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## WESTMINSTER DRAFT PLANNING OBLIGATIONS AND AFFORDABLE HOUSING SPD & DRAFT AFFORDABLE WORKSPACE GUIDANCE

Westminster City Council has started consultation on a new draft Planning Obligations and Affordable Housing Supplementary Planning Document (“SPD”), as well as a draft Affordable Workspace Informal Planning Guidance Note, to accompany the adopted City Plan. Both consultations close on 29 April 2022.

The SPD provides detail on the circumstances in which certain Planning Obligations will be sought by the City Council, along with how financial contributions will be calculated and Section 106 obligations used to control other aspects of development.

The draft Affordable Workspace Informal Planning Guidance Note provides additional detail relating to affordable workspace.

Unlike Local Plans and the policies within them, SPDs do not have legal “development plan” status. SPDs are intended to explain or guide the implementation of policy, rather than making new policy. They can be a material consideration of weight in planning decision making. Unlike local plans, they are not subject to independent examination by a Planning Inspector. This means that LPAs have more flexibility on their contents.

The **key new or amended obligations** compared to existing practice are as follows.

### KEY NEW OBLIGATION – ENCOURAGING AFFORDABLE WORKSPACE

The publication of the SPD and the accompanying Affordable Workspace Informal Guidance Note is the first time that Westminster City Council has introduced substantial content regarding affordable workspace provision in relation to development.

The SPD acknowledges there is **no requirement** for the provision of affordable workspace within the adopted City Plan policies. Instead, the SPD states that affordable workspace “**is encouraged**” and will be considered to be a **public benefit** when determining individual planning applications.

Affordable workspace would be encouraged in relation to developments exceeding 1,000 sq m GIA of Class E (c) and Class E (g) uses (financial and professional services and office respectively). The SPD and draft Informal Guidance Note together set out a range of requirements for such developments, the key ones being as follows:

- **10% of the space should be affordable space.** Further clarification on whether this applies to NIA or GIA, the application to changes of use and whether it is to be applied to new floorspace only or to the total proposed area of the development is required;
- The space should be provided to the user at **no more than 50% of market rate**, with 50% of desk spaces being for Westminster residents or businesses who are unable to afford market rates. 50% of desk space should be for start-up or early-stage businesses (in their first 5 years);
- Category A fit-out should be provided by the developer, with the manager / provider of the space being responsible for the Category B fit-out. The space should ideally be retained as affordable workspace for the **lifetime of the development / 100 years**, although there is acknowledgement that shorter periods may be more appropriate; and
- An **Operation Management Plan**, setting out the details of how the space is to be managed and operated, would need to be approved by the City Council.

Both documents acknowledge that there is no direct City Plan policy requirement for affordable workspace but recognise that the provision of affordable workspace will be a **'public benefit'**, which could be weighed against harm caused by developments (for example to heritage assets) in decision making.

### KEY NEW OBLIGATION – PUBLIC TOILETS

The SPD includes a requirement for retail developments exceeding 1,000 sq m floorspace, along with 'entertainment' (for example live music venue, nightclub, and casino) uses exceeding 500 sq m and transport interchanges, to **provide public toilet facilities** meeting a range of criteria, including guaranteeing public access. This could prove onerous for the ongoing management of new developments including such uses.

### KEY AMENDED OBLIGATION – CARBON AND ENERGY PERFORMANCE

A **carbon price of £300 per tonne** would be applied to any 'shortfall' payments-in-lieu required to allow developments to reach net zero carbon. This is a significant increase, at over three times the Mayor of London's current carbon price used to date (of £95 per tonne), reflecting the City Council's understanding of the cost of offsetting carbon locally. The SPD does not directly address the potential for carbon to be directly offset locally by developers and landowners, rather than through financial payments.

The SPD refers to the publication of further guidance in the future to allow additional 'mitigation measures' to be imposed in the event that the actual energy performance of developments falls short of that predicted in the application, which suggests more complex Section 106 monitoring obligations.

### KEY AMENDED OBLIGATION – EMPLOYMENT AND TRAINING

Requirements for **Employment and Training financial contributions**, to be applied to developments of at least 50 residential units or with a net increase of 1,000 sq m in Class E or C1 (hotel) floorspace, have been maintained largely in their previous form, although a slightly more fine-grained approach to different commercial land uses is taken. The charges for office development have been reduced slightly, reflecting a decline in Westminster's worklessness rate.

Developments exceeding 100 residential units, or with a net increase of 10,000 sq m or more in uses which may be expected to provide 'end user' employment opportunities, must continue to provide an **Employment and Skills Plan** to be approved by the City Council. This must set out the developer's approach to securing target levels of employment for Westminster residents in the construction and operational phases. The requirement to include commitments for the **on-going 'end user' or 'operator'**, for example to provide a proportion of jobs in an office or retail development to Westminster residents, has been strengthened compared to the current guidance.

## OTHER ITEMS

The SPD also covers a range of other items on which the City Council will seek planning obligations with an approach which is generally similar to the existing position and practice. These include the following.

With regard to **affordable housing**, the formula and rates for calculating contributions, including financial payments-in-lieu of actual delivery, are consistent with those already set out in the October 2021 Statement of Intent. Contributions of £16,000/sq m, £10,700/sq m and £6,900/sq m will be sought in lieu of affordable housing in Prime, Core and Fringe areas, respectively. Detail on the **target tenure split, size and management of affordable housing** which should be secured is provided. Clarification on the requirement and nature of affordable housing in **'non-traditional' developments such as extra care, student housing, build-to-rent and shared living** is provided. This broadly aligns with London Plan policy.

The SPD confirms the requirement for affordable housing (at 35% of the 'total' proposed floorspace in a development) applies only to the floorspace representing 'new housing'. It is implied that floorspace for existing housing which is effectively unaltered by a development would not count towards the total from which the 35% target floorspace requirement is calculated, but homes that are physically replaced would. **The definition of 'new housing'** and whether reconfigured or refurbished homes are captured, is ultimately **to be determined on a case-by-case basis** for each application.

Where developments fail to meet the required **Air Quality Neutral or Air Quality Positive** standard on-site, financial contributions for off-setting will be required.

The terms of access for the community to aspects like **sports facilities** in new and expanded schools, education and leisure developments may be secured via a "Community Use Agreement" to be approved by the City Council.

The delivery of various elements of **Transport and Public Realm enhancements** will continue to be secured via Section 106 Agreements. This includes aspects such as public art, security measures, improved drainage, biodiversity and greening, improvements to the pedestrian environment, additional and improved cycle infrastructure and freight, servicing and delivery consolidation measures. Financial contributions in lieu may be sought in relation to open space and playspace where on-site provision is not possible. Developments creating new public realm will continue to be governed by walkway agreements to ensure public access.

New developments in Westminster will generally not include new car parking spaces. Where new parking is permitted, obligations will continue to be sought to **manage parking stress**. The obligations may include car club membership for residents (the cost being borne by the developer), requirements that parking spaces are let rather than sold and the prioritisation of spaces for families with young children. Financial contributions for off-site electrical vehicle charging points may be secured where developments are deemed to increase parking stress in on-street bays, alongside car club membership.

Development **delivery and servicing** will continue to be controlled by the Council via a Delivery and Servicing Plan secured via the Section 106 Agreement. Developments which are unable to accommodate servicing and deliveries off-street may be required to provide financial contributions to off-set the cost of providing on-street servicing bays.

Measures required to protect **heritage assets**, for example, by ensuring the completion of developments affecting a heritage asset, may be included in Section 106 Agreements.

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