

Planning Obligations and Affordable Housing SPD Consultation Statement

February 2024

Contents

1 Introduction	3
1.1 Introduction	4
2 Consultation process	5
2.1 Consultation Process	6
3 Representors	7
3.1 Representors	8
4 Issues raised during consultation	11
4.1 Issues raised during consultation	12
Key issues	12
Detailed issues (and how these have been taken into account)	13
5 Appendices	29
5.1 Email to consultees.....	30
5.2 Website	32

1 Introduction

1.1 Introduction

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 is used to determine planning applications in the city and guides development across the city over the long term.
2. The council committed to producing a [Planning Obligations and Affordable Housing SPD \(POAH SPD\)](#) to follow the adoption of the City Plan. It provides additional detail to the new City Plan policies and 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 (POAH SPD) 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 POAH SPD does not introduce new planning policies into the Development Plan, it will be however, a material planning consideration.
4. In accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 Part 5 Regulation 12, the council first consulted on a draft POAH SPD in March-May 2022. Following this first round of consultation (statutory), the council decided to reconsult on an updated draft POAH SPD in August-September 2023 (non-statutory). Alongside the updated draft POAH SPD (July 2023), the council published a Consultation Statement (July 2023) summarising how consultation feedback received in 2022 had informed the new draft. The SPD's evidence, including a draft Equalities Impact Assessment (July 2023), the Affordable Workspace Evidence Base (July 2023), the Delivering Net Zero report (July 2023) and the City Plan and POAH SPD Viability Study (July 2023) were also published for consultation.
5. **This Consultation Statement (February 2024) summarises feedback received during the second (non-statutory) round of consultation on the draft SPD and supporting evidence. It explains how consultation comments have informed the adoption version of the POAH SPD (February 2024).**

2 Consultation process

2.1 Consultation Process

1. Statutory consultation on the first draft POAH SPD took place between 18th March and 29th May 2022; a period of six weeks. After this round of consultation, the draft POAH SPD was updated to reflect feedback received and, as far as possible, the council's ambitions as set out in the new [Fairer Westminster Strategy](#).
2. Although not legally required, the council then opened a second round of public consultation which took place between 15th August and 29th September 2023. This gave consultees an opportunity to provide feedback on the changes made to the draft SPD, the draft informal Planning Guidance Note on Affordable Workspace and the supporting evidence, including the City Plan and POAH SPD Viability Study (July 2023).
3. A range of stakeholders were invited to comment on the updated draft, including the development industry, statutory consultees, and local businesses and residents.

Notifications

4. 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
 - other consultees who have expressed an interest in planning policy in Westminster.

Website

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

3 Representors

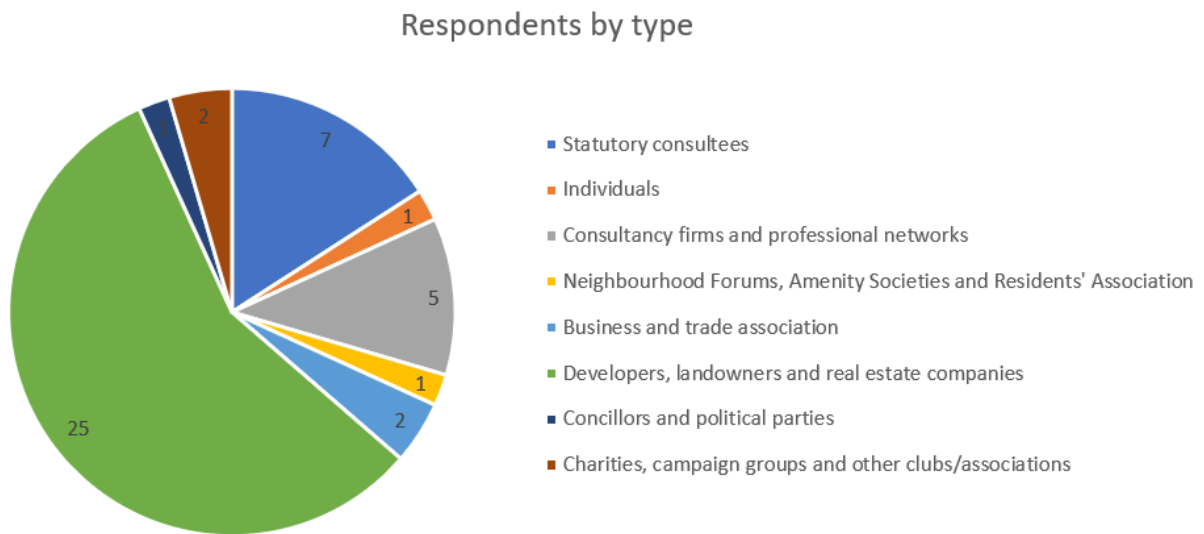
3.1 Representors

Submission of representations

1. The council welcomed representations made via email to planningpolicy@westminster.gov.uk.

Representors and representations received

2. There were 44 respondents who provided written representations to the second draft POAH SPD consultation.
3. Representations were received from a range of consultees including residents, businesses, developers and business organisations. This is shown in the figure below:



4. A list of representors is provided below.

Statutory consultees (7):

- Transport for London
- Sports England
- Network Rail
- Imperial College Healthcare NHS Trust
- Mayor of London
- Natural England
- Historic England

Business and trade associations (2):

- John Lewis
- Marks and Spencer PLC

Developers, landowners and real estate companies (25):

- Cohort Ltd
- Royal London Asset Management
- Shiva Hotels Ltd
- London School of Economics
- Aviva Investors
- Great Portland Estates
- Landsec
- R20 Advisory
- TfL (Places for London)
- Lazari Investments
- Westminster Property Association
- Whitbread
- Berkeley Estate Asset Management
- W.RE Ltd
- Motcomb Estates
- CC Land
- The Other House Prop CO3
- Bentall Green Oak
- Scape
- Derwent London
- Melford Capital
- Reuben Brothers Group
- Berkely Homes
- British Land
- Shaftesbury Capital Plc

Individuals (1):

- Achim von Malotki

Neighbourhood Forums, Amenity Societies and Resident's Associations (1):

- Knightsbridge Neighbourhood Forum

Consultancy firms and professional networks (5):

- Matt Architecture
- Hilson Moran
- Rolf Judd Planning
- Atelier Ten
- Building Design Partnership

Councillors and political parties (1):

- Minority Party

Charities, campaign groups and other clubs/associations (2):

- Middlesex Cricket Club
- Business LND

4 Issues raised during consultation

4.1 Issues raised during consultation

Key issues

1. Overall, the new draft POAH SPD and the direction of travel received positive feedback. Respondents were in support of amendments made to the SPD following the first round of consultation. Many supported the changes which added clarification on some of the requirements. They also supported the improved signposting to other documents and guidance, and the clearer references made to wider London Plan Policies.
2. The opportunity to provide comments on the new draft and the SPD's evidence, including the City Plan and POAH SPD Viability Study (July 2023) was very much welcomed.
3. Several stakeholders raised concerns with the updated SPD and the viability evidence, notably they questioned the soundness of the approach and methodology underpinning the increase of the carbon off-setting price and highlighted its potential negative impact on development deliverability. Carbon off-setting was the key area of push-back. Stakeholders also raised concern with guidance related to other SPD sections including affordable housing and affordable workspace, again with most concerns relating to viability.
4. Many respondents gave helpful feedback on language and wording to improve coherency and accuracy, and highlighted sections where further detail could be provided on how planning obligations would be applied.
5. Where appropriate, the amendments to the SPD have respond to suggestions that were made. Most importantly, the council has reviewed its approached to carbon off-setting – see the section below and pages 23-27 for detailed explanation.
6. The table below looks at each chapter in detail, showing how the council has answered the feedback received.

Key issue – cost carbon off-setting

The principal area of concern raised during the consultation was the price of carbon for the purposes of calculating planning obligations related to carbon off-setting payments. The price in the consultation version of the document was £880 a tonne for all schemes which met the criteria. The consultation responses raised concerns about the overall cost of carbon off-setting as well as the methodology for calculating the price of carbon and its impact on viability. Following the consultation, the council has reviewed the methodology for calculating the cost of carbon and explored alternative methodologies for calculating the cost of carbon, including calculating the cost based upon retrofitting projects carried out by the council. Following this review, the council is confident that the Delivering Net Zero report (Etude, July 2023) provides the most reliable method for calculating the cost of carbon, and also results in a lower cost per tonne than a price based upon retrofitting. The council will therefore adopt a price of carbon of £880 per tonne.

However, the council acknowledges that the methodology for calculating the price of carbon does not accurately reflect the benefit of residual emissions from electricity and district heat networks compared to on-site gas. Specifically, grid-decarbonisation means that residual emissions from electricity are likely to reduce over the 30 year off-set period, and that district heat networks offer far lower embodied carbon emissions than on-site heating. As a result, the methodology for calculating the total cost of off-setting in the adopted SPD will account for this through a grid-decarbonisation allowance applied to all electricity and district heating based residual emissions. The allowance will be reviewed annually based upon Government predictions for grid-decarbonisation, and in the adopted SPD is set at an initial rate of 37.5% the price of carbon (£880 x 37.5%) – this means the price of carbon is set at £330 for electricity-based emissions or schemes connected to district heat networks. The reason for the reduction is to account for the effect on the carbon factor of electricity of grid-decarbonisation- the reduction is based upon the average carbon factor of electricity over a 30-year period, using the Treasury Green Book predictions for grid-carbon factors. The full price of £880 still applies to gas-based schemes.

Further details of how this calculation will work are provided in Section 6.4 of the POAH SPD (February 2024). Given that the majority of new schemes will be electricity-based or will be required to connect to a district heat network, this will reduce the overall cost of carbon off-setting for many schemes. The City Plan and POAH SPD Viability Study (July 2023) showed that a price of £330 had much less of an impact on viability than the £880 price. The Viability Study concluded that the impact of increasing the carbon off-set payment from £95 per tonne to £330 per tonne is relatively modest, with an average reduction in residual land values of circa 9%.

As explained below, the adopted SPD has also been amended so it is clear when carbon off-setting applies and to clarify that carbon off-setting should not compromise the delivery of affordable housing in accordance with London Plan Policy DF1.

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

	Issue	Council response
	Intro / General	
1	<ul style="list-style-type: none"> Amendments made to the SPD which provide updated detail to national and London policy are supported. 	<ul style="list-style-type: none"> Support noted.
2	<ul style="list-style-type: none"> Concerns raised around the cumulative effect and cost of obligations contained in the SPD and tariffs with current rising development and construction costs and stagnated/falling residential values. Concern over the imposition of obligations as this may negatively impact viability. 	<ul style="list-style-type: none"> The POAH SPD (July 2023 and February 2024 versions) have been informed by viability evidence, as set out in the City Plan and POAH SPD Viability Study (July 2023), which assesses the cumulative impact of policies and guidance in both documents on viability. The evidence supports the guidance set out in the SPD. As explained below, following consultation in 2023, the council has

		<p>reviewed its approach to carbon off-setting – the new approach should help alleviate some of the viability concerns. Moreover, applicants can submit viability assessments alongside proposals - viability can be assessed on a case-by-case basis through the development management process to make sure development is viable.</p>
3	<ul style="list-style-type: none"> Concerns that the SPD has a negative impact on the length and complexity of the planning process. 	<ul style="list-style-type: none"> Disagree, the SPD does not add any additional policy. It provides further guidance on the use of planning obligations, so applicants have more information on what is expected.
4	<ul style="list-style-type: none"> Concerns raised over how the new approach to planning obligations should be applied to amendment applications. The consented scheme/position should therefore be treated as a significant material consideration in determining amendment applications. 	<ul style="list-style-type: none"> Amendment applications are determined on a case-by-case basis and in accordance with requisite procedures, planning policies and having had regard to material considerations. Changes have been made to the SPD to clarify this.
3 Housing		
5	<ul style="list-style-type: none"> Concerns over developments that replaces demolished buildings. Replacement homes for demolished stock should not count towards the share of social housing within the development. 	<ul style="list-style-type: none"> This is addressed in the SPD, which explains affordable housing requirements will be calculated based on the gross level of housing provided by the development, meaning the total level of ‘new homes’ provided. City Plan Policy 9 also states that “we will seek an uplift in the amount of affordable housing provided where existing affordable housing is redeveloped”.
6	<p><u>Schemes involving refurbishment and reconfiguration of affordable housing</u></p> <ul style="list-style-type: none"> For refurbished residential developments, it is not appropriate to seek affordable housing against units in their entirety. More clarity should be added to make clear affordable housing requirements will not be triggered by existing homes that are unaltered or by those subject to limited alterations. 	<ul style="list-style-type: none"> The SPD approach is in line with the London Plan and City Plan policies which set out that affordable housing requirements should apply to the gross residential development proposed area in recognition of high levels of housing need. The SPD wording makes clear that it is only homes that are reconfigured to facilitate an uplift in housing delivery

		that affordable housing requirement applies to.
7	<p><u>Affordable housing payments in lieu</u></p> <ul style="list-style-type: none"> • The approach that payments in lieu should only be provided as a last resort and that the payment is at a value equivalent to on-site provision is supported. • Concerns over the increase in payments in lieu, which may lead more applications to follow the Viability Tested Route. 	<ul style="list-style-type: none"> • Support noted. • All schemes not providing affordable housing on-site must follow the Viability Tested Route in line with the London Plan. The POAH SPD set out revised payments in lieu rates based on the methodology agreed during the City Plan Examination in Public and the findings of the City Plan and POAH SPD Viability Study (July 2023). The council will keep this approach under review.
8	<p><u>Phased developments</u></p> <ul style="list-style-type: none"> • Welcome the reference to considering phasing on a case-by-case basis should specific circumstances arise. • Redraft of bullet point referring to developments that trigger an affordable housing requirement or follow the London Plan’s Fast Track Route and the need for viability assessments. • Make it clear that viability assessments are intended to relate to amendments to planning applications that would result in less affordable housing delivery or stalled phases. It should be clear that new viability assessments cannot dictate a reduction of affordable housing delivery. • The SPD should note that the baseline level of existing affordable housing should be established as early in the planning process as possible (including demolished units). • Concerns with mid-stage reviews and the use of forecast figures. Estimated values used in cost and value 	<ul style="list-style-type: none"> • Support noted. • Agreed, this has been clarified. • Agreed, this has been clarified. The purpose of viability assessments is to ensure phased developments are not stalled indefinitely and that there is no decrease in affordable housing delivery. • The City Plan is clear that where affordable housing is redeveloped, the council will seek an uplift in the total floorspace, and a baseline level of affordable housing is provided at validation process. As this requirement is already clear in the City Plan, it is not felt necessary to repeat it in the SPD. • Agreed, this has been clarified.

assumptions should be replaced with actual figures as the scheme develops. Developer profit should not be linked to forecasts for housing market and final sales value from comparable schemes.

9 Tenure split and size of new homes

- Reword section on social / tenure split to be more explicit about the envisaged new split.
- Provision of a greater proportion of intermediate housing as intermediate rent is supported, as are proposals for intermediate housing to cater for key workers.
- Housing provision for households with higher incomes should be made by extending eligibility for intermediate housing whilst ensuring intermediate housing costs do not exceed London wide caps.
- Discounted Market Rent for lower income levels is too close to Social Rent levels and is not appropriate.
- Preferred continuation of Shared Ownership.
- Disagree, amendments cannot be made at this stage to the tenure split as this needs to be done as part of a City Plan Review. If a new tenure split is adopted, the POAH SPD may need to be reviewed when a revised City Plan is adopted. Any changes to the tenure split will be informed by evidence and be scrutinised by the Planning Inspectorate during the Plan's Examination in Public.
- Support noted.
- Rent levels should have regard to incomes. The SPD explains how rent levels should be calculated to ensure caps are not exceeded.
- The council thinks it is appropriate to provide people within the base to median income band with an affordable housing option. Data from the council's Intermediate Housing Register shows that there are households that do not qualify for social housing or London Living Rent. The income bands are guidance.
- The council is not ruling out Shared Ownership and acknowledges that in some cases Intermediate for Sale products, such as Shared Ownership, may be affordable- applications will be assessed on its own merits.

10 Management of Affordable Housing

	<ul style="list-style-type: none"> Clarify guidance on the purchasing of market tenure homes in order to change their tenure. Add clarification that reprovided homes must be of the same or a more affordable tenure. Make reference that reprovided affordable homes should be ready for occupation before tenure change. 	<ul style="list-style-type: none"> Agreed, the SPD has been amended to explain it is acceptable to change the tenure of purchased homes from market to affordable, but they should not be used to meet the affordable requirement. Agreed, this has been clarified. This does not need to be covered in the SPD.
1 1	<p><u>Non-conventional types of housing:</u></p> <ul style="list-style-type: none"> Welcome clarification that affordable housing requirements for Build to Rent schemes will align with the London Plan (Policy H11). For Build-to-rent schemes, the SPD should clarify the expected percentage for Discount Market Rent tenure to be provided at an equivalent rent to LLR. 	<ul style="list-style-type: none"> Support noted. The SPD has been clarified to better align with the London Plan.
4 Economy and Employment		
4.2 Affordable Workspace		
1 2	<ul style="list-style-type: none"> The provisions for affordable workspace are supported subject to scheme viability and delivery. 	<ul style="list-style-type: none"> Support noted. Viability implications have been considered through the City Plan and POAH SPD Viability Study (July 2023).
1 3	<ul style="list-style-type: none"> Clarification that affordable workspace is not a planning policy requirement is welcome. 	<ul style="list-style-type: none"> Support noted.
1 4	<ul style="list-style-type: none"> Titles for this section should be changed to reflect the fact this is not a requirement, the wording “when requirement applies” should be removed. 	<ul style="list-style-type: none"> Unnecessary – subheadings provide consistency across the document, and subsequent wording makes clear that the provision of affordable workspace is encouraged rather than required.
1 5	<p><u>Need for this guidance:</u></p> <ul style="list-style-type: none"> There is no policy basis in the Development Plan for Affordable Workspace, this should be removed. The evidence need for new affordable workspace in Westminster is questionable. The Planning Inspector, 	<ul style="list-style-type: none"> Disagree, City Plan Policy 13 C states that proposals with affordable workspace provision will be generally supported. The SPD supports and explains this part of the policy. The Westminster City Plan 2019-2040, Inspectors’ Report (19 March 2021) does not mention affordable

	<p>when considering the City Plan, said there was no demand for affordable workspace.</p> <ul style="list-style-type: none"> Guidance is restrictive, overly prescriptive, and inflexible. Provision should be made for a payment of an affordable workspace contribution, instead of small amount of on-site provision. 	<p>workspace. The SPD is supported by evidence of need for such space as set out in the 'Affordable Workspace Evidence Base (July 2023)'. City Plan Policy 13 C states that proposals with affordable workspace provision will be generally supported. The SPD supports this part of the policy.</p> <ul style="list-style-type: none"> The intention of the SPD is to be helpful to developers who choose to propose new affordable workspace. Guidance is based on best practice and lessons learnt through the delivery of such space to ensure that where provision is encouraged and subsequently secured, it is fit for purpose. Disagree, the guidance is focused on setting out how in the circumstances where affordable workspace is proposed, it is secured on-site in a manner that ensures it is fit for purpose.
16	<ul style="list-style-type: none"> Provide explanation as to how the council will ensure developers are honest if they claim they cannot find a suitable tenant at affordable rates. 	<ul style="list-style-type: none"> The SPD sets out that where affordable workspace is secured, evidence of extensive marketing with reasonable terms and conditions will be sought in advance of it subsequently being let at market rates.
17	<p><u>Fees payable by End Users:</u></p> <ul style="list-style-type: none"> Concern raised over the 50% discount on fees payable by End Users compared to Open Market Rent. It is suggested that the council takes a more flexible approach based on evidence of local need and viability. Provide clarity on what "Open Market Rate" is. 	<ul style="list-style-type: none"> Discounts referred to in the POAH SPD have been viability tested (see City Plan and POAH SPD Viability Study (July 2023)). Further explanation on what Open Market Rates are is provided in the Affordable Workspace Informal Planning Guidance Note (Chapter 3.8 Fees payable by End Users).
18	<p><u>Amount of space:</u></p> <ul style="list-style-type: none"> Clarification that guidance relates to net additional floorspace not total commercial floorspace is welcome. 	<ul style="list-style-type: none"> Support noted.

	<ul style="list-style-type: none"> • The percentage of discounted floorspace needs to be set at a level that does not adversely impact viability. • Concerns that the threshold of a minimum of 10% floorspace has been set in developments providing 1,000 sqm or more floorspace. It is questionable whether this is appropriate as small sites would not make meaningful contributions. • As the threshold to deliver affordable workspace is based on a GIA basis, the affordable workspace proportion should also be assessed on a GIA basis (not NIA). 	<ul style="list-style-type: none"> • The City Plan and POAH SPD Viability Study (July 2023) sets out the impacts of proposed levels of discounts on development viability. • Agreed. The SPD has been amended to only seek affordable workspace on developments securing a net uplift of over 2,500sqm of Class E floorspace. • The SPD has been updated to make clear that the threshold for seeking affordable workspace is developments delivering at least 2,500sqm net additional floorspace
<p>1 9</p>	<p><u>End users:</u></p> <ul style="list-style-type: none"> • Remove business support activities for End Users to be provided on a “reasonable endeavours” approach as this is already addressed by Employment and Skills Plan obligation. • Include reference to other types of end user (other than start-ups), references in London Plan Policy E3. 	<ul style="list-style-type: none"> • Employment and Skills Plans are only sought on larger schemes such as those providing over 10,000sqm of commercial floorspace as set out in the SPD. It is therefore considered reasonable to also refer to the use of support activities for End Users where affordable workspace is secured, in the interests of helping ensure small businesses that occupy such space are successful. • The SPD sets out the main focus in terms of end users are start-up and early-stage businesses, residents, and businesses in danger of leaving Westminster. It is considered unnecessary for the SPD to duplicate the content of the London Plan.
<p>2 0</p>	<p><u>Fit out:</u></p> <ul style="list-style-type: none"> • Concerns with the requirement for developers to fit out affordable workspace to Category A standard before occupation of “any other commercial space” within the development. This should be reworded to specify “before office, R&D and industrial or linked phase of development”. 	<ul style="list-style-type: none"> • Agreed, this has been amended.

2 1	<p><u>Obligation Period:</u></p> <ul style="list-style-type: none"> Obligation periods for affordable workspace of a minimum of 25 years is inflexible and unrealistic. 	<ul style="list-style-type: none"> Obligation period seeks to maximise long term provision to maximise the benefits such space provides once secured. As the provision of affordable workspace is encouraged rather than required, guidance contained within the SPD is not considered inflexible.
2 2	<p><u>Lease with the Qualifying Tenant:</u></p> <ul style="list-style-type: none"> Having “sufficiently long” leases of 10 years is no longer feasible. Support for landlords leasing to management workspace providers 	<ul style="list-style-type: none"> The council’s objective is to provide secure tenancies forms all businesses to enable them to grow and thrive. No evidence has been provided that such expectations would render provision unviable. Support noted
2 3	<ul style="list-style-type: none"> Make clear reference that affordable housing and necessary public transport improvements will be prioritised over affordable workspace in line with London Plan policy DF1. 	<ul style="list-style-type: none"> In this instance, it is unnecessary for the SPD to duplicate the London Plan, which will apply to all proposals as part of the Development Plan. The prioritisation given to other matters is already made clear under the section titled ‘when the requirement applies’.
2 4	<ul style="list-style-type: none"> Concerns raised over the use of the term “public benefit”. This may lead developers to believe affordable workspace will be weighed against harm when determining planning permission. 	<ul style="list-style-type: none"> Section titled ‘when the requirement applies’ makes clear that any provision of affordable workspace is not a substitute for meeting all development plan requirements.
2 5	<ul style="list-style-type: none"> The SPD should consider having additional notices/triggers for affordable workspace delivery, as well as an affordable workspace Operational/Management Plan. 	<ul style="list-style-type: none"> The SPD sets clear expectations of when affordable workspace provision will be sought. Section titled ‘amount of space’ already refers to the use of operation management plans.
4.3 Employment and skills contribution		
2 6	<ul style="list-style-type: none"> The provision of employment and skills contributions is supported subject to scheme viability and delivery. 	<ul style="list-style-type: none"> Support noted. Viability implications have been considered through the City Plan and POAH SPD Viability Study (July 2023).
2 7	<ul style="list-style-type: none"> Support that the Employment Skills Plans will connect into exiting employment and skills initiatives operated by the developer / supply chain. 	<ul style="list-style-type: none"> Support noted.

28	<ul style="list-style-type: none"> Concerns that the cost of work placements (£6,000) is too high compared to elsewhere in London. 	<ul style="list-style-type: none"> This figure is based on an assessment of the cost to the Westminster Employment Service of supporting those furthest from the labour market. 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 holistic 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 these groups.
29	<ul style="list-style-type: none"> Encourage the council to take a more tailored and flexible approach to increasing skills per job instead of payment per job. 	<ul style="list-style-type: none"> As set out in the Employment and Skills Plan section of the SPD, larger schemes are expected to address employment and skills objectives through the delivery of an Employment and Skills Plan, and where this is the case, the relationship between this and any financial contribution towards employment and worklessness programmes will be considered.
30	<ul style="list-style-type: none"> Disagree that financial contributions be used to subsidise staff for Class E and hotels. 	<ul style="list-style-type: none"> Financial contributions are sought to support residents into work in line with the ambitions of the Fairer Westminster Strategy and Policy 18 of the City Plan.
4.4 Social and community uses		
31	<ul style="list-style-type: none"> Support intention to secure community use of new schools or leisure facilities. 	<ul style="list-style-type: none"> Support noted.
32	<ul style="list-style-type: none"> We would like to see the council assess what new/expanded facilities are needed and actively plan to bring them forward, not rely on educational establishments and the commercial sector to deliver this. 	<ul style="list-style-type: none"> The SPD is not the most appropriate place to explore the need for new facilities. The council is updating the Infrastructure Delivery Plan which will assess infrastructure needs.
4.5 Public toilets		
33	<ul style="list-style-type: none"> Provision of public toilets should be required within the borough in line with footfall, not solely near large retail or entertainment facilities. 	<ul style="list-style-type: none"> The council agrees with the importance of publicly accessible toilets however, the policy wording is as set out in the adopted City Plan.

		This policy may be reviewed as part of the City Plan Full Review scheduled for 2025.
3 4	<ul style="list-style-type: none"> The council should take account of latest evidence on public toilet provision and consider neighbouring council's scheme's (like City of London Corporation's scheme) to provide more public toilets. 	<ul style="list-style-type: none"> The council is considering options to supplement the council's own public toilet provision. This work may include identifying areas with poor public toilet provision to ensure new toilets are prioritised in these locations. The council is also currently finalising plans to fully refurbish and modernise all existing public toilet facilities. Moreover, as development activity improves, more larger scale developments that trigger Policy 15(I) will be delivered, bringing more publicly accessible toilets forward.

5 Connections

3 5	<p><u>Reducing residential car parking:</u></p> <ul style="list-style-type: none"> Support the section on 'Reducing residential car parking' and strongly support the removal of on-street parking permits for occupiers of new developments. Concern about the removal of parking permits for occupiers of new (refurbished). Support removal of reference to free lifetime membership of car club schemes. 	<ul style="list-style-type: none"> Support noted. The SPD is clear that the requirement applies to homes created through a planning application. Support noted.
3 6	<ul style="list-style-type: none"> Would encourage developments to contribute to the increase in electric vehicle charging points especially for redevelopment. 	<ul style="list-style-type: none"> The council supports and encourages EV charging points, however, currently there is no policy basis for requiring this in redevelopments and to do so may contradict the City Plan's car-free policy. However, any new parking provision that is proposed should include an EV charging point in accordance with City Plan Policy 27 A.
3 7	<ul style="list-style-type: none"> The SPD should make reference to securing planning obligations specifically for rail network transport improvements. 	<ul style="list-style-type: none"> The SPD does not cover all instances where obligations may be secured, the intention is to provide guidance for key obligations. Applications will be assessed on a case-by-case basis and contributions (including those to support infrastructure) will be open to negotiation.

6 Environment		
6.2 Air quality		
38	<ul style="list-style-type: none"> Explain 'air quality neutral' means no worsening or improvement of air pollution which is different to no air pollution 	<ul style="list-style-type: none"> Agreed, the SPD has been clarified to align with wording in the London Plan.
39	<ul style="list-style-type: none"> With regards to financial off-setting, the guidance needs to make a clearer emphasis on zero air emission solutions. 	<ul style="list-style-type: none"> The SPD states financial contributions are a last resort, which means they will only be agreed to if it is not possible to identify or agree appropriate mitigation measures. This is in line with London Plan Guidance (Air Quality Neutral (2023)) which states mitigation or offsetting provisions should be the exception.
40	<ul style="list-style-type: none"> The cost of air quality offsetting should be increased as the council are doing for carbon offsetting. 	<ul style="list-style-type: none"> The council secures air quality off-setting in line with London Plan Guidance.
6.3 Open space and play space		
41	<ul style="list-style-type: none"> The council should be using up to date playing pitch strategies to protect and enhance the use of existing playing fields and help to plan for more provision. 	<ul style="list-style-type: none"> The council is currently working on an update to the Green Infrastructure Audit. The council published a Playing Pitch Strategy in 2021.
42	<ul style="list-style-type: none"> When is the Green infrastructure Audit (which should update and surpass the 'Open Space Audit' from 2017) expected to be released? 	<ul style="list-style-type: none"> The council will be published a Green Infrastructure Audit in early 2024.
43	<ul style="list-style-type: none"> Reminder of the need to ensure urban forest is managed with a mixture of species and ages and will be resilient to climate change, diseases, and pests. 	<ul style="list-style-type: none"> Agreed, the council is aware of several 'Areas of Wildlife Deficiency' in the northern, eastern, and southern ends of the city. A revised Environment Supplementary Planning Document will outline additional information on how to protect and enhance biodiversity.
6.4 Energy		
44	<ul style="list-style-type: none"> There is no mention of District Heating in the Energy chapter. 	<ul style="list-style-type: none"> The SPD focuses on guidance for key obligations and does not cover all S106 obligations. A complete section on district heating is covered in the adopted Environment Supplementary Planning Document, where the council explains major developments that fall into the connection zone are required

		<p>to attempt to connect to DHNs. The council is also working on a Local Area Energy Plan, which explores expansion of district heating networks. As explained above (page 12) and below, the carbon off-setting section in the adopted SPD does now mention District Heating Networks.</p>
<p>4 5</p>	<p><u>General comments on carbon off-setting:</u></p> <ul style="list-style-type: none"> • The ‘Delivering Net Zero’ document makes it clear that all refurbishments should make buildings 2040-ready by a variety of mitigation measures, not just carbon offset. The council should be open to alternative means of mitigation provided that these are verifiable. Please make this clear in this section. • Add clarification that the guidance applies to major development only. • There is a need for flexibility within this obligation to allow reasonable exclusions. 	<ul style="list-style-type: none"> • In line with the City Plan, the SPD sets out how planning obligations will be used to secure financial payments where reductions cannot be made on site, or off-site. Off-site reductions may be secured by legal agreement, and this mechanism has been mentioned in the adopted SPD. • The SPD has been amended to clarify when carbon off-setting applies. • The circumstances for when carbon off-setting obligations are required are set out in the City Plan and London Plan. The SPD only provides further guidance.
<p>4 6</p>	<p><u>Carbon off-setting approach in schemes involving refurbishment:</u></p> <ul style="list-style-type: none"> • On-site carbon reduction is more challenging for refurbishment schemes. The proposed increase in off-setting could therefore penalise refurbishment and/or heritage schemes and stunt large retrofit projects. A one-for-all carbon off-setting increase regardless of the project type (i.e. new build, refurbishment or deep retrofit with extensions) is not the best approach to maximise sustainability. 	<ul style="list-style-type: none"> • Agreed. The SPD has been amended to clarify when carbon off-setting applies and that refurbishments are not required to make carbon off-setting contributions.
<p>4 7</p>	<p><u>Carbon off-setting approach in non-residential schemes:</u></p> <ul style="list-style-type: none"> • Larger commercial buildings where net-zero has been difficult to achieve should also be considered. 	<ul style="list-style-type: none"> • Developments should make every effort to reduce on-site emissions in line with policy. Where this is not possible, the carbon off-setting payments set out a mechanism to

	<ul style="list-style-type: none"> The 'Delivering Net Zero' report does not include energy modelling assistance for retail, leisure, or hospital buildings. Will Westminster provide further guidance on this? 	<p>allow the residual emissions to be accounted for.</p> <ul style="list-style-type: none"> The 'Delivering Net Zero' report should not be read as a guidance note for applicants. Applicants are advised to seek pre-application advice for unusual building types, which may have different energy modelling needs. Each application will be assessed on its own merits.
<p>4 8</p>	<p><u>Off-site measures:</u></p> <ul style="list-style-type: none"> Support for the council's approach that as an alternative to any carbon off-setting payments, off-site carbon off-setting measures can be considered. 	<ul style="list-style-type: none"> Support noted. Further clarifications on off-site delivery have been included in the SPD.
<p>4 9</p>	<p><u>Carbon off-setting cost calculation:</u></p> <ul style="list-style-type: none"> Support for the principal increase in the price and the council's mission to reduce emissions. The increase in price should be introduced at a Local Plan Review, not in the SPD. The carbon off-setting price is significantly higher than the market rate for carbon (£70/tonne), the GLA's rate (£95/tonne) and the price for retrofit projects (£185/tonne). Concerns about the impact on scheme viability and deliverability. 	<ul style="list-style-type: none"> Support noted. The City Plan sets out that the POAH SPD will set the approach to calculate carbon off-setting payments. The London Plan also states that authorities should publish their own carbon off-setting pricing. The council has provided evidence for the pricing (see 'Delivering Net Zero' report), and has considered alternative pricing using the cost of retrofit schemes carried out by the council, in line with the London Plan guidance on how prices should be established. The council has considered different mechanisms to make the price fairer, including factoring in grid-decarbonisation to which will lower the overall cost for most schemes. As explained above (page 12), the formula has been amended in the adopted SPD and will result in lower payments for the majority of schemes – as shown by the City Plan and POAH SPD Viability Study (July 2023), the new approach will have less of an impact on viability than the originally consulted approach.

- Concerns with using PVs as proxy – the carbon off-setting payment is on the presumption of extensive use of PVs, which is impossible to deliver in a dense and historic urban environment like Westminster.
- The rate is not evidently justified, and more evidence is needed; the modelling is based on limited examples and is not representative of Central London. The methodology for reaching the carbon off-setting figure is deeply flawed and more transparency behind the calculations is required.
- It is not in line with the 2010 CIL Regulations and with London Plan planning policy (Policy SI 2) and is contrary to London Plan Policy DF1 Delivery of the Plan and Planning Obligations – policies should prioritise affordable housing and necessary public transport improvements.
- Proposal that the SPD sets out a pathway for stepped increases in the price of carbon over a period of time.
- The ‘Delivering Net Zero’ report sets out how and why PV was used as a proxy, which includes the huge variability of pricing carbon based upon retrofits. The report does not presume excessive use of PV, but rather uses the carbon savings of cost of PV as a consistent way to price carbon. The council’s own analysis of retrofit schemes it has carried out demonstrates a much higher price of carbon than in the published SPD, which is why a consistent mechanism has been used.
- As explained above, a review of council managed retrofit projects has demonstrated a local cost of carbon in excess of the price of carbon published in the SPD. In line with the London Plan requirement to consider development viability, the council has reviewed and developed a mechanism which provides a lower cost of carbon to applicants. This has been amended in the adopted SPD.
- Disagree – the approach is in line with regulations and guidance. The SPD has been amended to clarify how the guidance should be applied in accordance with the London Plan. Applicants should make viability arguments at planning application stage, and the council will consider the overall Development Plan objectives when considering planning obligations.
- Noted. The SPD sets out how carbon pricing could be increased in the future and the approach kept under review.

5 Viability testing:

- 0
- Discrepancies between the SPD and BNPs Viability Assessment in the assessment of additional costs.
 - The SPD uses an illustrative example intended to demonstrate how the calculation will work, and is not intended as a viability appraisal. The viability testing uses a methodology based upon real world applications.

5 1	<p><u>Carbon off-setting fund:</u></p> <ul style="list-style-type: none"> Greater transparency on how the Carbon Offset Fund will be managed is needed. 	<ul style="list-style-type: none"> Noted. The council have published a Carbon off-set fund guidance, which sets out where the funds will be spend.
5 2	<p><u>Other comments:</u></p> <ul style="list-style-type: none"> Reference is being made to old Part L 2013. This must be updated to refer to The Building Regulations Etc. (Amendment) (England) Regulations (Part L) 2021. The SPD does not mention Delivering Net Zero's two different strategic options: Option 1 and Option 2. The SPD should give guidance on which option is preferred. 	<ul style="list-style-type: none"> Noted. This has been updated. The 'Delivering Net Zero' report may be used to inform future policy on delivering net-zero. The SPD is only able to provide guidance on the adopted policy (e.g. carbon off-setting).
7 Design and Heritage		
5 3	<ul style="list-style-type: none"> The council should not use S106 obligations to secure works to ensure they are provided in an appropriate timescale as this is essentially forcing completion of schemes in certain circumstances. On large sites with phased development this would be impractical. 	<ul style="list-style-type: none"> S106 legal agreements may be used when necessary to make a development acceptable in planning terms. S106 agreements will be considered on a case-by-case basis.
8 Overview of the decision-making process		
5 4	<ul style="list-style-type: none"> The approach to viability testing, transparency and reviews is in line with the Mayor's guidance and is supported. 	<ul style="list-style-type: none"> Support noted.
5 5	<p><u>Monitoring principles and fees:</u></p> <ul style="list-style-type: none"> The proposed reduction in monitoring fees is an important amendment and is welcomed. The proposed 2.5% of the total value with fee capped at £2,500 is unreasonable and too expensive. The cap should apply to the scheme as a whole and not per obligation. 	<ul style="list-style-type: none"> Support noted. The S106 monitoring fees structure has been revised within the SPD following consultation in 2022 and, as adopted, represents a fair approach that balances the council's need to secure the costs associated with monitoring agreements and the needs of developers. Our approach aligns with the approach followed by other London boroughs.
5 6	<ul style="list-style-type: none"> The statutory framework for varying planning obligations is through an S106 	<ul style="list-style-type: none"> Agreed, S73 applications are for amendments to planning conditions

A applications or new planning applications. Section 73 applications are for amending planning conditions and should only be used as a basis of reducing Affordable Housing if directly related to an amended condition.

whereas S106 agreements can usually only be modified under S106A of the Town and Country Planning Act 1990. This has been amended to say that if the council does not consider an S106A application as appropriate due to the level of change being proposed (e.g. loss of affordable housing), it may request a S73 application or a new planning application.

5 Appendices

5.1 Email to consultees

Good afternoon,

I'm writing to let you know that we are launching a second round of consultation on our [draft Planning Obligations and Affordable Housing Supplementary Planning Document \(POAH SPD\) \(July 2023\)](#) and [draft Informal Planning Guidance Note on Affordable Workspace \(July 2023\)](#).

The draft POAH SPD provides further detail and guidance on how to implement the adopted City Plan's policies. It gives details on how developers can make development acceptable in planning terms and includes guidance on issues such as:

- affordable housing;
- affordable workspace;
- employment and skills contributions; and
- carbon off-setting.

In line with Regulations, the council consulted on a first draft POAH SPD in March 2022. Thank you to everyone who took the time to respond. You will find commentary on how consultation feedback has been considered and has informed changes to the revised draft POAH SPD (July 2023) in the Consultation Statement (July 2023).

We received a wide range of responses to the original consultation with the topic areas generating the most comments being affordable housing, affordable workspace, employment and skills, carbon off-setting and viability.

Key updates to the previous draft include:

- The suggestion that new housing available at intermediate rents (for which key workers have priority) should be more affordable to households on lower to average incomes, those earning between £25,000 and £60,000. Previously, developers had been encouraged to also provide below market rent homes to households earning up to £90,000. The council is also discouraging shared ownership which isn't suitable for central London.
- Updated guidance on affordable workspace and employment and skills contributions to support start-ups and help residents get access to the jobs created by new developments.
- Occupiers of new residential developments will no longer be entitled to an on-street parking permit. This will reduce the pressure on on-street parking generated by new development and help clean the air.
- The carbon offset payment, due where developments do not meet zero-carbon standards, is increased from £95 to £880/tCO₂. Any funds generated will be spent on carbon-saving initiatives elsewhere in Westminster.
- Revised monitoring and late payment fees will help the council better monitor development compliance and take enforcement action when needed.

Respondents also asked the council to publish the evidence underpinning the SPD guidance, including up to date viability evidence. That's why we are also now publishing our key supporting evidence:

- *Affordable Workspace Evidence Note (July 2023);*
- *Delivering Net Zero (2023);*
- *POAH SPD Equalities Impact Assessment (July 2023);*
- *City Plan and POAH SPD Viability Study (July 2023).*

Although the council is not legally required to reconsult on the final draft SPD, we want to give you an opportunity to let us know if you support the changes we have made to the draft SPD, the draft informal Planning Guidance Note on Affordable Workspace and the supporting evidence. If you submitted a response on the previous draft, you do not need to submit this again where the document hasn't changed.

Today, we are also publishing a revised [Inclusive Local Economy & Employment Note \(July 2023\)](#) which supersedes the November 2021 one. The note has been updated to take into account changes to the Use Class Order and comes into effect immediately.

*The consultation is open for seven weeks until **Friday 29th September 2023**.*

Please send responses and comments to planningpolicy@westminster.gov.uk

Yours sincerely,

Cllr Geoff Barraclough

Cabinet Member for Planning and Economic Development

Westminster City Council

5.2 Website

Current and recent consultations

When producing planning policy documents, the council must comply with its Statement of Community Involvement. We inform, involve and consult our residents and stakeholders when drawing up planning policy documents. This includes development plan documents but also other documents such as draft supplementary planning documents, draft neighbourhood plans or neighbourhood forum designations.

This page contains information on all open and recent planning policy consultations.

Draft Planning Obligations and Affordable Housing SPD and Draft Informal Planning Guidance Note on Affordable Workspace (July-September 2023)

The council is consulting on its Planning Obligations and Affordable Housing Supplementary Planning Document (POAH SPD). The draft POAH SPD (July 2023) provides further detail and guidance on how to implement the adopted City Plan's policies. It gives details on how developers can make development acceptable in planning terms and includes guidance on issues such as:

- affordable housing
- affordable workspace
- employment and skills contributions
- carbon off-setting

See our draft Planning Obligations and Affordable Housing SPD (July 2023):

[Draft Planning Obligations and Affordable Housing SPD \(July 2023\)](#)

PDF, 1.48 MB, 88 pages



Alongside the draft POAH SPD (July 2023), we are also consulting on a draft Informal Planning Guidance Note on Affordable Workspace (IPGNAW) (July 2023). See our draft Affordable Workspace Informal Planning Guidance Note (July 2023):



[Draft Informal Planning Guidance on Affordable Workspace \(July 2023\)](#)

PDF, 460.36 KB, 23 pages

We first consulted on a draft POAH SPD and IPGNAW in March 2022. These new drafts replace them. Key changes to the previous draft include:

- strengthened guidance on how the affordable housing policy should be applied to maximise the delivery of truly affordable housing
- revised guidance on employment and skills contributions and affordable workspace to make sure that our requirements are not too onerous
- strengthened the approach to car-parking reduction to mitigate impacts of development
- an increase to the cost of carbon off-setting to ensure this properly reflects mitigation measures where carbon savings cannot be made on site
- revised monitoring and late payment fees to help the council better monitor development compliance and take enforcement action when needed

You will find commentary on how consultation feedback has been considered and has informed changes to the revised draft POAH SPD (July 2023) in the Consultation Statement (July 2023). See our Consultation Statement (July 2023):



[POAH SPD Consultation Statement \(July 2023\)](#)

PDF, 536.97 KB, 25 pages

We received a wide range of responses to the original consultation with the topic areas generating the most comments being affordable housing, affordable workspace, employment and skills, carbon off-setting and viability. Respondents also asked the council to publish the evidence underpinning the SPD guidance, including up to date viability evidence. That's why we are also now publishing our key supporting evidence:



[Affordable Workspace Evidence Base \(WCC, July 2023\)](#)

PDF, 840.1 KB, 18 pages



[Delivering Net Zero \(July 2023\)](#)

PDF, 8.57 MB, 317 pages



[POAH SPD EqIA \(July 2023\)](#)

PDF, 782.68 KB, 55 pages



[City Plan and POAH SPD Viability Study \(BNP Paribas, July 2023\)](#)

PDF, 1.82 MB, 70 pages

Although the council is not legally required to re-consult on the final draft SPD, we want to give you an opportunity to let us know if you support the changes we have made to the draft POAH SPD, the draft Informal Planning Guidance Note on Affordable Workspace and the supporting evidence. If you submitted a response on the previous draft, you do not need to submit this again where the document hasn't changed.

Today, we are also publishing a revised [Inclusive Local Economy and Employment Note \(July 2023\)](#) which supersedes the November 2021 one - this comes into effect immediately. The note has been updated to take into account changes to the Use Class Order.

Both consultations are open from Tuesday 15 August to Friday 29 September 2023.

We welcome comments on the changes we have made to the draft SPD, draft informal Planning Guidance Note on Affordable Workspace and supporting evidence. If you submitted a response on the previous draft, you do not need to re-make them where the document hasn't changed.

Please send any comments to planningpolicy@westminster.gov.uk

Previous draft:



[Draft Planning Obligations and Affordable Housing SPD \(WCC, March 2022\)](#)
PDF, 1.22 MB, 62 pages



[Draft Informal Guidance Note on Affordable Workspace \(WCC, March 2022\)](#)
PDF, 202.3 KB, 14 pages

Planning Policy Team

Westminster City Council
64 Victoria Street
London, SW1E 6QP

planningpolicy@westminster.gov.uk