

Item No. 12.	Classification: Open	Date: 15 March 2016	Meeting Name: Cabinet
Report title:		Development Viability SPD	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Mark Williams, Regeneration and New Homes	

FOREWORD – COUNCILLOR MARK WILLIAMS, CABINET MEMBER FOR REGENERATION AND NEW HOMES

Southwark has a strong record of securing new affordable homes, along with a wide range of other benefits for local people through the planning process. We also know that public support and understanding of the development process is important, and this Development Viability SPD sets out how we will make the process more transparent.

In Southwark there is a desperate need for homes of all kinds, but especially new affordable homes. This is why we have the most ambitious council home building programme in the country, but we know that to meet demand we also need to secure as many new affordable homes from developments as possible and this is why we have a policy that all new developments should provide at least 35% affordable housing. We want to work with housebuilders and developers in a straightforward, efficient and clear manner to attract investment into our borough.

Viability is playing an increasingly pivotal role in the development process. Development will only go ahead where a scheme provides acceptable returns to landowners and developers. As such, where a proposed scheme faces genuinely challenging finances, we may negotiate on certain planning policy requirements, where this flexibility will allow development to proceed. Simply demonstrating viability is not enough. We will still want to be satisfied that the proposal is of a high quality and makes a positive overall contribution for the future of our borough and our residents.

Inconsistency in the assessment of viability is a risk to the sustainable development of our borough. For this reason we need to provide clear guidance to applicants regarding the viability assessment process and the standard of proof and quality of evidence in assessing viability. This SPD does just that. It shows when a financial viability appraisal is necessary to support an application, what information is required, when it is required and how it will be assessed. This provides clarity to applicants and ensures our residents have confidence that we apply our policies consistently and impartially. Where a viability appraisal is required to inform a planning application then the full viability assessment will be published ahead of that application being determined.

RECOMMENDATIONS

That cabinet:

1. Agree the Development Viability SPD for adoption (Appendix A).

2. Note the Consultation Report (Appendix B).
3. Notes the Equalities Analysis (Appendix C), SEA Screening Assessment and Statement of Reason (Appendix D), Viability SPD Habitat Regulations Assessment (Appendix E).

BACKGROUND INFORMATION

4. The role of the Development Viability Supplementary Planning Document (SPD) is to provide clear guidance on the information requirements for financial viability appraisals and the basis on which these will be assessed and made public. Officers will use the guidance to ensure that all applications are dealt with efficiently, consistently and with transparency.
5. SPDs are a material consideration when decisions are made on planning applications. The SPD sets out detailed guidance to provide clarity over how we will implement the relevant policies of the Development Plan. This includes the London Plan (2015) (consolidated with alterations since 2011), the Core Strategy (2011), the saved Southwark Plan policies (2007) and adopted area action plans. The SPD does not establish new planning policies.
6. Sustainable development in Southwark requires new housing, including affordable housing, to meet our housing needs. As housing is delivered through the development process, viability is becoming an increasingly important consideration when securing affordable housing and other planning obligations. Therefore inconsistency in the assessment of viability is a risk to the sustainable development within our borough. For this reason we need to provide clear guidance to applicants regarding the viability assessment process and the standard of proof and quality of evidence we will require to consider viability as a justification for any departure from policies contained within the our Development Plan.
7. The level of affordable housing we can secure on a specific site is dependent on the value of the development site, development costs and the buoyancy of the property market. We must be able to effectually critique financial viability appraisals to ensure affordable housing contributions are achieved at the maximum viable level.
8. The National Planning Policy Framework (NPPF) (2012) seeks to ensure development is not constrained due to a scheme's viability. In essence, development should proceed where it provides competitive returns to a willing land owner and willing developer. Development should not be subject to obligations and policy burdens, such as requirements for affordable housing, quality standards and infrastructure contributions, which make a scheme unviable. We are required by national planning policy to apply such local policy requirements flexibly to ensure their combined impact does not make a site unviable.

Consultation

Summary of the consultation carried out on the Development Viability SPD

9. The Planning and Compulsory Purchase Act 2004 (amended 2008), the Town and Country Planning (Local Planning) (England) Regulations 2012 ("the 2012

Regulations”), and the council’s statement of community involvement (2008) set out the consultation requirements on planning policy documents.

10. The council carried out a consultation on the draft Development Viability SPD from 24 November 2015 to 16 February 2016. Officers ran a public workshop on 21 January 2016 which was advertised on the Council website, the Council’s twitter account and through an email to all registered email addresses on the Council planning policy consultation database. Comments raised at the workshop are set out in the consultation report.
11. Council officers held eight consultation meetings with individual landowners, developers and planning agents during the consultation period.

Summary of representations

12. Nineteen representations were received from councilors, local groups, landowners, developers and businesses that provided comments on the draft SPD. A full summary of the consultation undertaken which explains how the Council took account of and responded to representations is provided at Appendix B. A summary of the representations is set out below.

Planning Committee

13. The draft SPD was taken to Planning Committee for comment on 2 February 2016. Planning Committee noted the SPD was at the time out for consultation and provided no formal comments on the draft SPD.

Members

14. We received a representation from Cllr Adele Morris on behalf of the Southwark Liberal Democrats group. The following suggestions were made:
 - The purpose and scope of the SPD is supported.
 - Suggest that viability appraisals should be published for every scheme, as the provision of 35% affordable housing is a minimum policy requirement.
 - That the SPD should relate to any planning policy obligation subject to viability and not just affordable housing.
 - Suggest a multiple phased viability review approach for multi-phase development schemes.
 - Suggest that reference to off site affordable housing provision is removed due to its inclusion encouraging that form of provision.
 - Support the inclusion of the reference to the “very exceptional circumstances” where in lieu payment for affordable housing would be acceptable.
 - Suggest that draft viability appraisals should be mandatory at pre-application stage if there are likely to be viability issues with a scheme.

Local residents, individuals and groups

15. Two local groups submitted representations on the draft SPD. They are:
 - Future Steering Board (FSB)
 - Elephant Amenity Network (EAN) and 35percent campaign

General comments

16. The Future Steering Board and Elephant Amenity Network both support the SPD.

Section 3 When do we require a viability appraisal?

17. EAN suggest that appraisals should be published in full, alongside the council's own review/assessment of submitted viability appraisals.

Section 4 Transparency

18. The FSB and EAN support the proposed transparency as it would assist the assessment and increase confidence in the testing of appraisals and the negotiation process.

Section 5 Viability appraisal methodology

19. The FSB and EAN suggest that the appraisals should be published prior to determination to allow time for scrutiny and analysis.
20. Concerns were raised by EAN regarding the use of uplift as part of the CUV+ methodology and the clarity of the proposed methodology in the draft SPD.
21. EAN suggest crosschecking of market comparables should be strengthened in relation to market value appraisals.
22. The provision of a transparent software viability model was supported by EAN and that the financial summary must include key figures and not omit information that would mislead the lay person. EAN suggest that the DVS (District Valuer Service) should be the default appraiser,

Section 6 Viability appraisal inputs

23. EAN suggest that market comparable evidence should be supplied and that developer profit should be a separate section.

Section 7 Viability review mechanisms

24. EAN suggest a multiple phased viability review approach for multi-phase development schemes.

Other comments

25. The FSB support reference to payments for each habitable room for any offsite or in lieu provision of affordable housing and that income thresholds for intermediate housing should be set at multiples of sales values. EAN support the provision of affordable housing onsite throughout the scheme and that the conditions to allow in lieu payments should be strengthened.
26. EAN disagree with the proposed change to the affordable housing definition by national government in relation to Starter Homes, and that consideration of this new policy/definition should be considered by the SPD. The council should also assess and publish what resources are needed to apply and enforce the SPD.

27. EAN suggest that developer profit should be around 10-15% (dependent on risk) would provide a generous return and sufficient incentive to bring schemes forward.

Developers/landowners/planning consultants

28. 12 developers/landowners provided representations on the draft SPD. The following submitted representations (Client/Agent):

- Black Pearl Ltd. (DS2)
- Elephant and Castle Properties Co. (DS2 & Delancey)
- British Land (Quod)
- Gerald Eve
- Rolfe Judd
- Undisclosed client (Deloitte)
- Lendlease
- Aviva Investors (Savills)
- BPS
- Berkeley Homes
- Colombia Threadneedle Property Investments (Indigo Planning)
- Transport for London - Property

General comments

29. Generally, there was support for the intentions of the SPD to improve clarity, consistency and transparency in the viability process. However, concerns were raised that the draft SPD set new policy rather than provide guidance to existing adopted policy.
30. Concerns were also raised that the draft SPD was too prescriptive in its approach and that the requirements of the SPD would inhibit housing delivery in Southwark.

Section 2 Policy context

31. A number of representations stated that the draft SPD was not in conformity with the NPPF, PPG, London Plan and RICS guidance. Representations also suggested that forthcoming legislation relating to affordable housing that has been proposed by national government should be taken into account.

Section 3 When do we require a viability appraisal?

32. Concerns were raised that the requirement for a full viability appraisal at validation stage was too early in the application process to be useful due to the evolving nature of schemes as they move through the application process. Concerns were also raised regarding the negative impacts as a result of requirement for a second, alternative viability appraisal reflecting the financial impacts of policy compliance.
33. There was general support for the requirement for an executive summary, pending clarification on issues of transparency and commercial confidentiality.

34. A suggestion was made that the council's approach to the appointment, payment and timing of outputs of the independent assessor should be clarified as well as our approach to hybrid planning applications (i.e. applications that seek full planning permission and outline planning permission for distinct elements of a scheme).
35. Concerns were raised about the status of the proposed 'declaration of viability' for policy compliant schemes.
36. A representation also suggested that all relevant schemes should be required to submit a viability appraisal regardless of whether the proposal was policy compliant.

Section 4 Transparency

37. There was general support for greater transparency for viability appraisals. However, there were considerable concerns on the extent and over commercially sensitive information and the timing of the publication.
38. Concerns were raised about the viability appraisal executive summary due to uncertainties on the format, presentation and the inclusion of potentially commercially sensitive information.
39. Concerns were raised that the 'declaration of viability' for policy compliant schemes would not provide a safeguard against failure appeals to reduce affordable housing following the grant of planning permission.
40. Representations supported pre-application viability discussions remaining confidential.

Section 5 Viability appraisal methodology

41. Concerns were raised that the proposed viability appraisal methodology in the draft SPD may conflict with established valuation practice. Specifically, this included concerns on:
 - Approaches to current use values, alternative use values, benchmark land values, residual land values, and market values
 - How landowner incentives would be calculated
 - The uses of land as a fixed cost
 - The use of market comparables
 - The relationship of the proposed methodology to sites with extant planning permission
 - The approach in relation to cleared sites
 - The relationship to the RICS "Red Book" and RICS guidance
 - The definition of substantial implementation.

Section 6 Viability appraisal inputs

42. Concerns were raised about the amount and type of information required in the draft SPD, particularly in relation to outline planning permission. The requirement for some explicit inputs would have the effect of personalising planning permissions to specific clients.

43. Some proposed inputs were questioned, including “procurement process” and “value engineering”, and that the amount of inputs and their detail should correspond to the stage a scheme or application had reached (for example, for different parts of a phased scheme).

Section 7 Viability review mechanisms

44. A number of representations supported the requirement for review mechanisms while some objected to this requirement. Many representations felt that reviews should be used on a scheme-by-scheme basis and offered different suggestions as to when reviews would be appropriate for different types of applications. Some felt that the requirement would be costly and have a negative impact on scheme delivery.
45. Questions were raised regarding the trigger point for reviews, including suggestions to use ‘time elapsed since permission was granted’ rather than at implementation, and use of S106 clauses. It was also suggested that the review should make provisions for downward viability reviews should the viability have lessened between the consent and review.
46. There was support for a cap on affordable housing shortfall payments once policy compliant levels had been met as a result of a review, and a request to allow for payment in lieu in place of further on or off site affordable housing contributions.
47. Concerns were raised that a 70/30 split in surplus profit identified at a review would not provide sufficient incentive to optimise the schemes performance and improve viability. It was recommended that the split should be revised to a 50/50.

Greater London Authority

48. We received a representation from the Greater London Authority who made the following comments:

General comments

49. The GLA welcomes the principle of adding further detailed guidance on viability to ensure policy requirements are reflected in land values. It notes that the London Plan requires boroughs to rigorously evaluate viability appraisals. However some areas of the draft SPD place onerous requirements of developers and constrain the application of more appropriate approaches to viability testing.
50. The GLA notes in section 2 of the draft SPD that the council’s position on affordable rent is not in conformity with the London Plan.
51. The GLA suggest that the SPD should have regard to and provide guidance on covenanted private rented developments.

Section 2 Policy context

52. The GLA notes that SPDs have to be in general conformity in the London Plan. It also recognises that forthcoming legislation relating to affordable housing has been proposed by national government and that the SPD should be sufficiently adaptable to changing circumstances so as not to stall housing delivery.

Section 3 When do we require a viability appraisal?

53. Concerns were raised by the GLA regarding the requirement for two viability appraisals to be submitted with an application.

Section 5 Financial viability appraisal methodology

54. The GLA promotes the use of CUV+ as the most appropriate approach to calculating benchmark land values (BLVs) notes and that in some instances other approaches may be more appropriate, as set out in the Mayor's draft Interim Housing SPG (2015). It suggests the SPD should reflect this more flexible approach to ensure competitive returns for landowner and developer in line with the NPPF. The benchmark land value should reflect policy requirements, obligations and the community infrastructure levy. The GLA states that any approach should ensure the maximum reasonable amount of affordable housing is secured.

London First

55. We received a representation from the regional London First business membership organisation who made the following comments:

General comments

56. The aim of greater transparency and clarity in relation to viability is supported as it will build public trust in the planning process, but areas of the draft SPD go beyond what is needed to achieve this. This is because requirements in the draft SPD were too onerous, amounted to new policy and were not in accordance with the NPPF and PPG. This position could leave the council open to legal challenge.
57. Concerns were also raised that the draft SPD may deter investment and development in Southwark and not achieve the objective of building public trust.
58. The representation stated that the draft SPD was premature and would be out of date with regards to forthcoming legislation relating to affordable housing that has been proposed by national government, particularly in relation to Starter Homes, and should therefore be delayed.

Section 2 Policy context

59. Concerns were raised that the draft SPD was not in conformity with the NPPF, PPG, London Plan and RICS guidance in relation to its specific methodology and that it was overly prescriptive.
60. The approach to in lieu payments for affordable housing was also highlighted as an area of concern.

Section 4 Transparency

61. London First supported the overarching aim of the SPD to deliver transparency and clarity to the development appraisal process, but that full disclosure of viability appraisals would not be appropriate in all cases. They agreed that pre-app viability should remain confidential, but had concerns that commercially sensitive information that would prejudice the outcome of the application should

not be published. A suggestion was made that the developer should demonstrate why certain inputs should be disclosed in line with the Freedom of Information (FOI) and Environmental Information Regulations (EIR) rules on what constitutes commercially sensitive information and how long it should remain confidential.

62. Concerns were also raised regarding the proposed requirements for unviable sites and input information that would be peculiar to the developer.

Section 5 Viability appraisal methodology

63. Concerns were raised regarding the proposed approach to land value in the draft SPD. Specifically that it was too narrow and that regard should be given to alternative approaches to determine a competitive return, such as alternative use values (AUVs).

Section 6 Viability appraisal inputs

64. Concerns were raised that the draft SPD was too inflexible and over prescriptive in relation to appraisal inputs.

Section 7 Viability review mechanisms

65. London First disagreed with the use of review mechanisms for all schemes regardless of size or scale, and suggested that reviews should generally be for larger multi-phased schemes. They also suggested that the SPD should provide scope to reduce the scale of planning obligations under review mechanisms.

Statutory Consultees

66. We received two representations from statutory consultees: Environment Agency and Sport England. Neither made comments that were relevant to the SPD.

KEY ISSUES FOR CONSIDERATION

67. A number of changes have been made to the final SPD to take into account representations raised through consultation and to simplify the document. The SPD has also been reviewed and updated to ensure plain English is used throughout.
68. In a clear response to the representations received in consultation, the final version of the SPD has been updated in its structure and the terminology used to convey the key aspects of the guidance. However the general principles of the SPD remain consistent with the draft SPD, except where they have been refined in response specific representations. For this reason, a track changed version comparing the draft SPD to the final SPD has not been prepared. The consultation report provides a detailed schedule of updates to final SPD.

69. The following table outlines the updates to the structure of the final SPD in comparison to the draft SPD.

Section	Draft Structure	SPD	Final SPD Structure	Comments
Section 1	Introduction		Introduction	Remains the same
Section 2	Does your development proposal require a viability appraisal?		Policy context	This section now focuses on policy context.
Section 3	Viability appraisal validation requirements		When do we require a viability appraisal?	This section is updated to include validation and applications
Section 4	Transparency and probity		Transparency	Remains the same
Section 5	Viability appraisal methodology		Viability appraisal methodology	Remains the same
Section 6	Viability appraisal information inputs		Viability appraisal inputs	Remains the same
Section 7	Viability reviews mechanisms		Viability review mechanisms	Remains the same

70. The changes and the content of the SPD are summarised in the section below.

The guidance

Section 1 Introduction

71. The introduction of the SPD has been updated and clarifies our requirements for viability appraisals to be made public and the process for assessing viability appraisals. This will ensure the assessment of the viability of planning applications is efficient, consistent and transparent. This SPD does not propose new planning policy.
72. The section about viability declarations has been removed. All relevant proposals now require a viability assessment. We have simplified the text to ensure that this is clearer.
73. This section has been clarified that we expect all development proposals that trigger a planning policy requirement to provide affordable housing to provide the homes at social rent and not affordable rent in accordance with our adopted policies.

74. Furthermore, the final SPD has avoided presenting adopted and emerging planning policy. In order to ensure the SPD is flexible to changing planning policy requirements this section has been removed from the final SPD.

Section 2 Policy context

75. Some representations expressed concerns that aspects of the SPD may be inconsistent with national and regional planning policy and guidance. Particular concerns related to valuing benchmark land values and ensuring landowners received a competitive return. The section has been amended to clearly set out how the SPD guidance is consistent about the context for sustainable development and where various policy statements originated, including national and regional planning policy and guidance. The SPD ensures that the guidance is consistent with our adopted development plan.
76. The affordable housing policy section 2 that was included in the draft SPD has been removed from the final SPD as this was repeating policy and guidance from other planning policy documents.
77. The GLA raised concerns regarding our approach to affordable rent in the draft SPD. However, reference to this has been changed by removing the section 2 that was included in the draft SPD from the final SPD. This is because our adopted affordable housing policies, contained within the saved policies of the Southwark Plan (2007) and the Core Strategy (2011), require a minimum of 35% affordable housing with 70% of the 35% to be let at social rent. As indicated previously, a SPD cannot revise adopted policies in respect of the tenure of affordable housing.

Section 3 When do we require a viability appraisal?

78. Updates have been made to Section 3 to set out when and where we require a viability appraisal. We have updated the final SPD in response to comments and concerns that a signed declaration confirming that a policy compliant affordable housing offer was viable could not be relied upon in the event of an appeal to renegotiate affordable housing contributions following the consent of a scheme. The SPD now states that a financial viability appraisal should be provided for a planning application to be validated where there is a planning policy requirement to provide affordable housing or where the proposed development departs from other planning policy requirements due to viability. We have removed text requiring schemes that are not viable to sign a declaration. We have also removed the requirement for two viability appraisals.
79. The SPD reiterates that viability appraisals will be published prior to determination, including revised appraisals for schemes that go through revisions as part of the application process.
80. To assist the comprehension of appraisals, the SPD reiterates that a financial viability appraisal executive summary must be submitted alongside the financial viability appraisal. The executive summary will present the key conclusions that can be drawn from the full financial viability appraisal.
81. Table 1 has been introduced to clarify the key assumptions required in a viability appraisal. This is not a new requirement, but clarifies our existing requirements.

Section 4 Transparency

82. Section 4 sets out guidance on transparency. The SPD has been updated to state that all financial viability appraisals will be subject to full transparency. This means that financial viability appraisals will be published alongside other supporting evidence for public scrutiny prior to determination of the planning application. As such, the unviable proposal section in the draft SPD has been removed as it is no longer an option. The executive summary of the appraisal will be published at the validation stage of a planning application.
83. The council has been involved in a number of referrals to the Information Commissioners over the disclosure of viability documents. These decisions have emphasised the strong public interest in financial viability appraisals being made available for scrutiny when relied upon to secure planning permission. Some representations referred to concerns regarding commercial sensitivity if all full viability appraisals were published prior to determination. However, if applicants at the time of their planning application being lodged still have concerns that there are elements within the viability appraisal which could undermine their commercial position then these should be raised with the planning department through the pre-application process. The council will advise the applicant whether the potentially sensitive information is required in order to make a robust assessment of the viability of the proposed scheme

Section 5 Viability appraisal methodology

84. Section 5 of the SPD clearly sets out the methodology which viability appraisals must follow in Southwark with clear guidance on the requirements to support appraisal inputs and assumptions. This is important because it ensures consistency in the process and provides clarity and certainty to applicants.
85. Some representations were concerned that the methodology in the draft SPD in relation to the assessment of land value and ensuring that landowners receive a competitive return to incentivise the release of their land for development was inconsistent with national planning policy and guidance. The draft SPD stated that the current use value (CUV) of a site plus a premium to the landowner represented the appropriate benchmark land value (BLV).
86. The final SPD has been updated to state that the market value (MV) of the land may constitute an appropriate benchmark land value, provided full account has been taken of planning policy requirements. The CUV+ is the preferred approach to benchmark land values (BLVs) in the SPD. Where the planning policy requirements need to be flexibly applied to provide a landowner incentive, the percentage uplift (the "+") above the current use value (CUV) must be clearly justified. The uplift will be generally be 20% above the current use value (CUV) where a higher uplift can only be achieved at the expense of meeting planning policy requirements.
87. Some representations stated that the draft SPDs rejection of alternative use values (AUVs) as appropriate benchmark land values (BLVs) was inconsistent with the PPG that states that alternative use values (AUVs) may constitute a reasonable benchmark land value (BLV). The final SPD has been revised to acknowledge that alternative use values (AUVs) may, in limited circumstances constitute a reasonable benchmark land values (BLV). The SPD clearly sets out

the circumstances where the alternative use value may constitute the benchmark land value in Southwark.

Section 6 Viability appraisal inputs

88. We have updated and simplified Section 6 in the final SPD, as some representations considered the level of detail specified in the SPD as too prescriptive and that it did not account for the scale and the nature of the proposed development. For example, major development may not have the same level of detail as single-phased development. The SPD has been amended to acknowledge that the level of detail required will relate to that which is reasonably available to the applicant. As such, Appendix 2 Schedule of Accommodation template in the draft SPD has been removed from the final SPD.
89. Further comments noted that some of the information requirements were peculiar to a specific applicant. This could potentially personalise the planning permission to a specific applicant, rather than grant planning permission for the principle of development. In response the information inputs requirements have been revised to ensure that no information peculiar to a specific applicant is required. This means that the applicant will need to demonstrate the viability of a proposal in normal and prevailing market circumstances.
90. Table 6 in the draft SPD has been updated and moved to Appendix 2 'Viability appraisal inputs' in the final SPD.

Section 7 Viability review mechanisms

91. We have updated Section 7, as some representations stated that the requirement to conduct a viability review following the substantial implementation of a scheme would be an inappropriate trigger point for multi-phased schemes. The final SPD has been revised to state that the timing of viability reviews for outline planning permissions and phased schemes will be agreed between the applicant and the council to fall at an appropriate time, or times, throughout the build out of the development.
92. Some concern was also raised that the draft SPD did not include a provision to require a viability review in the event that affordable housing or other planning obligation requirements are negotiated down through negotiation or by statutory provisions following the grant of planning permission. The final SPD has been amended to ensure that any revisions to agreed planning obligations will still be subject to a viability review at the appropriate time.
93. A number of representations considered the proposed split in any surplus profits identified through the viability review of 70% to the council and 30% to the developer as inequitable and that this approach failed to provide a sufficient incentive to the developer to identify opportunities for cost savings. In response the final SPD has been revised to ensure that any surplus profits are shared equally between the council and the developer.

Glossary

94. We have updated the glossary for clarity and consistency.

Appendices

Draft version of the Development Viability SPD

95. Appendix 1 'Declaration relating to viability' of the draft SPD has been removed from the final SPD as a result of the revised guidance proposed in the final SPD.
96. Appendix 2 'Schedule of proposed accommodation template' of the draft SPD has been removed in response to representations that said the template was overly prescriptive and inflexible due to the wide variety of development schemes that may come forward.

Final version of the Development Viability SPD

97. Two new appendices have been added to the final SPD. Appendix 1 'Example viability assessment scenarios' provides non-technical examples of how the viability of a theoretical scheme of development to build 50 homes would be assessed. It is written in plain English using a step-by-step approach to guide readers on how viability is assessed. A revised Table 6 of the draft SPD has been updated and moved to Appendix 2 'Viability appraisal inputs' in the final SPD.

Further changes

98. We have accumulated the guidance summaries that are located in each section of the SPD (DVG 1 etc) at the start of the SPD to ensure quick and easy access to the relevant guidance.

Community impact statement

99. The purpose of the Development Viability SPD is to facilitate regeneration and deliver the vision of the Fairer Future promises, ensuring that the Council's Local Plan policies are effectively implemented.
100. An equalities analysis (Appendix C) has been carried out to assess the impact of the SPD on the nine protected characteristics. The analysis has found that the SPD would have a positive impact on protected characteristics and human rights as both public and private interests are to be taken into account in the exercise of the council's powers and duties as a local planning authority.

Financial implications

101. There are no immediate resource implications arising from the Development Viability SPD. The implementation of the SPD will streamline the planning policy process where a financial viability appraisal is required to support a planning application. All costs associated with reviewing financial viability appraisals are met by the applicant.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

102. The process of adoption of a supplementary planning document needs to comply with various legislative requirements. Such a document does not fall within the definition of a development plan document within the Planning and Compulsory

Purchase Act 2004 and there is therefore no requirement for an examination in public. SPDs are local development documents under the 2004 Act and whilst they form part of the planning framework for the Borough, they do not have development plan status. However, it is, as the report outlines, necessary to comply with the processes which are outlined in the Town and Country Planning (Local Planning) (England) Regulations 2012.

103. In accordance with section 70, Town and Country Planning Act 1990, a planning application will be determined by the Local Authority in accordance with its development plan so far as material to the application and to any other material and local finance considerations. Following adoption the SPD will be a material consideration in the determination of planning applications which involve viability considerations.
104. As the report outlines, it is not possible for a supplementary planning document to introduce new policy. Its purpose is to provide guidance to members and also provide greater clarity to applicants concerning the Council's approach to assessing viability.
105. The SPD includes at section 4 guidance concerning transparency. It is now intended that all financial viability appraisals will be published prior to determination of the planning application. In any event, it will be for developers to assess what information they feel appropriate to include in the viability appraisal and the Council will then determine whether or not such detail is sufficient to allow Members to take a decision as to whether or not to grant planning permission.
106. Applicants are not actually prejudiced with this approach as they do have recourse to making an appeal to the Secretary of State for failure to determine an application in the event that matters are delayed because required detail has not been forthcoming.
107. The SPD has been prepared in accordance with the relevant planning legislation. There has been appropriate consultation following the requirements of the 2012 regulations and amendments have been made to the draft SPD where possible in order to respond to some of the concerns which have been raised. The decision to adopt the SPD is a decision for the Cabinet in accordance with paragraph 21 of Part 3C of the Constitution.

Human Rights Considerations

108. It is not considered that the decision to adopt the SPD will engage any of the rights outlined within the Human Rights Act 1998

Equalities Considerations

109. The Equality Act 2010 brought together the various acts and regulations that formed the basis of anti-discrimination law in the UK. It provides for the following "protected characteristics": age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Most of the provisions of the new Equality Act 2010 came into force in October 2010 ("the 2010 Act").
110. In April 2011 a single "general duty" was introduced namely the Public Sector Equality Duty (PSED). The single public sector equality duty requires all public

bodies to “eliminate unlawful discrimination, harassment and victimisation”, “advance equality of opportunity between different groups” and “foster good relations between different groups”.

111. The equalities analysis which is appended at Appendix C considers the impact of the SPD on groups who may be at risk of discriminatory treatment but it is for the Cabinet to determine whether any impacts identified have been adequately mitigated

Departmental Finance Manager

112. There are no immediate financial implications arising from the adoption of the recommendations, and staff time to effect these recommendations will be contained within existing budgeted revenue resources.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
London Plan 2015 (Consolidated with alterations since 2011)	Southwark Council 160 Tooley Street London SE1 2QH	planningpolicy@southwar k.gov.uk
Link: http://www.london.gov.uk/priorities/planning/londonplan		
Southwark Statement of Community Involvement 2008	Southwark Council 160 Tooley Street London SE1 2QH	planningpolicy@southwar k.gov.uk
Link: http://www.southwark.gov.uk/info/856/planning_policy/1238/statement_of_community_involvement_sci		
Saved Southwark Plan 2010	Southwark Council 160 Tooley Street London SE1 2QH	planningpolicy@southwar k.gov.uk
Link: http://www.southwark.gov.uk/info/856/planning_policy/1241/the_southwark_plan		
The Core Strategy 2011	Southwark Council 160 Tooley Street London SE1 2QH	planningpolicy@southwar k.gov.uk
Link: http://www.southwark.gov.uk/info/200210/core_strategy		
National Planning Policy Framework (2012)	Southwark Council 160 Tooley Street London SE1 2QH	planningpolicy@southwar k.gov.uk
Link: http://www.gov.uk/government/publications/national-planning-policy-framework--2		
Planning Practice Guidance (Online)		
Link: http://www.planningguidance.communities.gov.uk		

APPENDICES

No.	Title
Appendix A	Development Viability SPD (circulated separately)
Appendix B	Development Viability SPD Consultation Report (available online)
Link: www.southwark.gov.uk/info/200151/supplementary_planning_documents_and_guidance/3914/draft_development_viability_spd	
Appendix C,D and E	Development Viability SPD Equalities Analysis, SEA Screening Assessment and Statement of Reason, Viability SPD Habitat Regulations Assessment (available online)
Link: www.southwark.gov.uk/info/200151/supplementary_planning_documents_and_guidance/3914/draft_development_viability_spd	

AUDIT TRAIL

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Report Author	Juliet Seymour, Planning Policy Manager	
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Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Departmental Finance Manager	Yes	Yes
Cabinet Member	Yes	Yes
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