viable, meeting the overall and area housing targets, and having a split between social rented, intermediate and private housing. The SPD explains how the required percentage of affordable housing is calculated to meet these policy requirements.
11. The Southwark Plan sets out the required tenure split within the affordable housing. The SPD provides further guidance for smaller schemes which may not be able to meet this split due to management reasons.
12. The Core Strategy and Southwark Plan set out that all housing should be built to a high quality of design. The SPD provides further guidance on integrating affordable housing with private homes and ensuring all is built to a high standard of design. The SPD also sets out that all affordable homes must meet or exceed the minimum space standards set out in the SPD.
13. The SPD provides guidance on where affordable housing should be provided. It sets out that a sequential test should be followed with the presumption that affordable housing should be on the development site and only in exceptional circumstances should the affordable housing be located off-site or secured through a pooled contribution. The SPD sets out that where a pooled contribution is agreed this will be a minimum of £100,000 per required affordable habitable room and that this money will be used to deliver at least as much affordable housing as would have been required on-site applying the minimum 35% affordable housing policy.
14. The Core Strategy sets out the approach to affordable housing across the whole borough. The SPD provides more detailed guidance on specific types of schemes, including redevelopment of sites, phased schemes and mixed use schemes.
15. The Core Strategy housing background paper two sets out the agreed approach with the Greater London Authority on the replacement of affordable housing on estate regeneration schemes. The SPD provides further detailed guidance.
16. The Southwark Plan sets out the approach to non-self contained housing, meeting specific needs. The SPD provides further guidance on assessing whether such housing meets a specific type of need and whether it should be exempt from affordable housing requirements.
17. Core Strategy policy 8 requires schemes for student housing to provide an element of the development as affordable housing. The SPD explains how this policy will be implemented including the methodology for working out how much of the scheme needs to be affordable housing. The presumption is that the affordable housing should be provided as part of the student scheme.
18. The Core Strategy requires a minimum of 35% of developments of 10 or more units to be affordable housing. This is based on a robust evidence base. However, there may be some cases where applicants suggest that they cannot meet this policy requirement. The SPD sets out that in these cases, applicants

must submit a financial appraisal to justify why they cannot meet the policy requirement. The SPD provides guidance on the issues the appraisal must consider. It also provides guidance on how the council secures affordable housing through a section 106 agreement.

Financial implications

19. This report seeks cabinet approval to submit draft Affordable Housing Supplementary Planning Document (SPD) and associated documents for consultation.
20. There are no financial implications arising from the adoption of this report. Many of the relevant Planning documents have been completed by existing establishment staffing resources within the Planning Policy business unit. Furthermore, any additional work required to complete the relevant documentation for publication will be carried out by the relevant Policy team without a call on additional funding.
21. Potential costs of any specific proposals arising from the adoption of this report shall be submitted as a separate report for consideration in line with the appropriate procurement protocol.

Community impact statement

22. The purpose of the Core Strategy is to facilitate regeneration and deliver the vision of Southwark 2016 in a sustainable manner ensuring that community impacts are taken into account. The Affordable Housing SPD will help facilitate this.
23. An equalities impact assessment scoping report (appendix C) has been carried out alongside the preparation of the SPD to assess the impact the SPD will have on the different equality target groups.
24. A full sustainability appraisal has been carried out on this draft SPD (appendix D). This looks at the environmental, economic and social impacts of the SPD.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law and Governance

25. This report is being brought before Members' of the Cabinet under Part 3C of the Southwark Constitution 2010/11.
26. The role of the Cabinet in approving the consultation in relation to policy documents such as this SPD is a function reserved to the Cabinet under Para 21 of Part 3C of the Constitution.
27. The draft Affordable Housing SPD is now at consultation stage, accordingly, Members' of the Cabinet are requested to consider the documents set out in section 3 of this report and the comments made by Planning Committee and to approve the consultation of the draft Affordable Housing SPD in accordance with the recommendation of Planning Committee, [subject to the changes detailed in Table 1].

28. SPDs are local development documents under the new legislative framework established under the Planning and Compulsory Purchase Act 2004 and will form part of the planning framework for the borough. They may cover a range of issues, both thematic and site specific which expand upon policy or provide further detail to policies in development plan documents. They must not be used to allocate land. SPDs do not have development plan status and as such the presumption in favour of the development plan in section 38(6) of the 2004 Act does not apply to SPDs. This draft SPD complies with these principles.
29. SPDs have replaced supplementary planning guidance (SPGs) which were formerly adopted under PPG12 as informal non statutory guidance which set out more detailed guidance on the way development plan policies will be applied in particular circumstances. If consistent with the development plan and prepared in consultation with the public whose views are taken into account before the SPG was finalised, PPG12 advised that substantial weight could be placed on an SPG as a material consideration.

Procedural Requirements

30. Under the new system, a detailed procedure for the adoption of SPDs is set out in Part 5 of The Town and Country Planning (Local Development) (England) Regulations 2004. Until an SPD has been adopted to replace an existing SPG, the SPG and guidance in PPG12 continues to apply. PPS12, the successor to PPG12, does not state how much weight should be given to new SPDs but it is likely that given their preparation under the new procedures involves proper public consultation, once adopted substantial weight may be placed on SPDs as a material consideration, in the determination of planning applications where relevant.
31. SPDs will not be subject to independent examination, however the legislation requires that they should be subjected to rigorous procedures of community involvement. PPS12 set out the criteria an SPD must conform with:
 1. It must be consistent with national and regional planning policies as well as the policies set out in the development plan documents contained in the local development framework;
 2. It must be clearly cross-referenced to the relevant development plan document policy which it supplements (or, before a relevant development plan document has been adopted, a saved policy);
 3. It must be reviewed on a regular basis alongside reviews of the development plan document policies to which it relates; and
 4. The process by which it has been prepared must be made clear and a statement of conformity with the statement of community involvement must be published with it.
32. All the matters covered in SPDs must relate to and set out the further detail of policies in a development plan document or a saved policy in a development plan. They must therefore conform to the relevant development plan document (or saved policies), and thereby be consistent with national planning policy and generally conform, in London, with the spatial development strategy.
33. This SPD has been prepared in accordance with the Southwark Plan 2007, which is the adopted development plan for Southwark and which has been prepared so that it is in general conformity with the London Plan – the Mayor’s

spatial development strategy. At present, the Southwark Plan as the most recent adopted development plan document prevails in accordance with S38(5) of the Planning and Compulsory Purchase Act 2004. Southwark's Core Strategy was considered by an independent Inspector during an Examination in Public held in July 2010. The Inspector has issued his binding report and deemed the Core Strategy to be sound. His report was received on 28 January 2011 and it is likely that Southwark will adopt the Core Strategy.

34. Now the Inspector's binding report has been received, the Core Strategy, together with the suggested changes by the Inspector carries considerable weight. In the period before the Core Strategy is formally adopted, whilst the Southwark Plan remains the relevant statutory development plan, where the Core Strategy suggests a different approach when determining a planning application, the Core Strategy is a significant material consideration that should be taken into account.
35. Local planning authorities must comply with European Union Directive 2001/42/EC which requires formal strategic environmental assessment of certain plans and programmes which are likely to have significant effects on the environment. The directive applies to local development documents where formal preparation began after July 21 2004. It will also apply to all local development documents, as well as local plans/unitary development plans continuing under transitional arrangements whose preparation began before that date and, which are not adopted by July 21 2006. The directive has been incorporated into English law by virtue of the Strategic Environmental Assessment Regulations 2004. Local planning authorities must comply with these regulations as well as the regulations under Part 2 of the Act when preparing local development documents.
36. In addition, section 39 of the 2004 Act requires local development documents to be prepared with a view to contributing to the achievement of sustainable development. The 2004 Act requires regard to be had to national policies and guidance on sustainable development. The government's four aims for sustainable development are set out in PPS1 Creating Sustainable Communities paragraph 1.13. These are:
 - Maintenance of high and stable levels of economic growth and employment.
 - Social progress which recognises the needs of everyone.
 - Effective protection of the environment.
 - The prudent use of natural resources.

Sustainability Appraisal

37. The Planning and Compulsory Purchase Act 2004 and Regulation 17 of the above regulations also requires sustainability appraisal (SA) of all emerging DPDs. The Town and Country Planning (Local Development)(England) (Amendment) (Regulations) 2009 provide that a SA report is no longer required if the respective issues are addressed at a higher policy level. Nonetheless, consistently with the Council's practice of preparing SA's for all of its SPDs to date an SA has been prepared. The purpose of the SA is to promote sustainable development through better integration of sustainability considerations into the preparation and adoption of plans. In accordance with this provision, a SA was prepared to ensure the wider impacts of the SPD policies were addressed. The

Sustainability Appraisal has informed the preparation of the draft Affordable Housing SPD and it is recommended that Members' approve the consultation of the document.

38. The sustainability appraisal is integral to the policy making process. It performs a key role in providing a sound evidence base for the policy and form an integrated part of the preparation process. The sustainability appraisal should inform the decision making process to facilitate the evaluation of alternatives and is attached in Appendix D. It should also help demonstrate that the plan is the most appropriate given the reasonable alternatives.

Consultation – Procedural Requirements

39. Members' are advised that should the Cabinet grant approval for consultation on the draft Affordable Housing SPD, a number of statutory requirements will need to be complied with by the council before the SPD can progress to the next stage, ultimately for adoption. These requirements are set out in Part 5 of the Regulations (Regulations 16,17,18 and 19 Town and Country Planning (Local Development) (England) Regulations 2004 (as amended by the 2008 Regulations) and must be complied with prior to adoption.
40. The proposed consultation process for this SPD is set out in the Consultation Plan which accompanies it and confirms with the policies contained in Southwark's Statement of Community Involvement (including a 6 week period of informal consultation, followed by six weeks of informal consultation).

Human Rights Implications

41. The Human Rights Act 1998 imposes a duty on the council as a public authority to apply the European Convention on Human Rights and the council must not act in a way which is incompatible with these rights. The most important rights for planning purposes are article 8 the right to respect for home and article 1 of the First Protocol, the right to peaceful enjoyment of property. Article 6 is also engaged in relation to the principles of natural justice. In general, these principles are inherent in domestic law. As this SPD has been prepared in accordance with the statutory process, it is likely that it is in conformity with the Human Rights Act 1998. Any human rights implications will be considered throughout the application of the policies in the SPD through the development control process.

Equalities Impact Assessments (EqIAs)

42. Positive equalities obligations are placed on local authorities, sometimes described as equalities duties with regard to race, disability and gender.
43. Gender equality duties were introduced by the Equality Act 2006, which amended the Sex Discrimination Act 1975. The general duties in summary require local authorities to have due regard to the need to:
 - (a) "eliminate unlawful discrimination and harassment and;
 - (b) promote the equality of opportunity between men and women."
44. Race equality duties were introduced by the Race Relations Amendment Act 2000 which amended the Race Relations Act 1976. The general duties in summary require local authorities to give due regard to the need to:

- (a) “eliminate unlawful discrimination and harassment;
 - (b) promote the equality of opportunity; and
 - (c) promote good race relations between people of different racial groups”
45. Disability equality duties were introduced by the Disability Discrimination Act 2005 which amended the Disability Act 1995. The general duties in summary require local authorities to carry out their functions with due regard to the need to:
- (a) “promote equal opportunities between disabled persons and other persons;
 - (b) eliminate discrimination that is unlawful under the Act;
 - (c) eliminate harassment of disabled persons that is related to their disabilities;
 - (d) promote a positive attitude towards disabled persons;
 - (e) encourage participation by disabled persons in public life; and
 - (f) take steps to take account of disabled person’s disabilities even where that involves treating disabled persons more favourably than other persons.”
46. Section 71 of the Race Relations Act 1976, section 49A(i) of the Disability Discrimination Act 1995 and section 76A of the Sex Discrimination Act 1975, require local authorities to act in accordance with the equalities duties and have due regard to these duties when we are carrying out our functions, which is particularly important in the context of the Interim Policy as it will be important to ensure and continue to monitor that it does foster the creation of mixed communities.
47. Equalities have been considered as part of the development of the draft Affordable Housing SPD and an Equalities Impact Assessment (EqIA) has been carried out. Further EqIAs will be undertaken to assess the implications of applying the policy. EqIAs are an essential tool to assist councils to comply with equalities duties and ensure they make decisions fairly. The council’s EqIA process goes beyond our current equalities duties to incorporate religion/belief, sexual orientation and age.
48. The EqIA in respect of the draft Affordable Housing SPD considered the impact of the proposed policy on groups who may be at risk of discriminatory treatment and has regard to the need to promote equality among the borough’s communities

Finance Director

49. This report asks the Cabinet to consider and agree the draft affordable supplementary planning document.
50. Although there are no financial implications directly attributable to this report, any costs arising from the implementation of this report should be reported for approval by the Cabinet.

BACKGROUND DOCUMENTS

Background papers	Held at	Contact
Core strategy April 2011	160 Tooley Street, London SE1 2QH	Sandra Warren 0207 525 5471
Affordable housing supplementary planning document 2008	160 Tooley Street, London SE1 2QH	Sandra Warren 0207 525 5471
Statement of Community Involvement 2007	160 Tooley Street, London SE1 2QH	Sandra Warren 0207 525 5471

APPENDICES

No.	Title
Appendix A	Draft Affordable Housing Supplementary Planning Document (appendices A - D circulated separately)
Appendix B	Consultation Plan
Appendix C	Equalities Impact Assessment
Appendix D	The Sustainability Appraisal

AUDIT TRAIL

Cabinet Member	Councillor Fiona Colley, Regeneration and Corporate Strategy	
Lead Officer	Eleanor Kelly, Deputy Chief Executive	
Report Author	Julie Seymour, Head of Planning Policy	
Version	Final	
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CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Departmental Finance Manager	Yes	Yes
Cabinet Member	Yes	Yes
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