



Listening Learning Leading

Section 106 Planning Obligations Supplementary Planning Document

CONSULTATION SUMMARY

April 2016

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SUMMARY

This report provides a summary of consultation undertaken by South Oxfordshire on a draft Section 106 Supplementary Planning Document (Section 106 SPD). The document identified how the council will ensure that new development contributes to infrastructure such as roads, schools, community facilities, leisure facilities, open space, health care, community safety etc. The draft Section 106 SPD set out our approach towards seeking planning obligations (through Section 106 legal agreements) when the Community Infrastructure Levy has come into effect to avoid double charging.

A short online survey was set up and promoted by emails sent to statutory and non-statutory bodies, Town and Parish Councils and the development industry. Information was published on the council's website and in local libraries. Responses could be submitted via the online questionnaire, by email or by post.

We received 23 consultation responses, comprising: 4 statutory consultees, 4 service providers, 5 Town and Parish councils and 1 Parish Council within the Vale of White Horse, 7 developer/agents and 2 responses from the general public.

The main concern was in relation to double counting (funding infrastructure by CIL and S106).

The council has reviewed representations and used it as evidence to inform the final Section 106 Supplementary Planning Document.

BACKGROUND TO THE CONSULTATION

New development plays an important role in any prosperous locality. Whether it is the provision of new homes, employment or recreational facilities, development is essential to provide for our current and future needs. However, development comes with its pressures on the environment and community, the impact on our roads, schools and general amenity.

Section 106 (S106) agreements are our current means of securing infrastructure to support development. With the introduction of a Community Infrastructure Levy (CIL) the use of Section 106 planning obligations will be scaled back. We need to ensure that the use of CIL and planning obligations does not overlap. South Oxfordshire District Council is progressing with adopting and implementing a CIL Charging Schedule, which is likely to take effect in 2016.

Therefore we prepared a draft S106 Supplementary Planning Document (SPD) setting out our approach towards seeking planning obligations alongside the CIL Charging Schedule. It should be noted that a developer would not be asked to pay CIL and S106 for infrastructure in relation to the same development.

This consultation sought views on the proposed SPD.

CONSULTATION METHODOLOGY

We published a draft S106 Planning Obligations SPD for a consultation period of six weeks, which was extended by a further week to ensure sufficient time to respond. The specific period of consultation was from 24 September to 13 November 2015.

The draft S106 Planning Obligations SPD has been published on our website. Hard copies were displayed at local libraries and our council offices. Email notifications were sent out to statutory and non-statutory consultees and the development industry. English Heritage, Natural England and the Environment Agency also received a copy of the SEA Screening report.

CONSULTATION RESPONSES

We received 23 representations. A breakdown by respondent type is set out below:

Group of respondent	No
Statutory consultee	4
Service provider	4
Town/parish council	6
Developer/agent	7
General public	2
Total	23

The following summary highlights the main issues identified as part of the consultation. We have created a more detailed schedule of comments and associated changes, which is available to view as a data sheet published alongside this report on the council's website¹.

Statutory consultee responses

Of the statutory consultees *Natural England* and *Highways England* raised no specific comments. Historic England agreed that an SEA of the S106 SPD is not required and would like to see a reference to heritage "infrastructure" in the document.

Our response - Additional information has been added under the heading 'public realm' and in Table 2. Contributions will be sought towards the conservation, restoration and enhancement of the historic environment and archaeological sites and monuments where an impact is directly linked as a consequence of a development site and requires mitigation. Also before the determination of an application which affects a building of archaeological or historic interest, applicants will be required, where necessary, to submit a detailed record survey and analysis of the building. In some circumstances, further survey and analysis will be made a condition of consent.

Oxfordshire County Council want to see the document amended to provide the flexibility for both councils to optimise funding mechanisms to deliver infrastructure to serve the communities of South Oxfordshire. It will be important that all sources of potential funding are optimised, including S106 planning obligations. In particular the County suggested that where land is sought for schools on a specific (probably large) application, S106 contributions should also be sought. The County also wished to see where reference is made to documents produced by the county council such as the Pupils Places Plan, build costs in relation to new schools or extensions altered so that the SPD remains relevant and up to date.

Our response – The strategic sites will secure land and contributions for education as they are exempt from CIL. It will also be possible to secure land where appropriate for on-site provision of education. However the council identify CIL as the funding mechanism towards education from all other development sites. The County's suggestion would entail funding from CIL and S106 for the same infrastructure, unless a specific project is named as being S106 funded. Moreover this was not accounted for in the CIL viability and there is a risk that seeking CIL and S106 contributions (for education) will render development unviable. We

¹ <http://www.southoxon.gov.uk/about-us/have-your-say/feedback-previous-consultations-0>

can aim to secure land for school provision without affecting viability and have added this to Table 2. In respect of referenced documents, we agree the suggested wording in relation to the Pupils Places Plan and omitted the table in relation to build costs for schools to avoid the S106 SPD becoming out of date.

Oxfordshire County Council also request that specific transport projects that have been attributed to the North-East and Ladygrove-East site should be attributed to site B in Wallingford. These infrastructure projects are the Science bridge, Didcot Northern Perimeter Road Phase 3, the A4130 widening, Jubilee Way roundabout, the Culham river crossing scheme and strategic bus network.

Our response - as site B in Wallingford has been exempt from CIL and infrastructure requirements will be secured through S106 Section 11 (Transport) and Table 2 have been revised to incorporate consultation comments with a caveat 'where appropriate'.

Service provider responses

Scottish and Southern Energy Power Distribution had no comments to make. *Thames Water* supported the need for developers to demonstrate that there is adequate water supply, surface water drainage, foul drainage and sewerage treatment capacity both on and off site to service their development, as set out in the S106 SPD.

Chiltern Clinical Commissioning Group queried the circumstances in which CIL or S106 conditions would be employed. They expressed a view that they are not in favour of either/or process regarding CIL and planning conditions.

Our response – The council's position on the circumstances when CIL or S106 will be used is stated in paragraph 1.12, page 7 that the council will be limited in the use of S106 and CIL will be the main mechanism to fund infrastructure.

Thames Valley Police (TVP) would like recognition that delivery of services is not solely delivered by CIL but also through planning obligations (subject to pooling). TVP requested to add 'policing' to community safety and to include the need for on-site police facilities on some of the strategic sites.

Our response – Section 15 (Community safety) has been revised to incorporate consultation comments and reference to 'policing' has been added. A new entry in Table 2 with regard to on and off site provision to community safety and policing associated with development at strategic sites has also been added.

Town/parish council responses

We have received five representations from town and parish councils in South Oxfordshire (Rotherfield Peppard, Thame, Henley, Swyncombe and Chalgrove), which all confirmed that they have considered the draft document and have no comments to make. In addition we received comments from a neighbouring Parish Council in Watchfield. The Vale of White Horse will be consulting on a draft Section 106 SPD in due course.

Development industry/agents main issues

We have received seven representations from developers/agents/solicitor. The main concern was in relation to double counting and a few inconsistencies were highlighted

between Table 2 and Appendix 1 (which sets out the infrastructure requirements for the three strategic sites).

Council response - Table 2 has been revised and simplified. Where we found inconsistencies with our Infrastructure Delivery Plan, wording in the draft S106 SPD and/or Appendix 1 this has been corrected.

The document should emphasise better the relationship between CIL, S106 planning obligations, planning conditions and S278 agreements. Representations on behalf of the *University of Reading* (North East Didcot) requested to consider where provision can be achieved by the imposition of a condition no planning obligation should be required for that provision (including provision of affordable housing).

Council response – The section (paragraphs 1.4 to 1.16) setting out the relationship between various planning mechanisms has been strengthened. Whether an obligation on the part of the developer to do something should be best secured by way of a condition or planning obligation depends on the means of enforcement, which is different for each. The council will choose the best mechanism to allow development to be properly implemented in the public interest.

There has been confusion with the terms ‘Health care’ and ‘Health and Wellbeing provision’. Also an inconsistency between Table 2 and Appendix 1 in relation to Health and Wellbeing requirements has been highlighted.

Council response – Health care refers to GP surgeries provision, whereas Health and Wellbeing refers to Adult Day Care provision. The heading Health and Wellbeing has been extended to include “(Adult Day Care)”. Oxfordshire County Council advised that a new resource centre in Didcot and Wallingford is required to meet the needs of population growth from the allocated strategic sites. Financial contributions from Didcot North East and Ladygrove East will be sought. There is a requirement for a new resource centre to be delivered as an integral part of the Extra Care Housing development in Wallingford. Section 16 - Health and Wellbeing and Appendix 1 has been revised to reflect the County Council’s latest response.

There is no distinction or clarity as to what constitutes strategic sports and local sports delivered under CIL and how this differs from the provision of sports and recreation facilities to make a development acceptable (which is based upon the provision standards set out in Appendix 5) or associated with development at strategic sites.

Council response - Site related sports, recreation and leisure facilities in accordance with policy requirements to make the development acceptable in planning terms will be secured through S106 (this also applies to the strategic sites). Other (off site) sports, recreation and leisure facilities will be funded through CIL. Table 2 has been updated to reflect this approach. Appendix 5 has been deleted as infrastructure requirements for the strategic sites have been set out in Appendix 1 and policy requirements for sports, recreation and leisure (provision standards) are imbedded within the S106 SPD under the relevant section.

The terminology of ‘Green infrastructure’, ‘biodiversity’ and ‘in perpetuity’ has been requested as it was not clear in the draft S106 SPD.

Council response – The above terminology has been added to the Glossary.

Responses from the general public

We received two consultation comments from the general public. One of which did have no comments to make. The second comment has been in relation to the self-build sector and that broadband projects should benefit from planning obligations.

Council response – The self-build sector has been exempt from CIL and South Oxfordshire District Council generally do not seek planning obligations for small scale development of 10 and below. The council is working with the county council and service providers to provide broadband to residents and businesses across Oxfordshire.

HOW WE HAVE USED RESULTS OF THE CONSULTATION

The council has considered representations made in response to this consultation and the changes we propose to make are detailed below. More detailed comments can be found in the data sheet published alongside this report on the council's website².

Recommended changes

The main changes to the draft Section 106 SPD have been set out below:

- Page 1 and reference to 'consultation' has been deleted as the consultation is now closed and the document should reflect the adopted version
- Table 2 has been simplified to avoid confusion
- Section 1 'relationship between planning obligations, planning conditions, Section 278 Agreements and CIL. Wording has been strengthened
- Table 3 (Standard, minimum sizes and distance thresholds for play areas) has been omitted
- Section 9 in relation to public realm has been expanded.
- Section 17 'Shop mobility' has been omitted
- Section 10 Education has been revised
- Section 15 Community Safety: The word 'policing' has been included and that the on or off-site provision to community safety and policing to make the development acceptable in planning terms (subject to pooling limitations) and associated with strategic sites will be secured through S106.
- Section 16 Health and Wellbeing has been revised
- Appendix 1 has been updated to ensure consistency with Table 2, the wording within the S106 SPD and the council's Infrastructure Delivery Plan
- Appendix 3, Table 2 has been omitted
- Appendix 4 (administration and monitoring fees) has been revised to reflect the latest information/costs and published on the website as a separate document to ensure that the SPD does not become out of date
- Appendix 5 (Standards for indoor and outdoor sport) has been deleted
- Glossary: the following terms have been added: 'Biodiversity', 'Green infrastructure', 'in perpetuity'

Changes in relation to the provision of a Shopmobility scheme in Didcot

The council is not taking forward the provision of a shop mobility facility scheme instead is focussing on increasing accessibility to town centres for people with disabilities.

Therefore section 17 'Shop mobility' has been omitted from the draft S106 SPD. Instead section 9 under the heading 'public realm' has been expanded to include improvements to the public realm and town centres and to increase accessibility for disabled.

² <http://www.southoxon.gov.uk/about-us/have-your-say/feedback-previous-consultations-0>

FURTHER INFORMATION

For more information, please contact:

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