

Planning Committee Report

London Thames Gateway Development Corporation

Tower Hamlets Planning Obligations SPD Engagement Document

Report of the Director of Planning

1 Purpose of this report

- 1.1 This report sets out the proposed LTGDC response to the London Borough of Tower Hamlets Planning Obligations SPD Engagement Document which has been published for public consultation. It is available to view on the Tower Hamlets website: http://www.towerhamlets.gov.uk/lgsl/851-900/855_planning_consultation/consulting_on_the_ldf.aspx. As the LTGDC does not have policy or plan making powers, it is essential that the interests of the Corporation are reflected wherever possible in emerging planning policy and guidance of constituent boroughs to assist in the delivery of the Development Corporation's objectives.
- 1.2 The LTGDC Planning Committee has responsibility for considering policy documents and providing LTGDC's formal response.
- 1.3 This report provides some background and a summary of the draft SPD, and then a suggested LTGDC response to the consultation at section 4.

2 Recommendation

- 2.1 That the Committee **Agree** that the Director of Planning respond to the consultation with comments as set out in section 4 and any additional comments made by members at the meeting.

3 Background

- 3.1 The Tower Hamlets Core Strategy was adopted in September 2010.
- 3.2 The Council is preparing a number of other documents to form its LDF, and recently consulted on Sites and Placemaking DPD, Fish Island Area Action Plan and Development Management DPD. Further iterations of these documents are expected to be published later in 2011.
- 3.3 The draft SPD supplements policy DEV4 – Planning Obligations of the Tower Hamlets Unitary Development Plan (1998) and Strategic Policy 13 of the Tower Hamlets Core Strategy Development Plan Document 2025 (2010). The SPD aims to clarify the topic areas for which planning

obligations may be sought and any methodology for calculating the amount of these obligations. It also explains procedures associated with the Planning Obligations process.

- 3.4 The document sets out the legislative context, policy and guidance, how planning obligations will be negotiated in Tower Hamlets, standard charges and obligations. These standard obligations cover Affordable Housing, Employment, Skills, Training and Enterprise, Community Facilities, Education, Health, Sustainable Transport, Public Realm and Environmental Sustainability. The document also sets out basic procedures for the management of planning obligations that Tower Hamlets will follow. The appendices include a summary of the charges, a case study example and the occupancy rates and child yields that have been used in some of the formulas.

4 Suggested LTGDC response

4.1 Complexity and number of calculations

- 4.2 The main comment to make on the document is that the formulas used and the number of calculations that need to be made for each development are overly complex and too numerous.
- 4.3 The way that the guidance is drafted, 19 separate contributions needs to be calculated and derived for a mixed use 50 unit scheme with 1,500 sq m of floorspace. Some of the calculations require 4 additional calculations for the number of 1, 2, 3 and 4 bedroom units in order to come up with 1 of the 19 contributions.
- 4.4 Given that predicting child yield and therefore the need arising for new facilities such as open space and education is not an exact science, it would seem strange to calculate the contribution required from each unit in each development so precisely. In LTGDC's view the document will be difficult for developers, planning officers and the general public to use, because of the complexities involved in working out what contributions will be required. This could also lead to disputes as to how requirements are finalised and justified. Basic changes in the mix of units or floorspace will have implications for the total amount required.
- 4.5 LTGDC consider that a simpler way of applying the formulas as laid out in this document would be to add up all the required contributions and then average out the contributions required per residential unit and per sq m of commercial floorspace, in financial terms. These amounts could be sought from all developments that come forward. If developments cannot afford to pay this contribution, a viability assessment could be carried out, and contributions agreed between developers and the Council, similar to the approach already set out in the SPD. The document does recognise that a viability assessment might need to be submitted. However it states that such an assessment "must be completed in accordance with the guidelines set out in the GLA 'Affordable Housing Development Control Toolkit' 2010". This is considered to be too restrictive in that experience has shown that other types of assessment can be as useful, if not more so, in fully understanding the viability of a project and therefore this requirement should be changed.

4.6 Explanation of how formulas have been derived and how they are justified

- 4.7 Additionally, alongside the complexity in the formulas, there does not seem to be enough explanation as to how the specific formulas have been derived and how they are justified. Although LTGDC agree with the principle of collecting most of the contributions, clear cut justification of the levels sought is not always provided and should be. In LTGDC's view, this means there will be arguments regarding the principle of particular contributions on a case by case basis, and the SPD will be unwieldy, time consuming and difficult to implement. Whilst the principle of identifying Key Priorities and Other Priority Obligations is supported, the impression given is that these will all be sought against a particular development. Whilst not part of this document, there should be a parallel exercise which identifies, and reviews over time, which particular priorities apply in the local area where the development is to occur.
- 4.8 If the local exercise referred to above does not occur it is even more likely that only small pots of funding will be secured for some of the elements. It will be difficult to justify spending a contribution for a library, received for example from a development in Canary Wharf, on an IDEA store in Shoreditch.

4.9 Contributions for larger strategic improvements

- 4.10 There is no clarity within the document about what contributions will be required for larger strategic improvements. For example, large scale transport proposals, public realm, transport. These are not costed or an approach set out for how they would be calculated in the document. For example, under sustainable transport the document just says "a financial contribution towards projects identified within the IDP 2009, LIP 2011 and emerging Transport Strategy 2011 will be sought where appropriate". Although a formula is set out for smarter travel initiatives, it is likely that contributions sought towards projects in the transport strategy would be much larger. In certain locations this is likely to be further complicated by the Mayor of London's Crossrail SPG and CIL.
- 4.11 This reduces the benefits of having an SPD on planning obligations, as it does not provide the required certainty for developers over what contributions they will be expected to make. Within the worked example, Highways, Streetscene and Sustainable Transport do not have a cost associated. However, the other contributions all add up to around £500,000. Although taking into account that the LTGDC area is only a small part of Tower Hamlets, the viability analysis done for our Planning Obligations Community Benefit Strategy shows that a contribution of £10,000 per residential unit is generally viable, which would equate to £500,000 when applied to the worked example. It is likely therefore that many developments will not be able to pay all of the contributions at the level sought in the SPD (as the worked example does not include contributions for highways, streetscene and sustainable transport).

4.12 Other issues

- 4.13 There appears to be no standard legal agreement published as part of the SPD. LTGDC have found it very useful to have a standard legal agreement which has been adopted by the Board, and which is published on our website and readily available to developers. This helps reduce the negotiation that takes place over individual details in the section 106. LTGDC encourage the preparation and publication of a standard legal agreement, alongside the next version of the SPD.
- 4.14 There is no explanation in the SPD about how Tower Hamlets has negotiated section 106 agreements to date. It would be helpful to know if the proposed approach and level of contribution sought is wildly different from that sought previously.
- 4.15 It may be more appropriate, given that Tower Hamlets are planning to have a CIL charging schedule adopted by March 2014 regardless, that the Planning Obligations SPD was adapted to follow a more CIL like approach at this stage, so that the transition to the new system is smoother.
- 4.16 The document should be clearer about which elements should be included on site, and in what circumstances off site provision is acceptable.
- 4.17 The Core Strategy includes a reference to Tower Hamlets acknowledging the LTGDC Planning Obligations Community Benefit Strategy. A reference should also be included within this SPD to say that the LTGDC strategy will continue to apply in the parts of Tower Hamlets which are in the LTGDC area for any schemes permitted before 1st October 2012.

Date: 5 July 2011