

# Planning Obligations and Affordable Housing SPD Consultation Statement

July 2023

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# 1 Introduction

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# 1.1 Introduction

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1. The council adopted a new City Plan in April 2021 which sets out the council's vision for the City of Westminster for the period 2019-2040. The [City Plan 2019-2040](#) forms Westminster's principal planning policy document. It will be used to determine planning applications in the city and will guide development across the city over the long term.
2. The council committed to producing a Planning Obligations and Affordable Housing SPD (POAHSPD) to follow the adoption of the City Plan. It will provide additional detail to the new City Plan policies, and provide guidance on how the council will use S106 legal agreements to secure local and regional policy objectives.
3. The Planning Obligations and Affordable Housing Supplementary Planning Document (POAHSPD) is intended to provide guidance for developers on how affordable housing should be delivered in Westminster and on how development will, among other objectives, contribute to the creation of jobs and a greener and healthier city. The POAHSPD will not introduce new planning policies into the Development Plan, it will be however, a material planning consideration.
4. This document summarises the first (statutory) round of consultation on the draft Planning Obligations and Affordable Housing Supplementary Planning Document (POAHSPD) in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 Part 5 Regulation 12.
5. As the council is now reconsulting on an updated draft Planning Obligations and Affordable Housing Supplementary Planning Document (July 2023), this Consultation Statement will be updated in due course to explain how comments received during this second round of consultation will inform the adoption version of the POAH SPD.

# 2 Consutation process

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# 2.1 Consultation Process

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1. Statutory consultation on a draft POAHSPD took place between 18<sup>th</sup> March and 29<sup>th</sup> May 2022; a period of six weeks. A range of stakeholders were invited to comment, including the development industry, statutory consultees such as Historic England and the Environment Agency, and local people including Amenity Societies and Neighbourhood Forums.

## Notifications

2. The council's website advertised the draft POAHSPD consultation.
3. Notification was made by email to consultees that were on the council's Planning Consultation Database. The text of this email can be found in Appendix 1. About 1,600 consultees were consulted including:
  - all specific consultees including the Mayor of London, Historic England, Thames Water, Network Rail, the Environment Agency, Natural England, the Homes and Communities Agency, the National Health Service, the Marine Management Organisation, the Highways Agency and the Coal Authority;
  - all ward councillors;
  - all neighbouring boroughs;
  - all neighbourhood forums; and
  - and other specific consultees.

## Website

4. The council's website advertised this stage of consultation on the page relating to 'Current and recent consultations' (a screenshot of the website is attached as Appendix 2).

# 3 Representors

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# 3.1 Representors

## Submission of representations

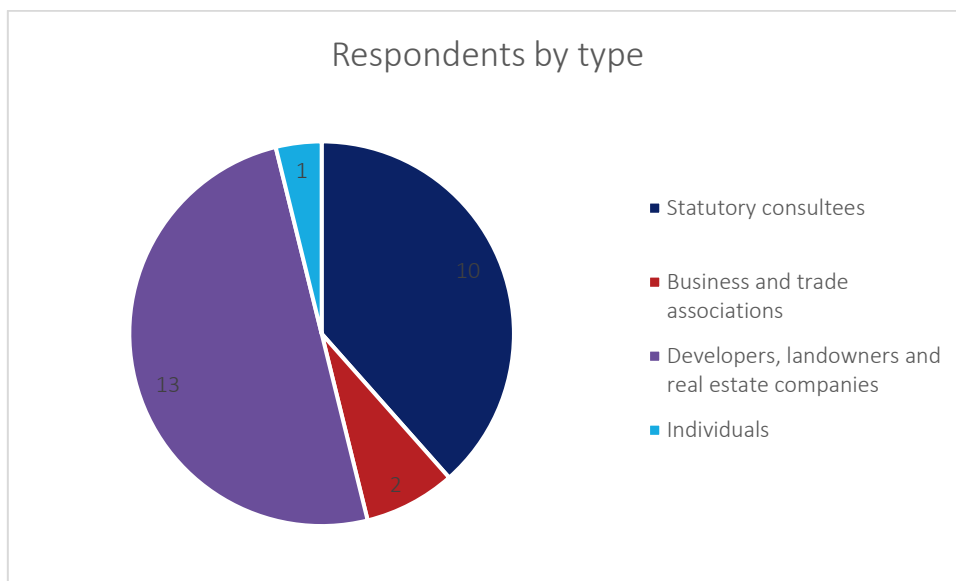
1. The council welcomed representations made via email to [planningpolicy@westminster.gov.uk](mailto:planningpolicy@westminster.gov.uk) and letters sent to council offices at:

Planning Policy Team  
Westminster City Council 17th Floor  
64 Victoria Street, London, SW1 6QP

## Representors and representations received

2. There were 26 respondents who provided written representations to the draft POAHSPD consultation. Representations were received from a wide range of consultees including residents, businesses, developers and business organisations.

This is shown in the figure below:



3. A list of representors is provided below.

### Statutory consultees (10):

- The Coal Authority
- HNL Sustainable Places / Environment Agency
- Natural England
- Sport England
- Marine Management Organisation
- Canal and River Trust
- Transport for London
- Viability Team – Greater London Authority
- Historic England
- Port of London Authority

### Business and trade associations (2):



- Westminster BIDs (All)
- Marks and Spencer's

**Developers, landowners and real estate companies (13):**

- Pocket living
- Transport for London Commercial Development
- Shaftesbury
- GMS Estates
- Motcomb Estates
- The Howard de Walden Estate
- Westminster Property Association
- Victoria Gardens Development Limited
- Landsec
- Lazari Investments
- Royal London Asset Management
- Capital and Counties
- Berkeley Homes

**Individuals (1):**

- James Hewitt

# 4 Issues raised during consultation

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# 4.1 Issues raised during consultation

## Key issues

1. There was support for the POAH SPD and the direction of travel. Respondents, particularly developers, were keen to see the council set out clear guidance on how to apply City Plan policies; however many stakeholders raised concerns with the draft SPD trying to introduce new policy requirements through guidance over and above those in the City Plan that could have a cumulative negative impact on viability. Stakeholders also wanted to see more clarification on some of the requirements and requested the council reconsulted on the draft SPD and published alongside it the viability evidence supporting the guidance set out in the draft SPD. The council is now reconsulting on an updated draft POAH SPD (July 2023) and has published a new City Plan and POAH SPD Viability Study (July 2023).
2. Some respondents highlighted sections of the POAHSPD where further information would be helpful. A number of consultees were able to suggest amendments to the text to provide greater clarity and accuracy and, where appropriate, some of these changes have been incorporated in the new draft POAH SPD (July 2023).
3. Some respondents raised matters that are dealt with in other strategies and action plans being prepared by the council such as the Environment SPD or forthcoming Public Realm SPD. The council has worked to ensure that all feedback is captured, considered and reflected consistently across all relevant documents. Improved signposting to these documents in the updated POAH SPD will allow readers to find out more about what else the council is doing to ensure development contributes to sustainable development.
4. The section below looks at the different chapters in more detail and explains how the council has responded to comments received.

## Detailed issues (and how these have been taken into account)

Issue	Council response
<b>Intro / General</b>	
<b>1</b> <ul style="list-style-type: none"> <li>The viability evidence needs to be published for comment and scrutiny before the adoption of the SPD.</li> </ul>	<ul style="list-style-type: none"> <li>Agreed. The updated draft POAH SPD (July 2023) has been published for consultation alongside an updated viability assessment, the City Plan and POAH SPD Viability Study (July 2023).</li> </ul>
<b>3 Housing</b>	
<b>1</b> <ul style="list-style-type: none"> <li>The additional detail on when affordable housing is applied and how affordable housing should be delivered in the city is welcomed.</li> </ul>	<ul style="list-style-type: none"> <li>Support noted.</li> </ul>
<b>2</b> <ul style="list-style-type: none"> <li>Where affordable housing or office delivery is impractical, it should be possible to offset this against funding of public realm schemes which otherwise might not be possible.</li> </ul>	<ul style="list-style-type: none"> <li>City Plan Policy 9 sets out the framework for the delivery of affordable housing. Delivering affordable housing is necessary for a scheme to be considered policy compliant. Schemes that cannot deliver a policy compliant level of affordable housing will be assessed under the Viability Tested Route.</li> </ul>
<b>3</b> <ul style="list-style-type: none"> <li>Applicants should provide affordable housing information on a habitable rooms basis, alongside with the unit and floorspace figures.</li> </ul>	<ul style="list-style-type: none"> <li>The updated draft POAH SPD (July 2023) has been clarified to clearly explain how affordable housing data should be provided.</li> </ul>
<b>4</b> <u>Schemes involving refurbishment and reconfiguration of affordable housing</u> <ul style="list-style-type: none"> <li>Some suggestions that where there are existing homes on site, affordable housing requirements should only apply to any uplift in homes delivered, as to do otherwise would disincentivise the refurbishment of existing homes and optimisation of floorspace;</li> </ul>	<ul style="list-style-type: none"> <li>London Plan and City Plan policies set out that affordable housing requirements should apply to the gross residential development proposed area in recognition of high levels of housing need.</li> </ul>

- Support for the recognition that affordable housing requirements will not apply to those elements of schemes which include no alternations to existing homes;
- Some suggestions that guidance on this issue is too ambiguous.

- Support noted.
- Additional detail has been provided within the updated draft POAH SPD (July 2023) to clarify how site-specific circumstances are to be considered through examples.

#### 5 Affordable housing payments in lieu

- Viability evidence will be required to justify the payment in lieu rates- it is not possible to comment on the rates in its absence. The area-based tariff system may overstate land values in some schemes. LP requires that a tariff-based approach may only applied where this would result in a higher level of affordable housing provision (or high policy cap).
- Profit assumption for market units (20%) and marketing allowance (33%) are considered excessive and may incentivise developers to pursue the PiL option.
- The payment in lieu rate is too high, and this prevents developers who wish to retain control of their portfolio.
- It should be clarified that all schemes seeking payment in lieu contribution should be viability tested in line with London Plan policy H4 and that there may be situations where a payment in lieu is appropriate to deliver the affordable housing requirement in its entirety.
- City Plan Policy 9 explains the methodology to be followed when calculating affordable housing payments in lieu. The payments in lieu methodology and rates were discussed during the City Plan Examination in Public and tested by BNP Paribas as part of the [City Plan Viability Study \(2019\)](#)(Doc EV\_EG\_001 to 004). Changes to the methodology are not appropriate at this stage.
- Viability assumptions have been revised in the City Plan and POAH SPD Viability Study (July 2023).
- The updated draft POAH SPD (July 2023) sets out revised payments in lieu rates – these are based on the findings of the City Plan and POAH SPD Viability Study (July 2023). The rates have been calculated following the methodology set out in the City Plan and discussed during the plan’s Examination in Public. Wishing to retain control of a portfolio is not an exceptional circumstance whereby payments in lieu would not be acceptable. There are mechanisms that exist which enable landowners to remain freeholders, while using Registered Providers to manage the new homes.
- The updated draft POAH SPD (July 2023) explains that schemes not providing a policy compliant level of on-site affordable housing must follow the Viability Tested Route and that the provision off-site or via a payment in lieu can be partial or full.

#### 6 Phased developments – review mechanisms

- The application of early and late-stage review mechanisms should take into account any deficit identified at the planning stage through a viability assessment. The use of growth assumptions, alongside review mechanisms needs careful consideration to ensure that there is no double counting of growth.
- Concerns around the inclusion of housing market forecast information as part of viability evidence. Further detail on what methods to employ should be included,
- Review mechanisms will be used where applicants wish to rely upon growth forecasts in their viability calculations and will ensure that phased schemes remain policy compliant throughout the lifetime of implementation. The updated draft POAH SPD (July 2023) has been amended to clarify this.
- Noted. Reference to comparable schemes has been removed within updated draft POAH SPD (July 2023).

or references should be removed as not in line with NPPG and RICS guidance.

- Any proposed amendment to the affordable housing offer within a consented development should be considered under a Section 73 application, rather than only reviewing the viability of the case within the context of the S106 agreement.
- The SPD should also recognise that phasing may be necessary in other circumstances on large development sites (for reasons associated with: achieving phased vacant possession, the practicalities of construction logistics, and absorption rates for large housing schemes (ie. the release of new homes to the market on a phased basis)).

- Noted. Within updated draft POAH SPD (July 2023), this section has been amended to make clear that a Section 73 application would be required to amend the amount of affordable housing being provided.
- The updated draft POAH SPD (July 2023) sets out the key justifications for the phasing of a scheme, and makes clear that other justifications for the phasing of a scheme will be considered on a case by case basis.

## 7 Tenure split and size of new homes

- The draft document does states that flexibility may be applied for schemes delivering more than 35% affordable housing. However, that flexibility will need to be applied across all schemes to avoid an overly prescriptive and restrictive approach. Moreover, in following the Fast Track Route- flexibility against this strategic tenure split will also need to be applied.
- The supporting text under ‘When the Requirement Applies’ should however include the specific reference to flexibility being ‘particularly the case when the scheme is proposing to deliver more than 75% of homes as affordable homes’.
- The SPD should be amended to further explain how in innovative housing models, any deviation from the council’s normal tenure split requirements will require strong justification from the applicant.
- It is important to ensure that the intermediate rent tenure meets the London Plan’s criteria as intermediate housing. It is advised that the SPD should clearly set out the household income levels within the Intermediate Housing section, as the incomes levels would form the basis of the affordability and eligibility criteria for the intermediate units.

- The London Plan and City Plan Policy 9 set out how the tenure split should be applied for a scheme to follow the Fast Track Route.
- Noted. The updated draft POAH SPD (July 2023) explains how we will assess schemes that deliver more than 75% of homes as affordable homes.
- Noted. What justification will be needed at planning application stage, for innovative models, is explained under ‘The size of new homes – At planning application stage’. It is not considered that further guidance is necessary on this matter.
- Noted. A new approach to intermediate housing is set out in the updated draft POAH SPD (July 2023). The approach is in line with emerging London Plan Guidance on Affordable Housing (May 2023). The council wishes to prioritise intermediate housing products that cater for the needs of households with incomes between £25,000 and £60,000, in line with incomes of households registered with the council’s Intermediate Housing Service. The updated SPD sets out indicative household income levels for intermediate housing- as explained with the updated draft SPD (July 2023), the council will update this information on an annual basis. As explained within the revised POAH SPD (July 2023), in some cases, the council may allow a small number of units are rented at higher rent levels to households with incomes between £60,00 and £90,000 to make sure their housing needs are met – this should be done in lieu of

<ul style="list-style-type: none"> <li>The draft document sets out requirements for affordable unit mix by reference to the Annual Affordable Housing Statement. As with the council’s tenure requirements, these are highly prescriptive and do not recognise the need for flexibility subject to the individual circumstances of sites. Section 3.4 should be amended to explicitly include flexibility for an alternative mix of unit sizes to be provided where it is justified.</li> </ul>	<p>Discounted Market Sale units. Appendix 1 of this statement further explains how the approach to intermediate housing has changed between the two draft SPD iterations to make intermediate housing more affordable and bring the approach in line with emerging London Plan Guidance.</p> <ul style="list-style-type: none"> <li>City Plan Policy 9 sets out that a mix of sizes will need to be provided across different tenures. The Annual Affordable Housing Statement is based on actual need and demand shown on the social and intermediate housing registers. Schemes are always assessed on its own merits.</li> </ul>
<p><b>8</b> <u>Non-conventional types of housing and how they will contribute to affordable housing</u></p> <ul style="list-style-type: none"> <li>For Built-to-rent schemes, the text should be amended to be in line with the London Plan in regards of preferred affordable housing products.</li> <li>It is inconsistent with the London Plan for the council not to allow perpetuity payments in lieu for PBSL.</li> </ul>	<ul style="list-style-type: none"> <li>The updated draft POAH SPD (July 2023) reflects the London Plan guidance.</li> <li>Noted. The council’s preference is for upfront payments, and this is consistent with London Plan Policy H16 which allows flexibility to local authorities to seek payments as either upfront payments or perpetuity payments.</li> </ul>
<p><b>9</b> <u>External amenity space</u></p> <ul style="list-style-type: none"> <li>Support the proposed approach relating to the delivery of communal external amenity space provides for a ‘cascade’ of alternative methods – this approach is well-crafted and helpful.</li> </ul>	<ul style="list-style-type: none"> <li>Support noted.</li> </ul>
<p><b>4 Economy &amp; Employment</b></p>	
<p><b>4.1 Affordable workspace</b></p>	
<p><b>1</b></p> <ul style="list-style-type: none"> <li>Unclear if affordable workspace is sought on net uplift in commercial floorspace, and suggested threshold of applying to developments of more than 1,000sqm m considered too low.</li> </ul>	<ul style="list-style-type: none"> <li>Content updated with draft POAH SPD (July 2023) to make clear that affordable workspace is only sought on schemes comprising a net uplift of more than 2,500sqm of commercial floorspace.</li> </ul>
<p><b>2</b></p> <ul style="list-style-type: none"> <li>Suggested that a range of discounts should apply across the city to secure affordable workspace.</li> </ul>	<ul style="list-style-type: none"> <li>Discounts referred to in the updated POAH SPD (July 2023) have been viability tested (see City Plan and POAH SPD Viability Study (July 2023)), and will ensure that wherever provided, affordable workspace will offer a substantial discount from market rates, and a clear and consistent approach to provision is sought.</li> </ul>
<p><b>3</b></p> <ul style="list-style-type: none"> <li>Obligation periods for affordable workspace of 100 years or the lifetime of the development for affordable workspace are excessive.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. Contents in the updated POAH SPD (July 2023) have been updated to refer to an obligation period of 25 years as the council’s normal expectations subject to site specific circumstances.</li> </ul>
<p><b>4</b></p> <ul style="list-style-type: none"> <li>Evidence of the need for new affordable workspace in Westminster is required.</li> </ul>	<ul style="list-style-type: none"> <li>Supporting evidence of need for new affordable workspace is published alongside the updated POAH SPD (July 2023) – see ‘Affordable Workspace Evidence Base (July 2023).</li> </ul>

5	<ul style="list-style-type: none"> <li>Should be made clear that the absence of affordable workspace from a development proposal does not in itself make it unacceptable.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. Contents in the updated POAH SPD (July 2023) have been updated accordingly.</li> </ul>
6	<ul style="list-style-type: none"> <li>Guidance is unnecessarily complicated and inflexible which could be counter-productive in encouraging the provision of new affordable workspace.</li> </ul>	<ul style="list-style-type: none"> <li>Intention is to provide helpful guidance where developers choose to propose new affordable workspace, to ensure that where secured it is fit for purpose. In this context, none of its contents are considered unduly restrictive – nevertheless some amendments have been made in the updated POAH SPD (July 2023) in response to detailed consultation feedback (e.g. reducing length of obligation period).</li> </ul>
7	<ul style="list-style-type: none"> <li>Provision should be made for the use of land use swaps to secure new affordable workspace.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. Contents in the updated POAH SPD (July 2023) have been updated accordingly.</li> </ul>
8	<ul style="list-style-type: none"> <li>Provision should be made for payment in lieu towards affordable workspace off site.</li> </ul>	<ul style="list-style-type: none"> <li>Disagree. Guidance focussed on setting out how fit for purpose affordable workspace can be delivered on-site where developers choose to provide it</li> </ul>
9	<ul style="list-style-type: none"> <li>Should be provision for affordable workspace that cannot be let to be made available for use at market rates after a suitable void period.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. Contents in the updated POAH SPD (July 2023) have been updated accordingly.</li> </ul>
10	<ul style="list-style-type: none"> <li>Scope should be provided for some elements of Class E floorspace that is being provided at market rates (e.g. retail and leisure uses) to be occupied before affordable workspace to achieve placemaking objectives.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. Contents in the updated POAH SPD (July 2023) have been updated accordingly.</li> </ul>
<b>4.2 Social and Community Uses</b>		
1	<ul style="list-style-type: none"> <li>Contents broadly supported, though should be scope for a review mechanism where Community Use Agreements are secured.</li> </ul>	<ul style="list-style-type: none"> <li>Agreements can only be secured at the planning application stage – guidance does however set out that details of a management committee will be required- to ensure facilities remain well managed.</li> </ul>
<b>4.3 Employment and Skills</b>		
1	<ul style="list-style-type: none"> <li>Suggested that contributions are not sought from sports facilities that fall within Class E.</li> </ul>	<ul style="list-style-type: none"> <li>Disagree. Class E uses such as private gyms and fitness clubs are commercial enterprises that generate job opportunities that it is reasonable to seek contributions towards employment and skills programmes from.</li> </ul>
2	<ul style="list-style-type: none"> <li>Reasonable endeavours rather than best endeavours to secure local employment should be sought.</li> </ul>	<ul style="list-style-type: none"> <li>Both the updated POAH SPD (July 2023) and the updated draft Informal Planning Guidance Note on Affordable Workspace (July 2023) refer to reasonable endeavours.</li> </ul>
3	<ul style="list-style-type: none"> <li>Securing and monitoring ongoing local employment is complex, especially in instances when the occupier is different to the developer.</li> </ul>	<ul style="list-style-type: none"> <li>Scope exists within the updated POAH SPD (July 2023) and Inclusive Local Economy and Employment guide (July 2023) for employment and skills targets to be met through employment in the construction phase, and through financial contributions towards provision off-site, as well as through jobs on-site in the end use. A range of options therefore exist to meet the council's objectives of supporting residents into employment and securing public benefits from development opportunities.</li> </ul>

<p>4</p> <ul style="list-style-type: none"> <li>Local employment opportunities and apprenticeships should carry equal importance and therefore be interchangeable in terms of contributing towards employment and skills targets, rather than a strict 50/50 split between each.</li> </ul>	<ul style="list-style-type: none"> <li>Apprenticeships can offer better long-term career prospects for residents than entry level jobs, hence the intention to require a proportion of apprenticeships alongside on-site jobs. It is however recognised that greater flexibility should be provided, and the POAH SPD (July 2023) has therefore been updated to emphasise that a mix is needed for this reason, and that as a broad guide, the council will normally seek a minimum of 30% apprenticeships.</li> </ul>
<p>5</p> <ul style="list-style-type: none"> <li>Should consider accepting candidates from neighbouring boroughs to fill job/ training opportunities, if no suitable Westminster candidates can be found.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. The POAH SPD (July 2023) has been updated to make clear that whilst Westminster residents will be the priority group that interventions should target, candidates from neighbouring boroughs will also be considered.</li> </ul>
<p>6</p> <ul style="list-style-type: none"> <li>Suggested that financial sanctions should not be applied where employment and skills targets are not met.</li> </ul>	<ul style="list-style-type: none"> <li>Financial sanctions are included as a mechanism to encourage the achievement of Employment and Skills Plans targets on-site, whilst offering flexibility in recognition this may not always be possible. It reflects existing practice in other London boroughs.</li> </ul>
<p>7</p> <ul style="list-style-type: none"> <li>Developers with their own employment and skills programmes should be able to contribute ‘in kind’ rather than via financial contributions.</li> </ul>	<ul style="list-style-type: none"> <li>The ‘Planning considerations’ section of the updated POAH SPD (July 2023) sets out that there is scope for Employment and Skills Plans to connect to existing successful employment and skills initiatives operated by the developer/supply chain. It also makes clear that where Employment and Skills Plans are used, they will consider the impact of financial contributions on meeting targets. Depending on the nature of the employment and skills initiatives being provided by the developer, and the level of further support needed from the Westminster Employment Service to ensure local residents fully benefit from the economic opportunities development brings, a combination of ‘in kind’ provision and financial contributions may be sought.</li> </ul>
<p>8</p> <ul style="list-style-type: none"> <li>Costs applied to construction job placements appear higher than elsewhere in London.</li> </ul>	<ul style="list-style-type: none"> <li>Estimated costs are based on an assessment of the cost to the Westminster Employment Service of supporting those furthest from the labour market into employment, which involves holistic support- for placements in both the construction sector and end user jobs. The nature of the groups targeted by the service (which includes the homeless, residents with disabilities and health conditions, young people), and subsequent level of support required (which includes a coaching service, job support, in work support and is for a sustained job) means costs involved may not be directly comparable to experiences elsewhere across London that do not specifically target those furthest from the labour market in need of the greatest levels of support.</li> </ul>
<p><b>5 Sustainable transport and public realm</b></p>	



<p>1</p> <ul style="list-style-type: none"> <li>• Planning obligations should not be used for ‘free lifetime membership to car club schemes for occupants of the development’ as car clubs have not been shown to solve challenges relating to mode shift and can perpetuate car use.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted. The reference to car club schemes has been removed from the updated POAH SPD (July 2023). Irrespective of the SPD’s wording, it should be noted that both the City Plan and London Plan both support the use of car clubs in-lieu of private parking. The way car clubs operate is also changing, with less and less providers operating with memberships.</li> </ul>
<p>2</p> <ul style="list-style-type: none"> <li>• Priority for off-street parking in schemes should not be given to families with young children (white badge have principle priority).</li> </ul>	<ul style="list-style-type: none"> <li>• Noted. Reference to a priority system has been removed from the from the updated POAH SPD (July 2023). Irrespective of the SPD’s wording, this remains in the City Plan. The City Plan’s priority system is clear that disabled parking would take priority over all other potential parking users.</li> </ul>
<p>3</p> <ul style="list-style-type: none"> <li>• The council should clarify their corporate position to the retention of existing public toilets before any planning obligations can reasonably be attached to future planning permissions.</li> </ul>	<ul style="list-style-type: none"> <li>• The council is currently working on a modernisation programme for its public conveniences. The text within the updated POAH SPD (July 2023) has been amended to bring opening hours for public facing toilets broadly line with the council’s facilities.</li> </ul>
<p>4</p> <ul style="list-style-type: none"> <li>• Text should be amended to walkway agreements to stipulate that ‘walkways are safe and fully accessible and have clear access and egress points’.</li> </ul>	<ul style="list-style-type: none"> <li>• The text within the updated POAH SPD (July 2023) has been amended to reflect this comment.</li> </ul>
<p>5</p> <ul style="list-style-type: none"> <li>• The general scope of Section 5 should be broadened to allow the negotiation of planning obligations for night-time assessments and improvements.</li> </ul>	<ul style="list-style-type: none"> <li>• Further detail on lighting in the public realm will be included in the forthcoming Public Realm SPD – contributions can be secured towards lighting where this is found to be an issue arising from development.</li> </ul>
<p>6</p> <ul style="list-style-type: none"> <li>• Section 5 should refer to the Mayor’s Transport Strategy mode shift aim of 90per cent of all journeys in inner London and 95per cent in central London to be undertaken through active travel by 2041.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted. The SPD sets out how the council will use planning obligations which arise from policy requirements. The Mayor’s Transport Strategy is outside of the scope of this document. However, the council clearly supports mode shift. The POAH SPD (July 2023) has been updated to explain that new developments will be car-free (including permit-free), except in some specific cases. This restriction should help reduce car ownership in Westminster and therefore encourage active travel. The March 2022 POAH SPD was silent on this issue.</li> </ul>
<p>7</p> <ul style="list-style-type: none"> <li>• Planning obligations should be sought for eco-moorings, and canal towpath improvements.</li> </ul>	<ul style="list-style-type: none"> <li>• The POAH SPD cannot set out new policy requirements, but only include guidance on how to apply City Plan policies. Each proposal is assessed on its own merits- the assessment will determine if any planning obligations are necessary to make a scheme acceptable in planning terms. CIL funding is available for provisions such as eco-moorings and towpath improvements.</li> </ul>
<p>8</p> <ul style="list-style-type: none"> <li>• Too restrictive to require housing schemes of more than 100 units to accommodate disabled parking on site.</li> </ul>	<ul style="list-style-type: none"> <li>• The SPD has been updated to make clear that all development should provide the required disabled parking on-site, but that where it is agreed that it is to be delivered on-street it should be funded through contributions.</li> </ul>

<p>9</p> <ul style="list-style-type: none"> <li>• Double charging of 106 and CIL may be a concern.</li> </ul>	<ul style="list-style-type: none"> <li>• In line with Regulations, planning obligations will only be required to ensure a development is acceptable in planning terms. The council ensures there is no double charging.</li> </ul>
<p>10</p> <ul style="list-style-type: none"> <li>• Financial contribution to facilitate on street servicing is not considered to be appropriate given the nature of development in Westminster – whereby sites are generally very constrained, and servicing within the site is generally limited to larger scale major developments involving comprehensive redevelopment. May fall within CIL contributions.</li> </ul>	<ul style="list-style-type: none"> <li>• The City Plan requires developments to meet servicing needs on-site, while development that fails to meet this requirement will be required to off-set any negative impact on the highway network and amenity caused by servicing, such as funding servicing bays. Where contributions may affect viability, service management plans which mitigate the impacts may be considered.</li> </ul>
<p><b>6 Environment</b></p>	
<p>1</p> <p><u>Carbon off-setting price:</u></p> <ul style="list-style-type: none"> <li>• The carbon offset price is significantly higher than the market rate for carbon (£70/tonne), the GLA's rate (£95/tonne) and price for retrofit projects (£185/tonne). It is not in line with the 2010 CIL Regulations to set a tariff higher than the cost of mitigation, as it should be necessary to make the development acceptable in planning terms.</li> <li>• More evidence is needed; the modelling is based on limited examples and is not representative of Central London. Larger commercial buildings where net-zero has been difficult to achieve should also be considered. Instead of a blanket approach, a nuanced approach should be taken in terms of values and types of development.</li> <li>• The carbon offset price should be subject to viability testing and not constrain the delivery of other policy objectives.</li> <li>• The carbon offset payment should be considered in the context of the wider sustainability credentials of the site – it should not prevent the delivery of sustainable buildings</li> </ul>	<ul style="list-style-type: none"> <li>• The price within the updated POAH SPD (July 2023) is justified and has been informed by the finding of the 'Delivering Net Zero (2023)' report findings. The council may keep this evidence under review to ensure the price is justified.</li> <li>• It is impossible to consider every building type. The evidence base considers a broad range of development types across London, and justifies the policy approach. These development types will be kept under review for any updates of the study.</li> <li>• The City Plan and POAH SPD Viability Study (July 2023) has considered the impact of different carbon off-setting prices. The study concludes that although a higher price may move some schemes from 'viable' to 'unviable', this will incentivise developers to invest on-site at a lower cost.</li> <li>• Carbon off-setting should be a last resort option. A higher carbon off-setting price should encourage more on-site investments. We do not consider it will prevent the delivery of sustainable buildings – it should in fact encourage it.</li> </ul>
<p>2</p> <ul style="list-style-type: none"> <li>• The SPD should provide guidance on developer owned, estate wide, or off-site off-setting of carbon emissions, in line with policy 36.</li> </ul>	<ul style="list-style-type: none"> <li>• Off-site measures are already referenced. To consider if it is useful to set out how off-set measures will be secured. It is not appropriate to go into a lot of detail on off-site measures as it is a Planning Obligations SPD.</li> </ul>
<p>3</p> <ul style="list-style-type: none"> <li>• Renewable Power Purchase Agreements should be taken into account, so developers are not required to off-set certified net additional renewable energy.</li> </ul>	<ul style="list-style-type: none"> <li>• The SPD simply sets the carbon offset price in line with London Plan and City Plan policies and follows the guidance by the GLA.</li> </ul>
<p>4</p> <ul style="list-style-type: none"> <li>• The challenge of meeting carbon reduction targets on-site in Westminster should be considered – the</li> </ul>	<ul style="list-style-type: none"> <li>• We are aware of the issues around meeting carbon reductions on-site. Carbon offsetting helps to make</li> </ul>

	challenge is often providing meaningful on-site renewable energy generation due to site constraints.	sure development can go ahead despite these issues, by providing carbon reductions elsewhere. Each scheme is assessed on its own merits.
5	<ul style="list-style-type: none"> <li>The SPD should consider including wider issues related to the natural environment including green infrastructure, protection of natural resources, air quality, ground and surface water, soils, features beneficial to wildlife development, and opportunities to enhance the character and local distinctiveness of the natural and build environment.</li> </ul>	<ul style="list-style-type: none"> <li>The updated POAH SPD (July 2023) does not deal with each instance where the council may use legal agreements. Instead, it provides guidance on the areas that need it the most. Through our Environment SPD we provide up to date guidance on how developments can enhance the natural environment. We are working on an update to the Environment SPD, and as the policy position and evidence develops, we will make sure all our SPDs are aligned.</li> </ul>
<b>7 Heritage and townscape</b>		
1	<ul style="list-style-type: none"> <li>It should be made clear that the requirements for a S106 agreement to secure townscape and heritage matters is considered on a case-by-case basis.</li> </ul>	<ul style="list-style-type: none"> <li>Agree. This has been clarified within the updated POAH SPD (July 2023) as such issues are considered on a case-by-case basis.</li> </ul>
2	<ul style="list-style-type: none"> <li>Any requirements in a S106 agreement to secure townscape and heritage matters should be proportional to the significance of the asset and not restrict a viable use coming forward.</li> </ul>	<ul style="list-style-type: none"> <li>Agree. This has been clarified within the updated POAH SPD (July 2023).</li> </ul>
<b>8 Overview of the decision-making process</b>		
1	<p><u>S106 monitoring fees</u></p> <ul style="list-style-type: none"> <li>A flat-rate / per obligation monitoring fee should continue to be charged in most cases. A 5% fee obligation may be too high in some cases. It should be proportionate to the resourcing and servicing required to monitor the agreement rather than a % of total value.</li> <li>The council should provide evidence to demonstrate how this money would be required to be spent to monitor a financial contribution at the scale proposed. Moreover, not all obligations require monitoring.</li> <li>A fee ceiling is needed.</li> </ul>	<ul style="list-style-type: none"> <li>We have revised our S106 monitoring fees structure within the updated POAH SPD (July 2023). Our new model represents a fair approach that will allow the council to secure the costs associated with monitoring agreements without placing an undue burden on developers. The fee structure and charging levels, including capping the proportional charges, will provide sufficient income for the council to properly monitor agreements without fees regularly exceeding the costs of monitoring those agreements, including reporting costs. Our approach is in line with the approach followed by other London boroughs.</li> </ul>
2	<ul style="list-style-type: none"> <li>The City Council should also be mindful of appropriate transitional provisions, namely how the new approach to planning obligations and associated financial contributions should be applied to amendment applications under S73 of the Town and Country Planning Act.</li> </ul>	<ul style="list-style-type: none"> <li>The council first consulted on a draft POAH SPD in March 2022 and is now consulting on a revised draft (Spring 2023). Guidance within the POAH SPD will have been in the public domain for some time before it is adopted. In line with Regulations and Planning Practice Guidance, the POAH SPD will be a material consideration once adopted.</li> </ul>
<b>Informal Planning Guidance Note on Affordable Workspace</b>		
1	<ul style="list-style-type: none"> <li>Several comments that also relate to the section 'Economy and Employment' section of the SPD.</li> </ul>	<ul style="list-style-type: none"> <li>See responses to issues raised on POAH SPD above.</li> </ul>
2	<ul style="list-style-type: none"> <li>10-year leases for affordable workspace excessively long.</li> </ul>	<ul style="list-style-type: none"> <li>This is considered necessary to ensure small business that occupy such space have sufficient stability and opportunity to grow and thrive.</li> </ul>

<p><b>3</b></p> <ul style="list-style-type: none"> <li>• Should be made clear floor to ceiling heights of 2.7m are for new build and won't always be possible in refurbishment schemes.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted – guidance updated accordingly.</li> </ul>
<p><b>4</b></p> <ul style="list-style-type: none"> <li>• Proactive marketing and monitoring requirements are resource heavy</li> </ul>	<ul style="list-style-type: none"> <li>• Proactive marketing and end user monitoring is sought to ensure that where affordable workspace is provided, it is let to its target audience, and the benefits of providing such space in supporting small businesses is properly understood.</li> </ul>

# 5 Appendices

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# 5.1 Intermediate housing

During consultation, consultees raised concerns with the approach to intermediate housing set out in the March 2022 draft. Since then, the council has also published its new [Fairer Westminster Strategy and Delivery Plan](#) and launched a [Partial City Plan Review](#). The council really wishes to prioritise affordable housing, and ensure it is as affordable as possible so the housing needs of those with lower incomes are met – in line with housing needs evidence.

## Background

The council has a record of requiring intermediate rent units are provided at a range of rent levels while being affordable to households with incomes of up to £90,000 (this is above the Londonwide £60,000 cap for intermediate rent). Although not set out in any public documents (e.g. Supplementary Planning Documents), the council has been negotiating rent levels with developers so that new intermediate housing was affordable to households with different incomes.

During a long time, the income bands and rent levels for intermediate housing were negotiated on a case by case basis having regard to different indicators and site-specific viability challenges. Although the approach changed throughout the years and was tailored to schemes, the council often required intermediate housing was delivered across four income bands, equally weighted. This approach was applied to all schemes delivering intermediate housing.

## POAH SPD (March 2022) approach

The City Plan 2019-2040 was adopted in 2021. The City Plan clearly says that intermediate housing should be delivered across different bands and that these will be set out in the Planning Obligations and Affordable Housing SPD. In this context, the council set out its approach to intermediate housing affordability in the March 2022 draft POAH SPD – see Table 1.

Table 1: Intermediate housing affordability bands - draft POAH SPD (March 2022)

These indicative rents relate to the incomes of intermediate applicants in 2021, so are subject to change			
	Proportion	Indicative rent Including service charges 1 bedroom	Indicative rent Including service charges 2 /2 plus bedrooms
Up to lower quartile	30%	£174.52	£175.59
Lower quartile to median	25%	£174.53 - £230.91	£175.60 - £237.24
Median to upper quartile	25%	£230.92 - £306.47	£237.25 - £323.07
Upper quartile to GLA income cap for intermediate housing for sale (£90k)	20%	£306.48 - £327	£323.08 - £459 for a 2 bed. £323.08 - £483.29 for 3 bed plus

The income thresholds for Table 1 were not published within the draft POAH SPD (March 2022). For transparency, and to ease comparison with Table 3 below, these are now being provided in Table 2:

Table 2: Income bands for intermediate housing affordability bands as set out in draft POAH SPD (March 2022)

Income bands	These indicative rents relate to the incomes of intermediate applicants in 2021, so are subject to change		
	Proportion	Affordable to	Indicative weekly rent Including service charges
Up to lower quartile	30%	1bed household	Up to £174
		2bed household	Up to £176

Lower quartile to median	25%	1bed household	£32,500- £43,000	£174 - £231
		2bed household	£32,700- £44,200	£176 - £237
Median to upper quartile	25%	1bed household	£43,000 – £57,070	£231 - £306
		2bed household	£44,200 - £60,165	£237 - £323
Upper quartile to GLA income cap for intermediate housing for sale (£90k)	20%	1bed household	£57,070 - £90,000	£306 - £327*
		2bed household	£60,165 - £90,000	£306 - £459**

\*Rents for this income band were capped at £327 (80% of market rents for 1beds in Westminster in 2021).

\*\*Rents for this income band were capped at £459 (80% of market rents for 2beds in Westminster in 2021).

The [March 2022 draft POAH SPD](#) required developers to always provide intermediate housing across four bands, taking into account a £90,000 income cap. Alongside this rented product, the council also allowed Discounted Market Sale units to be provided.

### POAH SPD Approach (July 2023) approach

The council has now reviewed its approach to intermediate housing to:

- Take into account consultation feedback;
- Bring the approach to intermediate housing more in line with Mayoral guidance – and clearly support the Mayor’s London Living Rent product;
- Prioritise, in line with evidence from the council’s Intermediate Housing Register, households with lower incomes;
- Enable the delivery of intermediate for rent units to ensure the housing needs of households with incomes between £60,000 and £90,000 are met by allowing a number of intermediate rent units are rented at higher rent levels while ensuring the homes are affordable to them – replacing Discounted Market Sale units by Discounted Market Rent units.
- Alongside work on this SPD and the City Plan Partial Review, the council is also ensuring, by keeping under review its housing allocation policy, that those most in need and those the council wishes to prioritise for intermediate housing (e.g. Key Workers) get the homes they need.

As shown in Table 3, the council really welcomes applications that deliver housing that caters for the needs of households with incomes up to £60,000 (or any subsequent Londonwide income cap for intermediate for rent housing). The maximum income cap has therefore changed between the March 2022 and July 2023 drafts and is now more in line with Mayoral guidance.

However, as explained in this July 2023 draft POAH SPD, in some circumstances, the council may allow a small number of units are rented to households with incomes between the Londonwide intermediate housing for rent limit (£60,000 at time of writing) and below the intermediate housing for sale limit (£90,000 at time of writing). This type of provision will not exceed 20% of the total number of units in a scheme and will always be in lieu of Discounted Market Sale units (not on top of it). This approach is in line with emerging Mayoral guidance (see [Affordable Housing LPG \(May 2023\)](#)).

The July 2023 draft POAH SPD also clarifies the starting point for intermediate housing (£25,000), which wasn’t set out in the March 2022 draft POAH SPD. The new approach also has fewer bands, making policy and guidance implementation easier.

Overall, the July 2023 approach when compared to the March 2022 approach, means more homes for households with lower incomes will be delivered, in line with housing needs evidence. The new approach will also ensure the housing needs of households with incomes between £60,000 and £90,000 are better met, as Discounted Market Sale does not work well in Westminster.

Table 3: Intermediate housing affordability bands - draft POAH SPD (July 2023)

Income Bands	These indicative rents relate to the incomes of intermediate applicants in 2022 and use a London Living Rent Westminster average, so are subject to change			
	Proportion		Affordable to	Indicative weekly rent including service charges
Base to median	50%	1bed household	£25,000* -£44,000	£134-£236

		<i>2bed household</i>	<i>£25,000-£52,000</i>	<i>£134-£280</i>
Median to GLA income cap for intermediate housing for rent (£60k)	50%	<i>1bed household</i>	<i>£44,000 - £60,000**</i>	<i>£236- £322</i>
		<i>2bed household</i>	<i>£52,000- £60,000**</i>	<i>£280-£322</i>



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