

Lenton & Wollaton East, Meadows and Wollaton West Area Committee – 22 September 2020

Title of paper:	Draft Affordable Housing Contributions Arising From Purpose Built Student Accommodation Supplementary Planning Document	
Director(s)/ Corporate Director(s):	Paul Seddon/Chris Henning	Wards affected: All
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Date of consultation with Portfolio Holder	5 May 2020	
Relevant Council Plan Key Theme:		
Nottingham People		X
Living in Nottingham		X
Growing Nottingham		X
Respect for Nottingham		
Serving Nottingham Better		
Summary of issues (including benefits to citizens/service users):		
<p>The Draft Affordable Housing Contributions Arising From Purpose Built Student Accommodation Supplementary Planning Document (SPD) sets out that contributions for affordable housing will be secured from Purpose Built Student Accommodation (PBSA) developments in the future. The document was been approved as a draft for consultation by the Portfolio Holder for Housing, Planning and Heritage via the delegated decision process.</p> <p>The document has been subject to consultation between 27 May and 5 August 2020. In total, 9 consultation responses were received mainly from agents acting on behalf of developers but also from a residents group, a housing organisation and the University of Nottingham. A legal opinion has also been received challenging the legality of the SPD as it is currently drafted.</p>		
Recommendation:		
1	To note the draft Affordable Housing Contributions arising from the Purpose Built Student Accommodation Supplementary Planning Document (attached as appendix 1).	

1 Reasons for recommendations

- 1.1 The Local Plan seeks affordable housing contributions from residential development including from Purpose Built Student Accommodation (PBSA). The SPD sets out the draft mechanism and formula to be applied seeking affordable housing contributions.
- 1.2 The Chair of the area committee requested that this draft document be brought to the area committee for noting.

2 Background (including outcomes of consultation)

- 2.1 The Draft Affordable Housing Contributions Arising from PBSA SPD was approved by the Portfolio Holder, via the delegated decision process on 14 May 2020, for consultation. The document has now been subject to consultation for 10 weeks between 27 May and 5 August 2020.
- 2.2 When adopted in its final form, the SPD will supplement Policy HO3 of the Local Plan Part 2 and will be a material consideration in the determination of planning applications.
- 2.3 The draft SPD (attached in Appendix 1) sets out requirements for the provision of affordable housing provisions from PBSA (both private PBSA and traditional university owned halls of residence). A summary of the main points are as follows:
- Contributions towards off-site affordable housing is the City Council's preferred approach.
 - Affordable housing contributions will be secured either through planning conditions or usually through the Section 106 Agreements. Commuted sums paid under these arrangements will be used to support the City Council's Housing Strategy in order to implement Council objectives in relation to affordable housing provision.
 - The SPD sets out parameters for calculating the affordable housing contribution and applies to all PBSA schemes with 50 or more bedspaces (either through new build or conversion); a detailed explanation of costings and ratios is provided.
 - Affordable housing provision within new PBSA developments is not practical due to the high density of schemes, adherence to Management Agreements and potential conflict with residents with different needs and lifestyles.
 - Direct provision of affordable PBSA bedspaces targeted at students, considered to be in need of lower cost rent, is not deemed appropriate. PBSA is targeted at students who do not live in the City on a full-time basis and so provision would not therefore be meeting the City's affordable housing need.
- 2.4 It is important to note that the SPD, and specifically costings, will be monitored annually and updated as appropriate.

Brief Summary of the Consultation Comments Received

- 2.5 A range of consultation comments have been received mostly from agents for developers. In addition, detailed comments from a residents group, a housing organisation and the University of Nottingham have also been received. The issues raised are summarised below;

Housing organisation	<ul style="list-style-type: none">• Support for the principles of the SPD and that affordable housing contributions should apply to all types of PBSA to meet the housing needs of Nottingham's citizens.• Agreement that on-site affordable housing provision on sites being developed for PBSA would not be a desirable option.
Residents group	<ul style="list-style-type: none">• Broad support to the principle of securing S106 from PBSA, although some detailed issues also set out• It is acknowledged that on-site affordable housing with respect to PBSA is impractical and highly undesirable.• Considers that there is a need for affordable PBSA bedspaces to bring it more in line with the rents in HMOs.• Feel that the requirement for affordable housing contribution should

	<p>begin for PBSA schemes of more than 30 to 40 bedspaces (rather than 50 as currently proposed).</p> <ul style="list-style-type: none"> Concerns raised that contributions for off-site affordable housing should not be at the expense of promoting PBSA in areas of the City which already have over-concentrations of students/HMOs.
Developers	<ul style="list-style-type: none"> SPD would result in most PBSA schemes being unviable in the current market with significant implications for the city's regeneration objectives and the current shortage of student bed spaces will persist. The knock-on implication of this will be that there will be continued pressure on family housing and the Council's social cohesion objectives of returning such property to family housing will be frustrated. SPD does not comply with the National Planning Policy Framework, Planning Practice Guidance nor legislation (Community Infrastructure Levy Regulations). The SPD should consider reducing affordable housing contributions developments in areas designated for PBSA developments in the Local Plan. Whilst the principle for calculating affordable housing contributions arising from student developments is accepted it is considered that the calculation for affordable housing contributions arising from student development should be treated separately from conventional residential development. Instead this should be based upon policy, evidence, and viability assessments applicable to the accommodation type, as opposed to simply applying the same thresholds to all forms of accommodation. Consideration should be given to the provision of affordable student accommodation in lieu of off-site affordable housing contributions. PBSA supports housing availability in the city, particularly family housing, and should be actively encouraged, not burdened by significant financial contributions, to continue meeting the needs for student accommodation and to ensure the balance of housing is maintained elsewhere. The obligations for Affordable Housing from PBSA as set out in the SPD are considered to be disproportionately high. Insufficient evidence has been provided to justify the 10% and 20% thresholds. The SPD is premature when future issues related to PBSA development have not been considered, particularly 'demonstrating flexibility of schemes' and 'how PBSA development can help achieve the Council's carbon neutral target by 2028 through sustainable design'. These other issues affect viability and the appropriateness of the suggested thresholds and the effectiveness of the SPD.
University of Nottingham	<ul style="list-style-type: none"> The University plans to support the Local Plan in developing on campus accommodation that will attract returning students to stay in managed PBSA instead of HMOs in the local areas through 'Project Stay'. Their strategy and intention matches that of the Local Plan but the proposed SPD potentially discourages this through counterproductive levy/fees being applied to such developments.
Legal opinion	<ul style="list-style-type: none"> Considers the reasoning set out in the draft SPD shows the lack of connection between PBSA and the affordable housing requirement and does not demonstrate that regulation 122 can be observed when determining planning applications. Concludes that it is unlawful for the Council to continue to promote the

	current draft SPD as drafted and the document would be open to legal challenge.
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2.6 These comments are currently being considered in detail before the document is progressed further.

3 Other options considered in making recommendations

3.1 Not applicable.

4 Finance colleague comments (including implications and value for money/VAT)

4.1 The Affordable Housing Contributions from Purpose Built Student Accommodation developments will bring in income in accordance with a standard formula mechanism to reflect actual costs. This additional section 106 income must be spent in line with the section 106 agreement and will require appropriate monitoring to ensure that the contribution is expended as agreed.

4.2 New regulations came into force on 1st September 2019 that allow local authorities to charge a fee through section 106 to contribute towards the cost of monitoring and reporting on developer contributions. The regulations state that this fee should be 'fair' and 'reasonable' and reflect the authority's estimate of the cost of monitoring. These fees will enable the Council to fund a suitable resource to ensure that developer contributions are fully monitored.

Advice provided by Roma Patel (Commercial Business Partner) on 12/05/2020.

The above comments were received prior to consultation being undertaken and further advice will be requested prior to adoption of the SPD.

5 Legal and Procurement colleague comments (including risk management issues, and legal, Crime and Disorder Act and procurement implications)

5.1 The Council as Planning Authority has a power to adopt Supplementary Planning Documents (SPDs) which add more detail and guidance in relation to Local Plan policies and which then become material planning considerations when planning applications are determined. The adoption of SPDs is an executive function and a period of public consultation is required before an SPD can be adopted. The results of the consultation will be presented to Executive Board to consider final adoption of the SPD in due course.

Advice provided by Ann Barrett (Team Leader) on 13/05/2020.

The above comments were received prior to consultation being undertaken and further advice will be requested prior to adoption of the SPD.

6 Strategic Assets & Property colleague comments (for decision relating to all property assets and associated infrastructure) (Area Committee reports only)

6.1 The SPD to be consulted on, outlined in this report, will impact on the viability of PBSA sites in the City and may have the effect of reducing the number of such sites that come forward for development. It will also reduce the capital receipts obtained in future disposals of sites suitable for PBSA owned by the Council.

Advice provided by Rodney Alan Martin (Development Manager) on 12/05/2020.

The above comments were received prior to consultation being undertaken and further advice will be requested prior to adoption of the SPD.

7 Equality Impact Assessment (EIA)

- 7.1 An EIA is not required as Policy HO3 (Affordable Housing) was assessed as part of the EIA for the Local Plan Part 2 review for which the SPD relates to.

8 List of background papers other than published works or those disclosing confidential or exempt information

- 8.1 N/A

9 Published documents referred to in compiling this report

- 9.1 The Local Plan comprises the [Nottingham City Aligned Core Strategy \(2014\)](#) (Part 1 Local Plan), the [Land and Planning Policies Document \(2020\)](#) (Part 2 Local Plan) and the existing [Affordable Housing and Developer Contributions Supplementary Planning Guidance](#).