



City of Westminster

Communities, Regeneration and Housing Policy and Scrutiny Committee

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Classification:	General Release
Title:	Planning Obligations and Affordable Housing Supplementary Planning Document
Report of:	Debbie Jackson, Executive Director Growth Planning and Housing; Pedro Wrobel, Executive Director Innovation & Change
Cabinet Member Portfolio	Cllr Acton, Cabinet Member for Communities and Regeneration; Cllr Green, Cabinet Member for Business, Licensing and Planning Matthew Green; Cllr Harvey, Cabinet Member for Housing.
Wards Involved:	All
Policy Context:	Affordable housing; planning obligations; planning policy.
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1. Executive Summary

- 1.1 The council adopted the [City Plan 2019-2040](#) in April 2021. During the City Plan Examination in Public, the council committed to the production of a Planning

Obligations and Affordable Housing Supplementary Planning Document (POAH SPD) after the Plan's adoption. This commitment is also set out in the council's [Local Development Scheme \(LDS\)\(December 2021\)](#), which says the council will consult on it in early 2022.

- 1.2 The POAH SPD is intended to provide further clarification and guidance on a range of policy areas in the City Plan. Before being adopted, the POAH SPD must follow a series of statutory stages including public consultation.
- 1.3 This report provides an update on the scope of the POAH SPD and progress to date and focuses on one of the key issues the draft SPD is intending to address, namely the affordability of new intermediate housing. A preferred position is put forward for the Committee to consider, which is that new intermediate housing is affordable to the range of households on council's intermediate housing list, divided into four income bands.

2. Key Matters for the Committee's Consideration

- 2.1 Officers are seeking the views of the Committee on both the overall scope of the POAH SPD and specifically on the issue of intermediate housing allocation.
- 2.2 Officers have two questions for Committee:
 1. Does the Committee support the scope of the draft Planning Obligations and Affordable Housing Supplementary Planning Document as set out in Section 4 of this report?
 2. What is the Committee's view on the proposed approach to affordability thresholds and products for new intermediate housing as set out in Section 5 of this report?

3. Background

- 3.1 Following the adoption of the City Plan 2019-2040 in April 2021, officers have been preparing the POAH SPD. The council's latest [Local Development Scheme \(LDS\) \(December 2021\)](#) states that the SPD will be publicly consulted on the in early 2022.
- 3.2 In accordance with the national Planning Practice Guidance on Plan-making, the role of SPDs is to provide detailed guidance that will help effectively implement policies in the adopted Local Plan for an area. As the City Plan 2019-2040 has recently been adopted, the council is in the process of replacing outdated guidance and SPDs that were based on the previous policy framework, which has now been superseded, with a new suite of SPDs. Some guides and SPDs have been retained on an interim basis until new ones can be adopted. The series of new SPDs being produced will provide guidance and certainty on how to apply policies in the new City Plan. The POAH SPD also represents an opportunity to explain how the council will ensure new development contributes to the delivery of City for All aims and the council's City Plan vision.

- 3.3 It is worth noting that SPDs cannot introduce new policy or new obligations on development not contained within existing policy and should not add unnecessarily to the financial burdens on development or compromise overall development viability. The council must also ensure that obligations required under its policies are collected for specific purposes to mitigate the impact of development, and that they align with the tests for planning obligations set out in legislation and national planning policy, namely that they are:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 3.4 The production of SPDs needs to follow a statutory process as set out in the Town and Country Planning (Local Planning) (England) Regulations 2012, which includes formal public consultation. Once adopted, SPDs do not carry the same weight in decision-making as documents in [Westminster's Development Plan](#) (namely the City Plan, the London Plan and any made Neighbourhood Plans) but will be a material consideration and do have a statutory status as Local Development Documents (LDDs).

4. Scope of the Planning Obligations and Affordable Housing SPD

- 4.1 The structure and content of the draft POAH SPD is explained below.
- 4.2 The document will start by setting out the policy context for the collection of planning obligations and the delivery of affordable housing. The following chapters will be thematic and will follow the City Plan 2019-2040 structure. Each of these chapters will explain the local policy framework for the collection of specific planning obligations. The POAH SPD will not cover every possible instance when planning obligations may be used, but only where additional guidance is necessary to effectively implement policies in the City Plan. A final chapter will focus on decision-making, monitoring and process.
- 4.3 The first chapter, **Housing** will explain:
- when schemes will be expected to deliver affordable housing, how the requirement will be calculated and how different types of residential schemes will be expected to deliver affordable housing;
 - that affordable housing on-site is the council's preferred option and how we will assess any schemes proposing off-site delivery where this is accepted;
 - how payments in lieu will be calculated if on-site or off-site delivery are not possible; and
 - which are the council's intermediate housing preferred products and the council's approach to intermediate housing, including details on income thresholds for intermediate rented housing.
- 4.2 The second chapter is concerned with the **Economy** policies and will explain:
- when schemes will be required to make a financial contribution to the council to fund training opportunities, how contributions will be calculated and when they should be accompanied by an Employment and Skills

Plan (incorporating elements of the recently revised Inclusive Local Economy guidance);

- how we will consider applications for new affordable workspace including guidelines on what is considered affordable, and fit for purpose; and
- how we will use Community Use Agreements to ensure the shared or extended use of spaces including sports and leisure facilities outside of normal operational hours.

4.3 The third chapter will expand upon the **Connections** policies in the City Plan to guide developers on how we will ensure development contributes to better connected and permeable places, encourages active travel and addresses freight and servicing needs.

4.4 The fourth chapter, **Environment**, will link to the council's Environment SPD and will explain:

- how air quality off-setting should be the last resort option and how applicants should address it when the proposed scheme cannot meet Air Quality Neutral status, in line with recently published GLA guidance;
- when schemes will be required to make a financial contribution to the council's carbon offset fund and how contributions will be calculated, based on a higher price per ton of carbon than in the London Plan; and
- how we will use S106 agreements to secure open space provision or flood risk management measures.

4.5 The fifth chapter is concerned with the **Design and Heritage** policies in the City Plan. It will set out how contributions may be needed for some types of public realm improvements.

4.6 The final chapter is concerned with **Decision Making** and will expand upon elements of viability and the planning application process. This chapter will explain the council's information requirements for viability assessment and what developers will be expected to provide at each stage of the planning process. This chapter will also explain how we will collect, monitor and spend planning obligations secured through S106 agreements, and will set the monitoring fee for such obligations based on recovering costs.

5. Intermediate housing in Westminster

5.1 New planning policy context

5.1.1 Planning applications in Westminster are determined in accordance with policies in [Westminster's Development Plan](#), namely the City Plan 2019-2040, the London Plan and all 'made' (adopted) Neighbourhood Plans.

5.1.2 City Plan 2019-2040 was adopted in April 2021, following an independent examination carried out by the Planning Inspectorate on behalf of the Secretary of State. The City Plan is the key strategic document setting out how development must contribute to meeting housing needs in the city. City Plan Policy 9 (Affordable housing) sets out the strategic framework for the delivery of affordable housing in Westminster. More precisely, it explains that developments will deliver a mix of affordable housing, both in terms of tenure

and unit sizes. In accordance with Policy 9 E, 40% of affordable homes delivered in Westminster will be social rent or London Affordable Rent and 60% will be intermediate affordable housing, either for rent or sale. Policy 9 F explains that for intermediate housing, new affordable homes will be provided across the indicative income levels set out in the forthcoming Planning Obligations and Affordable Housing SPD. Policy 9 G sets out that the size of affordable homes, including the number of bedrooms required to meet need, will be provided in line with the council's [Annual Affordable Housing Statement](#).

- 5.1.3 The reasoned justification accompanying Policy 9 clearly explains that the council will require intermediate housing for rent or sale across a range of household income levels, which is important to ensure new homes provide genuine choice and meet the variety of needs of different people and families who are vital to the effective functioning of the local economy and delivery of public services in Westminster. The reasoned justification goes on to explain that intermediate sale products have not historically worked well in Westminster because of high land values, making them unaffordable to most people on the council's Intermediate Housing Register. The justification also explains that although the council supports innovative low-cost home ownership products, it is recognised that products such as shared ownership do not often help meet Westminster's housing needs. The council will however work towards 10% of new intermediate homes being for either affordable home ownership or rent-based products that help residents move into home ownership.
- 5.1.4 The [Planning Inspectors' Report](#) concluded that City Plan was based on robust evidence about local housing needs and that a tailored approach to meet shared regional and national affordable home ownership ambitions is appropriate. The report also concludes that the City Plan is in general conformity with the London Plan, the strategic Plan for London.
- 5.1.5 The London Plan was adopted in March 2021. Policies H4 (Delivering affordable housing) and H6 (Affordable housing tenure) are the key policies explaining how intermediate housing should be delivered in London. The London Plan requires a minimum of 30% affordable homes to be social homes, a minimum of 30% intermediate with the remaining 40% to be determined by the borough in accordance with robust housing need evidence.
- 5.1.6 London Plan paragraphs 4.6.1 and 4.6.2 acknowledge that in some boroughs with viability constraints or where it is crucial to deliver more mixed communities like Westminster, a broad mix of affordable housing tenures may be appropriate. In relation to intermediate housing, as explained in paragraph 4.6.5, the Mayor's preferred intermediate housing product is London Living Rent which can be considered a homeownership product (as it helps households on average incomes to save for a deposit), and offers low rents that vary across wards. The Mayor publishes benchmark London Living Rent levels for boroughs which are based on a third of average local household incomes.
- 5.1.7 London Plan paragraph 4.6.8 states that all intermediate rent products should be affordable to households on incomes up to £60,000. On the other hand, intermediate ownership products such as London Shared Ownership should be

affordable to households on incomes up to £90,000. The Mayor sets out further guidance, including on income caps, in the GLA Authority Monitoring Report and the London Plan further explains that boroughs can set local income caps and eligibility criteria for intermediate rents if reflecting local housing need.

5.2 Current WCC approach to intermediate housing

5.2.1 The council established an intermediate housing service (Homeownership Westminster) in 2008 and is unusual by holding an intermediate housing list, so has good intelligence on the incomes of intermediate housing applicants. As Table A shows, the 2,000 plus applicants on the list and have a range of household incomes up to the qualifying cap, set by the Mayor of London, of £90k. Table B shows homes allocated through Homeownership Westminster.

Table A: Households on the intermediate housing list by income bands

Household Income Band	Number of households	%
£0k-£10k	30	1.39
£11k-15k	15	0.70
£16k-£20k	68	3.17
£21k-£25k	114	5.33
£26k-£30k	219	10.2
£31k-£35k	254	11.82
£36k-£40k	262	12.21
£41k-£45k	206	9.58
£46k-£50k	203	9.43
£51k-£55k	169	7.88
£56k-£60k	171	7.96
£61k-£65k	131	6.11
£66k-£70k	81	3.79
£71k-£75k	83	3.86
£76k-£80k	70	3.25
£81k-£85k	38	1.78
£86k-£90k	33	1.55
Total	2,148	

Table B: Allocations through Homeownership Westminster since 2012

Tenure	1bed	2bed	3bed	Total
Intermediate Rent	664	258	39	961
%	69%	27%	4%	76%
Low Cost Home Ownership	246	54	11	311
%	79%	17%	4%	24%
All Intermediate	910	312	50	1272
%	72%	25%	3%	

This includes new supply and resales and relets

- 5.2.2 Although not currently set out in policy, to ensure new intermediate housing is affordable to households on the list with different incomes, officers request that new intermediate housing is affordable to households with different incomes in negotiations with developers. This ensures provision for households with low to moderate incomes, particularly those that don't qualify for social housing and are unable to afford market housing in the city.
- 5.2.3 In accordance with the City Plan, the council's Annual Affordable Housing Statement sets out size requirements for affordable housing based upon need/demand. The statement for 2021 requires 70% of intermediate housing to be one-bedroom and 30% two-bedrooms or larger.

5.3 Proposal for the SPD

Affordability thresholds

- 5.3.1 The aim is to set indicative affordability thresholds for new intermediate housing, ensuring it is affordable to the range of households on the council's intermediate list, i.e. those in table A. This will give certainty to developers about our expectations and add more weight to negotiations.
- 5.3.2 The proposed approach, to be consulted on as part of the SPD, is to set four affordability bands which relate to the actual incomes of households on the intermediate list. The tables below (see tables C and D) divide the incomes of households on the list into quartiles and they show the associated income levels and the types of rents which would then be charged following this approach (although gross incomes and rent levels would not be part of the SPD as they will change as the list changes and will therefore be communicated separately). The average Westminster London Living Rent level and the household income levels needed to afford this are highlighted for comparison in the tables.
- 5.3.3 The proposed four thresholds are weighted towards the lower end of the income spectrum, i.e. 30% is affordable to households with incomes up to lower quartile, given the change in the percentage split between social rented and intermediate housing in the new City Plan.¹
- 5.3.4 These income bands are indicative as every scheme is always subject to some degree of flexibility based on site-specific circumstances, which could include viability and local evidence of housing need.

¹ The City Plan requires 60% of new affordable housing to be intermediate and 40% social rented.

Table C: One-bedroom units

	Gross Income*	Indicative rent pw***	SPD proposal
Up to lower quartile	£32,000	£174.52	30%
Lower quartile to median	£32,501 - £43,000	£174.53 - £230.91	25%
Median to upper quartile	£43,001 - £57,071	£230.92 - £306.47	25%
Upper quartile to GLA levels	£57,072 - £90,000	£306.48 - £327*	20%
	<i>£50,804</i>	<i>London Living Rent: £273.56</i>	

Table D: Two or more-bedroom units

	Gross Income*	Indicative rent pw***	SPD proposal
Up to lower quartile	£32,700	£175.59	30%
Lower quartile to median	£32,701 - £44,180	£175.60 - £237.24	25%
Median to upper quartile	£44,181 - £60,164	£237.25 - £323.07	25%
Upper quartile to GLA levels	£60,165 - £90000	£323.08 - £459 for a 2 bed. £323.08 - £483.29** for 3 bed plus	20%
	<i>£58,630</i>	<i>London Living Rent £315.70</i>	

* Rents calculated at 40% of net household income (based on the Mayor's guidance)

** Rents not exceeding 80% of market rent

Products

5.3.5 The council's preferred form of intermediate housing, already set out in the City Plan and to be reiterated in the SPD is a rented product as affordability can more easily be controlled and as intermediate housing ownership products such as shared ownership are often difficult to deliver in a high value area like Westminster, as shown by Table E.

Table E: Example of Shared ownership costs (25% share)

Property Size	1bed	2bed
Value	£610,000	£769,167
Monthly Mortgage Cost*	£687	£866
Monthly Rent**	£1,049	£1,322
Monthly Service Charge	£67	£101
Total Monthly Costs	£1,803	£2,289
Minimum gross income Requirement***	£66,050	£85,333

*Based on a 25% share.

**Rent of 2.75% charged on the equity not purchased.

***Based upon 10% deposit provided by the buyer, mortgage interest at 3.5% and housing costs limited to 45% of net household income.

5.3.6 In Westminster, applicants often don't have either the income or deposit required to access shared ownership (the example in Table E requires a £15k deposit for a one-bedroom and a £19k deposit for a two-bedroom property) and different (more affordable) home ownership products are often not mortgageable. Also, applicants needing intermediate homes with two bedrooms or more often have lower incomes than those needing one-bedroom homes.

5.4 Issues with the proposed approach: for consideration

5.4.1 There may be occasions where GLA grant opportunities are reduced for the council's own schemes (Section 106 schemes do not attract grant) as the grant criteria only supports the Mayor's London Living Rent (LLR) product (see 3.3.1 above). However, grant is available for rental products *up to* LLR levels, which represents the majority of need on the intermediate housing list.

5.4.2 As an example, for a scheme of 20 intermediate units, four units (20%) would not attract grant funding under the approach proposed in the SPD. Grant rates are negotiable but are not expected to exceed £62k per property (and were previously set at £28k per unit). Using the £62k figure, this would be a potential loss of £248k of grant for such a scheme. However, the higher rental levels the council would be able to charge for the four properties would help to offset such a loss over time.

5.4.3 One further issue to note with the GLA grants criteria for LLR is an expectation of transition into home ownership within ten years. Full details about how this would work are currently unknown and it is an area that may be subject to negotiation with the GLA given the affordability issues with shared ownership in Westminster as outlined above.

5.5 Other options

5.5.1 Other options have been considered such as the income thresholds in the SPD reflecting the GLA grant criteria and Mayor's policies, or a mixed approach where these were expected on the council's own schemes, in order to help

secure grant, and the thresholds in tables C and D are expected on schemes that would not attract GLA grant, such as Section 106 schemes.

- 5.5.2 The proposed approach for consultation is supported however, as it enables rented provision for households on the intermediate list with incomes of between £60 - £90k, which is not possible for grant funded schemes. Without the proposed approach there would be little provision for this group (over 20% of those on the list) due to shared ownership generally not being affordable. Grant funding would continue to be available for rents up to and including LLR levels, which represents the majority of need on the intermediate housing list.
- 5.5.3 It should be noted that many households on the list within the £60 - £90k bracket have joint incomes, so they could for example be two key workers such as a nurse with an income of £36k and a teacher with an income of £45k (making a total household income of £80k). As stated above there may be times when it is possible to apply flexibility to the proposed approach to optimise grant or overall delivery of affordable housing.

6. Next steps

6.1 Timeframes

- 6.1.1 Drafting on the SPD has begun in line with the scope and approach to intermediate housing outlined above. Following the recommendations of the committee the relevant Cabinet Members will be briefed and asked to agree the final approach. A draft SPD will then be finalised during February 2022 for publication.
- 6.1.2 The draft will be reviewed by the SPD Governance Group formed by senior officers in Innovation and Change, Growth, Planning and Housing and Environment and City Management directorates. It will then be returned to the relevant Cabinet Members to agree to publication for formal consultation.

6.2 Consultation

- 6.2.1 Consultation is preparing for launch in early March 2022, which will allow the draft SPD to be used when assessing development schemes at both pre-application and application stage. The timetable for the production of the POAH SPD could however be extended if any issues were to arise during its production. Following the consultation there will be opportunity to revise aspects of the document, based on stakeholder feedback.

6.3 Viability evidence

- 6.3.1 The City Plan was independently viability tested and the evidence scrutinised during the Plan's Examination in Public (see document EV_GEN_001 in the [City Plan Examination Library](#)). As set out in the [Planning Inspector's Report](#), the council's viability assessment robustly demonstrates that the cumulative impact of the policies in the City Plan will not compromise development viability.

- 6.3.2 Although it is not a statutory requirement and the council could rely upon the viability evidence published during the City Plan Examination, officers strongly recommend that the draft POAH SPD is viability tested in full to prior to adoption to ensure the cumulative impact of updated requirements, formulas, rates and fees set out in the document are not too stringent to compromise development viability.
- 6.3.3 In drafting the proposals for a new policy approach to intermediate rents, officers have carried out preliminary financial modelling to assess the impact. To confirm that the cumulative impact of the range of obligations laid out in the SPD will not compromise overall development viability in Westminster, officers also recommend that the viability evidence prepared for the City Plan examination is revisited and reviewed alongside stakeholder feedback received during consultation later in the Spring.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact Michael Clarkson, City Planning Policy Team Leader

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BACKGROUND PAPERS (not attached):

[City Plan 2019-40](#)

[London Plan 2021](#)

[Annual Affordable Housing Statement 2021](#)