

Earl's Court and West Kensington Opportunity Area Joint Supplementary Planning Document

CONSULTATION RESPONSES SCHEDULE: PHASING & SECTION 106 STRATEGY

Chapter 13: Phasing and Section 106

ID	First Name	Surname	Organisation Representing	Chapter comments relate to	Section comments relate to	Comment Made	Officer Response
146	David	Hammond	Natural England	13	PS1	Key Principle 1 - Phased development - Council may wish to amend this section/principle to include wording to clarify that phased development will include provision of all proposed land uses, including Green Infrastructure, open spaces and community use. This would strengthen and link in to paragraph 13.10 and Key Policy UF 12.	Change proposed. UF17 sets out that green space should be provided incrementally, phase by phase, to accommodate the increasing living and working populations. Some facilities and land uses would not need to be provided at each phase of development, but within specific phases. However, a new key principle will be added to the Phasing and Section 106 chapter clarifying that phases will need to be self sufficient in terms of their contributions.
381	Cllrs	Buxton and Read		13		<p>PHASING AND S106 STRATEGY</p> <p>During the time of austerity and when all council budgets are under pressure, the following S106 requirements are needed to protect the interests of Residents and ensure the development is built as approved.</p> <p>-S106 agreement to have a strategy and the requirement to implement them in full to ensure that the demolition and construction process has no unacceptable impact on neighbouring residents especially during night time workings. No residents should be disturbed between 2300 and 0700 as result of noise, vibration. If no such strategy can be produced and it is impossible it achieve an to be produced, S106 contribution to offer alternative accommodation during night time working.</p> <p>-S106 contributions to fund at least 2 Environment Health Officers to monitor and take action concerning, noise, vibration and pollution during the demolition and construction.</p> <p>-S106 to fund a planning officer to monitor and ensure the development is being built to any approved plans.</p>	No change necessary. The impact of demolition and construction is already covered by the Construction Environmental Management Plans required in Key Principle EN3, which would be secured through planning conditions rather than planning obligations. The borough already employs Environmental Health Officers and Monitoring Officers and it is not felt necessary to employ new officers to monitor specifically for development at Earl's Court.
558	Malcolm	Spalding	Earl's Court Society	13	Key Objectives	ADD "minimising damage to existing community life, health and environment whilst promoting shared facilities and community cohesion"	No change necessary. The first key objective in the environment chapter deals with minimising the impacts of construction on the surrounding community. Shared facilities are dealt with in the Social and Community Facilities Strategy. Community cohesion is rather a result of all the objectives and key principles in the SPD. If all of these are met, the authorities are of the view that an exemplary community would be created.
559	Malcolm	Spalding	Earl's Court Society	13		S106 commitments must be honoured before each subsequent phase can commence.	Change proposed. This approach would be inflexible and in reality, development does not happen on a strict phase by phase basis, but more piecemeal, when and where opportunities arise for construction to commence. Any planning agreement would however need to place triggers so that certain parts of the site cannot start construction until certain infrastructure types have been put in place and a new key principle will be added to the Phasing and Section 106 Strategy that clarifies this.
626	Alan	Tenenbaum	Under The Bridge	13	Para 13.2	<p>SECTION 13 - PHASING AND SECTION 106 STRATEGY</p> <p>Under the heading "Overview", amend paragraph 13.2 as follows:</p>	Change proposed. Although it will be clarified that the only scenario where key principles and objectives cannot be applied is subject to changing material considerations.

						<p>"The authorities will ensure that [red, bold, underlined] the development is carried out and delivered in accordance with the relevant London Plan and Core Strategy policies and (insofar as may be appropriate) [end red, bold, underlined] any development proposals for the OA meet the Key Objectives and Key Principles of each of the chapters by providing the following:</p> <p>1: the appropriate contributions (either in kind or financial)</p> <p>2: the appropriate mitigation measures to address any attendant impacts of the proposals; and</p> <p>3: the relevant contribution or mitigation measures, secured within the relevant phase of the development."</p>	
1282	Brian	Coughlan	Met Police Authority & Met Police Services	13	Para 13.21	<p>[bold] Impact of development on policing [end bold]</p> <p>13. Phasing & S106 Strategy</p> <p>In line with the changes proposed above, similar changes are recommended in Section13.21 Police Facilities:</p> <p>- [italics] '[strikethrough a police shop [end strikethrough] [bold] a community policing facility [end bold] and financial contributions towards staffing the key facility (Key Principle SC5); and...' [end italics]</p>	Change proposed.
1496	Michael	Bach	Kensington Society	13		The Society [bold] strongly endorses [end bold] the Key Objectives and the Key Principles, subject to earlier qualifications. This chapter is essentially a summary of the "strategy".	Noted.
1534	Richard	Chute		13		With regard to the proposition that the regeneration is to take place in phases: it is essential that a fully coordinated overall plan for the OA is agreed in detail before construction starts, lest projections of the provision of affordable housing, essential infrastructure, and S106 agreements are modified as a result of a piece-meal process being less efficient in terms of the whole site's viability. The neighbourhood should not be penalised through no fault of their own, if a less efficient scheme emerges than what could have been achieved in total. There are immense potential problems with the load-bearing of the proposed decking over the railway line, and flood-risk from inadequate sewerage.	Change to be made. Key principle PS2 requires the submission of a phasing strategy. This phasing strategy will be used as the basis for setting out linkages within the Section 106 agreement. A new key principle will be added requiring contingency plans in order to deliver infrastructure deemed essential to the function of a successful development of the OA.
1647	John	Drake	Campaign to Protect Rural England	13		Phasing	Change proposed. This approach would be inflexible and in reality, development does not happen on a strict phase by phase basis, but more piecemeal, when and where opportunities arise for construction to commence. Any planning agreement would however need to place triggers so that certain parts of the site cannot start construction until certain infrastructure types have been put in place and a new key principle will be added to the Phasing and Section 106 Strategy that clarifies this.
1648	John	Drake	Campaign to Protect Rural	13		Phasing	Noted.

			England			ii) There will be problems regarding phasing in the present financial situation money may not be available to carry out the work in order agreed. The phasing must be maintained.	
1649	John	Drake	Campaign to Protect Rural England	13		Phasing iii) The phasing will have to be looked at as presently Philbeach Gardens some homes will be affected in 3 phases meaning that they will have work going on most of period of redevelopment	No change necessary. Key Principle PS2 sets out the need for any application for comprehensive redevelopment to be accompanied by a phasing strategy. this would need to demonstrate the proposed development together with reprovision of the existing housing would be carried out with minimal disruption to existing residents.
1855	Jonathan	Rosenberg	WK/GG Community Homes, WK TRA, GG/Dieppe Close TRA	13		- There are a huge number of commitments being required of any development, but there is no sense as to whether they are attainable whilst many clearly conflict with one another (see in particular the Transport commitments below in Section C).	No change necessary. . The overall Section 106 offer will depend on viability. The authorities have commissioned a viability study, which supports this SPD and shows the section 106 asks outlined within the Phasing and Section 106 Strategy to be viable. The exact Section 106 package would be dependent on discussions between any developer and the authorities. the authorities will ensure that as much as possible is done in order to ensure that each of the Section 106 asks outlined in this SPD are addressed.
1861	Jonathan	Rosenberg	WK/GG Community Homes, WK TRA, GG/Dieppe Close TRA	13		[bold] A.Commitment. [end bold] [bold] 5. Strengthening commitment. [end bold] The first major comment that we have relates to ensuring a credible commitment to the final SPD. 6. There are countless cases around the country where a huge amount of time and effort has been put in to drafting a satisfactory SPD, or Planning Brief, for it to be largely ignored by subsequent applications. In order to avoid that possibility here, we suggest that: - The Planning Authorities should include a clear statement within the SPD/AAP itself that they are minded to refuse any application that deviates from it to any significant extent. 7. Without such an assurance, the preparation of the SPD will appear to many consultees as a charade - a costly and time-wasting one at that. We cannot see why the LPAs should not include the approach suggested above, surely it is in their interests and in the spirit of genuine consultation (see LP, policy 3.7B) as well as promoting transparency in good governance.	No change necessary.. Any application would need to justify where it does deviate from the SPD. the authorities would need to consider the significance of this deviation and come to a view whether it warrants the refusal of planning permission or whether the impacts of any deviation can be mitigated.
1926	Jonathan	Rosenberg	WK/GG Community Homes, WK TRA, GG/Dieppe Close TRA	13		54. [bold] Section 106 Strategy. [end bold] This is a long list which calls into question the viability of any development of this kind. Nonetheless, it does represent a minimum list of what is needed to achieve even basic standards. These should be required as a matter of policy, not of benefit. There is no targeted community benefit above the basic policy requirements here at all.	No change proposed. As per the Community Infrastructure Levy Regulations, planning authorities can only require development to mitigate against its impacts. The SPD is supported by a Viability Study, which demonstrates that development in the OA is viable and that a significant Section 106 pot would be available for a variety of infrastructure needs.
2101	Matthew	Gibbs	CapCo/Earl's Court and Olympia Group	13	PS1	As noted elsewhere in the representation, Section 106 obligations should only be entered into where directly relevant and related in kind and scale to the development that is proposed.	No change necessary. the authorities consider that each of the Section 106 asks outlined in the Phasing and Section 106 Strategy are Community Infrastructure Levy regulation compliant and relate to that needed to mitigate against the impacts of development in the OA.
2102	Matthew	Gibbs	CapCo/Earl's Court and Olympia Group	13	Page 181 - 187	The revised draft SPD sets out the principal objectives for each topic area and what it is considered should be provided as part of any Section 106 obligations. It is inappropriate to apply the list of items identified throughout the document as requirements for Section 106 obligations to be entered into. Individual planning applications, their support documents and justification are the appropriate mechanism for considering and agreeing on the nature of likely 106 obligations.	No change necessary. The list of Section 106 asks outlined in the Phasing and Section 106 Strategy relate to what will be necessary from a comprehensive approach to redevelopment in the OA. It will be the authorities responsibility to negotiate any Section 106 agreement for each application within the OA and apportion the Section 106 asks appropriately to the scale of each planning application.

3866	Alan	Tenenbaum	Under The Bridge	13	Key Principle PS1	<p>That Key Principle PS1 (page 180) is amended as follows:</p> <p>Key Principle PS1:</p> <p>Planning obligations will be secured to ensure the delivery of a comprehensive and phased approach to the development of the OA,<u>including the necessary environmental and infrastructure requirements</u> [bold, red underlined].</p> <p>We believe that these modest amendments are both necessary and beneficial to achieving the development plan vision for this OA and hope that you will incorporate them in the SPD that is adopted so as to ensure that the SPD is consistent with the strategic policies of the development plan</p>	<p>Change proposed. The proposed text will be added to a new key principle relating to the need for phased development to be self sufficient in terms of its planning contributions.</p>
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