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Friday, 24 January 2025

Dear Sir/ Madam

GREATER CAMBRIDGE PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT

Please see below representations to the above document on behalf of the following connected clients: -

- TLC Group
- Rockley Dene Homes Ltd
- The Fellows House Ltd
- SPK Residential Cambridge Ltd
- London Inn Hotels (Cambridge) Ltd

These companies have several development interests in the Greater Cambridge Area and are likely to make future applications for further development, which may include a range of housing typologies.

They offer the following comments on the draft SPD on Planning Obligations.

Chapter 2 – Approach to Planning Obligations

- **Paragraph 2.26** states that normally “*contributions will be indexed linked from the date that the s106 Agreement was entered into until the time of payment unless the s106 Agreement specifically advises otherwise. In some cases, it may be appropriate for contributions to be linked to an alternative time, such as the date of committee resolution or the consultation date identifying the contribution amount.*”
- It is not considered reasonable or lawful to link contributions to the date of committee resolution or the consultation date identifying the contribution amounts. It is requested that this sentence is removed from the SPD.

Chapter 4: Affordable Housing

- **Paragraph 4.14** deals with Build to Rent schemes and states (second bullet point) that “*A minimum of 20% homes in Build to Rent developments of 10 or more homes will be required to be provided as Affordable Private Rent. The Councils will seek to achieve a higher percentage than this wherever possible*”. A similar point about seeking to achieve more than 20% is repeated in the fourth bullet point, here in relation to the discount to market rents. The SPD currently provides no guidance as to when,

and on what basis, a *higher percentage* may be sought, and accordingly the SPD is imprecise. It is difficult to contemplate circumstances where a higher percentage could sensibly be sought, and so the SPD should recognise that 20% is the expectation but there is no compunction on developers to agree to anything more than this level.

- **Paragraph 4.21** deals with nominations. The Council should clarify that it will not seek nomination rights for Build to Rent schemes as it will be for the BTR provider to determine tenancies subject to the appropriate Affordable Private Rent.

Chapter 7: Community Facilities

- **Paragraph 7.18** states that the starting point for the negotiation of faith space is 0.5 hectares of free or heavily discounted land per 3,000 dwellings. The evidence base for this is said to be Cambridgeshire Horizon's Facilities for Faith Communities in New Developments which dates back to 2008, and which is accordingly very dated. It is – we would tactfully suggest – not likely to represent the most up to date guidance.
- It is considered in any event that this requirement should be based on an identified level of need in a geographical area, rather than an arbitrary standard requirement. It is also unclear how the 0.5 hectare figure has been derived and evidenced, and if the use of this obligation would make a development acceptable in planning terms where it otherwise might not be. The requirement should be reconsidered and should be need-specific rather than formulaic as proposed.
- **Paragraph 7.19** uses the terminology of '*pump priming contributions*'. What these are and how they are applied to developments should be explained in the supporting text or explained in a glossary.
- **Paragraph 7.22** states that where a need is identified "*Community Support Workers could be required to address a range of issues, such as youth workers, health workers or community development workers.*" This is a broad requirement and there appears to be no evidence to support such an obligation. Cambridge Local Plan Policy 73 (Community, Sport & Leisure Facilities) does not mention community support workers, or similar. The necessity of this obligation should therefore be reviewed and justified against the criteria set out in Regulation 122. Without adequate justification the requirement should be struck out.
- Similarly, **paragraph 7.23** states "*Small grants scheme (community chest): A contribution, to be agreed, will be required for the development of community grants or an investment fund to support local residents of the new development, and or, to support the development and growth of social businesses in the local area.*"
- It is considered that this is a broad requirement that may not be specific to mitigating the effects of a development on a particular site. Evidence for the planning obligation does not appear to be contained within adopted policy wording and it should be deleted.
- **Paragraph 7.27** states the cost of providing community centres is £4,020 per m² which is to be used as a starting point for a developer contribution towards community facilities. The cost associated with maintaining (utilities, decoration, services, etc) community facilities is £117.57 per m².
- It unclear how these figures have been derived, what comparable schemes have been used and how these costs have been calculated in relation to specification.
- Similarly, the same comments apply to the figures in the community facilities contributions by dwelling size table. The figures appear to us to be high, and it is unclear how they have been calculated and if they have been subject to viability testing.

- In the absence of further reliable evidence, the requirement should not be included in the SPD.

Chapter 9: Libraries and Lifelong Learning

- **Paragraph 9.8** states that *“new housing development will have implications for the existing library provision, which may require the following developer contributions towards the provision of:*
 - *Sites for new libraries.*
 - *A new library building (covering full building and finishes).*
 - *Co-location with other services in ‘community hubs’.*
 - *Library fit out and new stock (including the provision of power, data, IT equipment, furniture, shelving and fittings).*
 - *Upgrading an existing library and lifelong learning facility (might include an extension and/or improvement to the existing floor space).*
 - *A mobile service, community provided or ‘pop up’ service.*
 - *A revenue stream for the provision of new services for a period of time”*
- The above list includes substantial requirements, and it is unclear if the requirements are mutually exclusive. For example, if a new library building is provided, is the library fit out and new stock also required? Or is the provision of just one item in the list sufficient to mitigate the effects of development? Who and how will a decision be made and how is it evidenced? Different forms of residential accommodation, for example, Co-Living and Build to Rent will generate different demand from traditional residential housing and this needs to be acknowledged. It is requested that greater narrative is provided on this matter to improve developer expectations and improve transparency.

Chapter 10: Transport and Highways

- **Paragraph 10.20** states that large scale developments subject to a vehicular trip budget should be monitored, and should the agreed forecast trips be exceeded, then a financial penalty, a hold on future development, or a revised schedule of further transport or travel planning interventions, will likely be triggered.
- It is considered that a financial penalty and hold on future development would represent a very extreme measure for the failure to comply with a trip budget, despite best efforts made. It is accepted that additional contributions for specific mitigation may be necessary in such circumstances and required but to seek to prevent any ongoing development or otherwise impose penalties goes against Central Government’s aim of delivering 300,000 homes per annum. Furthermore, it is also unclear how a financial penalty would be calculated - it is not, in our view, in any way consistent with Regulation 122 and should be deleted from the final version of the SPD.
- It is requested that the wording relating to financial penalties and imposing a hold on development is deleted. This is particularly so when revised NPPF (December 2024) makes it clear that development should only be refused or prevented on highway grounds if the residual cumulative impact on the road network would be “severe”.
- **Paragraph 10.24** deals with financial contributions and states that *“Where a financial contribution is sought towards strategic transport improvements, the amount payable will be determined on the basis of the cost of the transport infrastructure and the trips from the development that would use the transport infrastructure.”*

- It is a matter of concern that there is a lack of transparency over how this cost will be calculated. In the case of one of the representors developments at Orchard Park, the County Council had to devise a bespoke calculation without any proper or rational policy basis or guidance, and it is considered that there is a need for more rigour and evidence around how such contributions will be sought to ensure that only those improvements that are genuinely necessary to make the development acceptable in planning terms are requested.

Chapter 11: Education

- **Paragraph 11.12** states that *“other contributions may be sought towards temporary accommodation or school travel.”*
- This appears to be a “catch-all” clause and it has to be queried if this meets the reasonable tests within regulation 122. There needs to be evidence to support these potential obligations within the draft SPD.

Chapter 12: Public Art

- **Paragraph 12.12** states that *“for major development on very large and complex sites, where the capital value reaches tens of millions of pounds, a 1% public art value may not be an appropriate measure for setting budgets. In such cases, budgets will be agreed through negotiation on a case-by-case basis, subject to meeting the policy objectives. These negotiations will be informed from thorough evaluation processes and the technical knowledge of public art expertise. In all cases, 1% (index linked) remains the starting point for any negotiations for public art, on any site.”*
- The principle that a 1% public art value is not appropriate for setting budgets on large major sites is supported. It is not considered that such a contribution would, in any event, meet the Regulation 122 test as being necessary to make the development acceptable in planning terms and is not directly related to the development, therefore it cannot be considered reasonable. Furthermore, it is not possible to tell how the 1% gross development cost has been calculated therefore this fails the Regulation 122 test of being fairly and reasonably related in scale and kind to the development.

Chapter 13: Burial Space

- **Paragraph 13.7** states that *“proposals for sites over 200 dwellings should be accompanied by assessments of need and strategies regarding how the need will be addressed”*.
- TLC queries how the threshold of 200 dwellings was arrived at as it seems remarkably low.
- **Paragraph 13.11** provides the burial sites contributions by dwelling size, and these are replicated below.

Burial sites contributions by dwelling size

Dwelling size	Cost by dwelling size (£)
1 bed	139.26
2 bed	233.23
3 bed	320.10
4 bed+	369.10

- It is queried as to how these contributions by dwelling size have been formulated and what evidence was used to calculate the cost. It is also unclear if the need has been fully evidenced as required by

Regulation 122. Unless there is clear evidence of need for this contribution and transparency over the methodology for calculating it, then it should be deleted.

Chapter 18: Emergency Services

- **Paragraph 18.5** states that *“Dependent on the size and scale of a proposal, planning contributions may be used for support for emergency services including fire stations and fire safety centres, and funding to develop emergency planning and ambulance stations, as well as infrastructure for supporting the police service.”*
- The draft SPD is vague on when and how contributions will be sought and this should be made much clearer. As written, it is queried if the SPD meets the statutory tests. Unless the wording can be strengthened, the requirement should be deleted.

Chapter 20: Planning Obligations to support Affordable Workspace

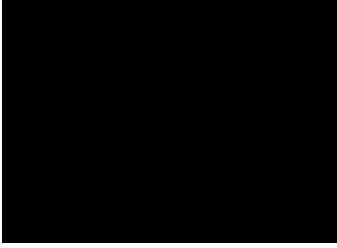
- **Paragraph 20.11** states that *“the provision of an element of affordable employment space will be most suited to large commercial schemes, and as a minimum over 10,000m², in use classes E(g), B2 and B8. In London typical agreements have secured 10% of space within qualifying schemes.”*
- It is not clear what is being asked for here. A comparison to London is provided but London is a different marketplace with different rent levels, supply and demand. There does not appear to be a local policy basis to ask for a contribution in relation to affordable workspace and therefore it is questioned whether the planning obligation meets the Regulation 122 tests.

Chapter 23: Other Potential Development Specific Requirements

- The second paragraph (no numbering in this chapter) provides a list of additional potential planning obligations that may be applicable, depending on the individual circumstances and constraints of the development site and the nature of the proposed development. The obligations relate to a broad range of issues including air quality, noise, SuDS and flooding, alternative provision for community or sports uses, historic environment mitigation measures, sustainable show homes and digital infrastructure.
- The list appears to contain a broad list of requirements as a “catch-all” at the end of the document. Although policy references are listed alongside the potential obligations, the policy wording is also vague. Planning obligations should fall within Section 106 of the Town and Country Planning Act (1990) and should be specific requiring the land to be used in specific way or restricting the development or use of the land in a specific way. The inclusion of general obligations in this chapter should therefore be reviewed.

I would be grateful if these comments could be taken into account in finalising the SPD and I look forward to seeing specific responses to these points in any report on consultation.

Yours faithfully



Colin Brown MRTPI
Partner

