

Cabinet Member Briefing paper – Appendix 3

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Revised Regulation 123 List and S106 Planning Obligations Supplementary Planning Document

Purpose of briefing paper

1. For the Cabinet Member to consider the following documents
 - revised Regulation 123 List,
 - revised S106 Planning Obligations Supplementary Planning Document,and to undertake public consultation on them in accordance with our Statement of Community Involvement (SCI).

Background

2. South Oxfordshire has an adopted Charging Schedule that sets a Community Infrastructure Levy (CIL) for new residential and retail development. It is accompanied by a Regulation 123 list that sets out infrastructure projects or generic types of infrastructure that may be funded using CIL receipts. Alongside the Reg 123 list is our S106 Planning Obligations Supplementary Planning Document (S106 SPD) that defines what is captured and paid for by S106, rather than CIL.
3. Following the loss of our 5YHLS we have a significant number of speculative planning applications for housing development. Under our existing Reg 123 list and S106 SPD we cannot adequately capture developer contributions for education provision and other on-site infrastructure requirements. We therefore need to revise our Regulation 123 list and S106 SPD in order to capture appropriate contributions to secure this infrastructure.

4. Our CIL Charging Schedule has been based on proposed development growth and infrastructure requirements as set out in the adopted Core Strategy and supporting Infrastructure Delivery Plan, which highlighted the need for one secondary school and two primary schools in Didcot and one primary school in Wallingford. The strategic site 'Didcot North East' also needs to incorporate a new neighbourhood centre and new leisure centre.
5. The viability assessment to establish CIL rates used an area-based approach, which involved a broad test of viability across the district using relevant site types for sampling based on those site types allocated and envisaged during the Plan period. The viability assessment shows that strategic sites (500+ dwellings) outside the Henley/Goring area are unable to absorb both the affordable housing requirements, significant on-site infrastructure requirements and CIL. Therefore, our three strategic sites (North East Didcot, Ladygrove East Didcot and Site B Wallingford) have been exempt from paying the levy and infrastructure requirements will be secured through S106 planning obligations.
6. It has been our intention to review the current CIL Charging Schedule in line with the emerging new Local Plan and revised Infrastructure Delivery Plan that reflects new development growth and infrastructure requirements. Work is ongoing in developing this new charging schedule, however it is anticipated that the revised CIL Charging Schedule is not adopted before autumn 2018.
7. Due to the current number of speculative planning applications, officers suggest we cannot wait for the new Local Plan (autumn 2018) and revised Charging Schedule. Thus we propose an interim update to the Reg 123 list and S106 SPD to accommodate speculative housing development.
8. Officers have reviewed the Regulation 123 list (Appendix 1) and S106 SPD (Appendix 2). Key changes to these documents have been highlighted in red and include:
 - Where large new development sites generate the need for a new school, community facilities and health services, financial contributions will be negotiated, subject to viability, and secured through S106 legal agreements.
 - Retirement housing is exempt from CIL. However, where the need arises for the enhancement of community and recreation facilities or improvements to the public realm in town/village centres, financial contributions will be negotiated and secured through S106 legal agreements.
 - The section in relation to the management and maintenance of on-site infrastructure has been expanded
9. Councils may amend the Regulation 123 list without revising their charging schedule, subject to appropriate consultation. However, where a change to the regulation 123 list would have a very significant impact on the viability evidence that supported examination of the charging schedule, this should be made as part of a review of the charging schedule" (NPPG, paragraph 098).

10. The viability assessment shows that there is good viability on greenfield land. Viability reduces on brownfield land, with the exception of higher land value areas Henley/Goring. However, the majority of speculative planning application is proposed on greenfield land. Offers recommend to consider the viability of large planning applications on a case by case basis and to negotiate planning obligations taking into consideration the provision of affordable housing and the full CIL charge.

Financial implications

11. To undertake an interim review of the Reg 123 list and s106 SPD, including consultation, it can be accommodated under existing planning budgets.

Legal implications

12. The suggested changes would accord with the CIL Regulations 122 and 123.

Risks

13. It is important for the council to review the Regulation 123 List and S106 SPD to ensure appropriate infrastructure to support new development can be provided/funded in the future.

Timescale

14. The following next steps are being proposed

Action	Time
Decision by Cabinet Member	July 2017
Start of consultation	30/08/2017
End of consultation	11/10/2017
Consider consultation comments report back to Members	12/10/2017 – 31/10/2017
Cabinet Briefing	14/11/2017
Cabinet meeting	07/12/2017
Adoption	Mid December 2017

Conclusion

15. It is important to secure sufficient funding for appropriate infrastructure to support new development. Currently we are not able to fully secure sufficient funding for adequate infrastructure. The suggested interim review for the Reg123 list and S106 would help rectify the position. As part of the legal process to make any changes to the Reg 123 list of s106 SPD we need to consult the public/key stakeholders on the interim proposals.

Recommendations

To approve the following documents for public consultation:

- Revised CIL Regulation 123 List
- Revised S106 Planning Obligations Supplementary Planning Document