

Scrutiny report



Report of Head of Planning Services

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To: SCRUTINY COMMITTEE

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

Recommendation

That scrutiny committee considers and provides comments to the Cabinet member for planning on the consultation documents, the revised Regulation 123 List and the revised S106 Planning Obligations Supplementary Planning Document.

Purpose of briefing paper

1. This report aims to update and seek views from councillors on the review of the current;
 - Regulation 123 List, and
 - S106 Planning Obligations Supplementary Planning Document (currently subject to public consultation)

Background

2. We have 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 5 Year Housing Land Supply (5YHLS) we have received 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 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 in Didcot, 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 facilitate a 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. These were 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 propose an interim update to the Reg 123 list and S106 SPD to accommodate speculative housing development. If we wait for the new Local Plan (autumn 2018) we could miss the opportunity to capture CIL contributions for necessary infrastructure to support new speculative 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 this use to enhance community and recreation facilities or improve the public realm in town/village centres, financial contributions will be negotiated and secured through S106 legal agreements.
 - A table setting out the types of play areas that may be required.
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 development of greenfield land is viable. Viability reduces on brownfield land, except in areas of high land value such as in and around Henley and Goring. The majority of speculative planning applications have been received on greenfield land. Officers suggest that the viability of large planning applications should be considered on a case by case basis and planning obligations should be negotiated taking into consideration the provision of affordable housing and the potential full CIL charge.

Financial implications

11. The interim review of the Reg 123 list and s106 SPD, including consultation, can be met from 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
End of public consultation on revised Reg 123 & S106 SPD	11/10/2017
Consider consultation comments (incl. Scrutiny views) and prepare final documents	12/10/2017 – 31/10/2017
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 secure sufficient funding for necessary 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 have consulted the public/key stakeholders on the interim proposals. We will take comments into account before any agreed changes.

Appendices

1. Regulation 123 list
2. S106 SPD