

COUNCIL		
Report Title	Adoption of Planning Obligations Supplementary Planning Document 2015	
Key Decision	Yes	Item No.
Ward	All	
Contributors	Executive Director of Resources and Regeneration	
Class	Part 1	Date:25 February 2015

1. Purpose

- 1.1 This report seeks the Council's formal resolution to adopt the Planning Obligations Supplementary Planning Document 2015(SPD).

2. Summary

- 2.1 The Planning Obligations SPD is one of the documents that, when adopted, will make up the Council's Local Development Framework (LDF). The LDF refers to the group of documents setting out the Council's planning strategy and policies.
- 2.2 The Planning Obligations SPD has been revised to take account of necessary changes required to reflect the adoption of the Lewisham Community Infrastructure Levy (CIL). The Planning Obligations SPD sets out how the Council will negotiate Planning Obligations after adoption of the CIL Charging Schedule due to come into effect on 1st April 2015.
- 2.3 The Mayor agreed during the Mayor and Cabinet meeting on 14th January 2015 that the Council be recommended to formally adopt the Planning Obligations SPD.

3. Recommendation

- 3.1 This report seeks the Council's formal resolution to adopt the Planning Obligations 2015 SPD as set out at Appendix 1 to this report.

4. Policy context

- 4.1 The Planning Obligations SPD is part of the Local Development Framework and as such is part of the Council's policy framework as set out in the Council's constitution. It requires a resolution from the full Council to adopt.

- 4.2 The full background and policy context is set out in the report to Mayor and Cabinet dated 14th January 2015 which is included as Appendix 2 to this report.

5. Background

- 5.1 Planning Obligations under section 106 of the Town and Country Planning Act 1990 (as amended) are a mechanism which makes a development proposal acceptable in planning terms that would not otherwise be acceptable. See section 6 of this report for further details.
- 5.2 The current Planning Obligations SPD was adopted in 2011 and it was necessary to update due to planning policy changes and to take account of the adoption of the CIL Charging Schedule. A consultation on a draft SPD was undertaken between October and November 2014. The draft was amended as a result of the comments made and the adoption version was reported to the Mayor and Cabinet in January 2014. Some further minor textual changes have been made for the final adoption version as set out at appendix 1.

6. Legal implications

- 6.1 The power of a Local Planning Authority to enter into a planning obligation with any person interested in land in the area of the local planning authority is contained within Section 106 of the Town and Country Planning Act 1990 (as amended). Planning obligations are secured by Deed either by way of planning agreements or unilateral undertakings and are required in order to mitigate the impact of the proposed development.
- 6.2 In accordance with the Act, planning obligations:
- May restrict the development or use of land;
 - May require specified operations or activities to be carried out;
 - May require land to be used in any specified way;
 - May require cash payments to be made;
 - Can be either positive, i.e. requiring a person to carry out a specified action, or negative, i.e. restricting the person from developing or using the land in a specified way;
 - May be entered into either by agreement with the Local Planning Authority or by an undertaking by the developer to which the Local Planning Authority is not a party (e.g. unilateral undertakings in appeal cases);
 - Must be entered into by means of a Deed (which can be varied later if necessary by 'Deed of Variation');
 - Must be registered as a local land charge
 - may be enforced against the person entering into it and against any person deriving title from that person; and
 - Can be enforced by means of injunction.

- 6.3 Regulation 122 of The Community Infrastructure Levy Regulations 2010 requires that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is —
- (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.
- 6.4 Regulation 123 scales back the use of obligations where an authority introduces a Community Infrastructure Levy to those matters that are directly related to a specific site, satisfies Regulation 122, and is not for relevant infrastructure. “Relevant infrastructure” means, in this context, where a charging authority has published on its website a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL.
- 6.5 Planning obligations are not permitted to secure the provision of relevant infrastructure. The SPD clarifies the Council’s policy towards securing appropriate planning obligations required to mitigate the impact of development, in the light of CIL.

7. Conclusion

- 7.1 The Council is asked to resolve to adopt the Planning Obligations Supplementary Planning Document 2015 attached as Appendix 1 to this report.

Background documents

Short Title Document	Date	File Location	File Reference	Contact Officer	Exempt
Planning & Compulsory Purchases Act 2004 (as amended)	2004	Laurence House	Planning Policy	Brian Regan	No
National Planning Policy Framework	2012	Laurence House	Planning Policy	Brian Regan	No
Local Plan Regulations	2012	Laurence House	Planning Policy	Brian Regan	No

If you have any queries on this report, please contact Brian Regan, Planning Policy, 3rd floor Laurence House, 1 Catford Road, Catford SE6 4RU – telephone 020 8314 8774.

**Appendix 1: Planning Obligations Supplementary Planning Document,
Adoption Version February 2015**

**Appendix 2: Report to Mayor and Cabinet on Planning Obligations SPD dated
14th January 2015**

This can be viewed at:

<http://councilmeetings.lewisham.gov.uk/documents/s33045/Planning%20Obligations%20SPD%20Adoption.pdf>