

Report Title:	Draft Affordable Housing Delivery Supplementary Planning Document
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Bermange - Cabinet Member for Planning, Legal and Asset Management
Meeting and Date:	Cabinet – 20 February 2024
Responsible Officer(s):	Andrew Durrant: Executive Director of Place Adrien Waite: Assistant Director of Planning
Wards affected:	All

REPORT SUMMARY

This report recommends that the Cabinet approve the publication of the draft Affordable Housing Delivery Supplementary Planning Document (SPD) for public consultation.

The draft SPD provides more detailed guidance to support the implementation of the affordable housing policy requirements in the Borough Local Plan. It includes guidance on issues relating to the amount, type, tenure, and location of affordable housing, and addresses also issues relating to development viability and how affordable housing provision should be integrated into the planning application process.

The SPD will help to advance the strategic aims and priorities of the emerging Council Plan. It will help to optimise the overall amount of affordable housing provided and help ensure that priority is given to the provision of social rented and affordable rented homes.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Cabinet notes the report and:

- i) Approves the publication of the draft Affordable Housing Delivery Supplementary Planning Document as set out at Appendix B for public consultation; and**
- ii) Delegates authority to the Assistant Director of Planning, in consultation with the Cabinet Member for Planning, Legal and Asset Management, to approve and publish any minor changes to the draft Affordable Housing Delivery Supplementary Planning Document (SPD) prior to its publication and to approve Appendix 5 of the draft Affordable Housing Delivery SPD which will set out the justification for the financial contributions calculator.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options

Table 1: Options arising from this report

Option	Comments
<p>To approve the publication of the draft Affordable Housing Delivery Supplementary Planning Document (SPD) for public consultation.</p> <p>This is the recommended option</p>	<p>The SPD provides the opportunity to develop more detailed, technical planning guidance to support the delivery of affordable housing required through policies in the Borough Local Plan, helping to optimise the provision of affordable housing in a way that best meets the affordable housing needs of the Borough. Consultation on the draft SPD is required to enable the SPD to proceed to adoption in due course.</p> <p>Choosing not to approve the consultation on the draft SPD would delay its adoption and mean it is more difficult to secure the right amount and type of affordable housing because there would not be detailed, locally specific guidance available.</p>
<p>Not publish the draft Affordable Housing Delivery SPD for public consultation</p>	<p>There is a risk that this would leave the Council without the detailed affordable housing guidance considered appropriate by the Council which could result in not making the most of development opportunities to deliver the right amount and type of affordable housing.</p>
<p>Do Nothing</p>	<p>This would cause delays to the adoption of the Affordable Housing Delivery SPD or prevent its production altogether.</p> <p>There is a risk that this would leave the Council without the detailed affordable housing guidance considered appropriate by the Council which could result in not making the most of development opportunities to deliver the right amount and type of affordable housing.</p>

2.1 Supplementary Planning Documents (SPDs) are important documents that add further detail to the Borough Local Plan (BLP), helping to explain in more detail how policies in the BLP should be delivered. It is important to note that SPDs cannot create new policy, and do not replace or amend existing policy in the BLP.

- 2.2 The BLP indicates that the Council will prepare an Affordable Housing Delivery SPD which will provide detailed information regarding the implementation and delivery of the affordable housing policy in the BLP (Policy HO3 “Affordable Housing”). It sets out a range of issues that the SPD should include.
- 2.3 A draft Affordable Housing Delivery SPD has been prepared for consultation by a team of officers, including from Planning, Housing and Legal. Preparation of the document included early engagement with registered providers of affordable housing and developers to consider the key issues that it should be addressing, and advice was sought about specific guidance on development viability.
- 2.4 The draft SPD seeks to optimise the level of affordable housing delivered through the planning system and aims to ensure that the affordable housing delivered addresses the affordable housing needs of the Borough, within the context of the BLP policy. As such the draft SPD is an important tool in helping to deliver the Council’s Housing Strategy 2021-2026 and advance strategic aims and priorities of the emerging Council Plan.
- 2.5 The draft SPD, as set out in Appendix B, is structured around a series of questions to help guide developers to bring forward the right amount and type of affordable housing and ensure it is appropriately integrated into their new development. Because of the complex nature of providing affordable housing, the SPD is very much a technical document aimed at developers to guide their proposals. However, it includes at the beginning a simplified “Developer’s Guide” that summarises the key elements of the document.
- 2.6 Key elements of the guidance in the draft SPD include:
- the quantum of affordable housing to be provided and how it should be calculated
 - ensuring the right dwelling size and tenure mix is delivered, with a focus on delivering rented housing and ensuring that the affordable housing provided is affordable to those in housing need
 - where affordable housing should be provided
 - how affordable housing should be delivered on sites
 - how to address development viability issues
 - the planning application process and the content of Section 106 legal agreements to secure the affordable housing.
- 2.7 Whilst most affordable housing secured through the planning system is provided on site, and that is the preferred means of delivery in most instances, occasionally it may be necessary to take a financial payment (known as a “commuted sum”) in lieu of on-site provision which can then be spent on provision of affordable housing in the Borough. To assist with determining the appropriate level of financial contribution for a scheme, an affordable housing online financial contribution calculator is being prepared to sit alongside the SPD. The calculator will be consistent with the BLP policy requirements and the SPD guidance in its approach.

- 2.8 The next stage in the statutory process for preparing an SPD is to publish the draft SPD for public consultation. It is recommended that Cabinet agree to proceed to this next stage, with a view to consultation starting in March 2024 for a minimum of 4 weeks. Delegated authority is sought for making minor changes to the document and for the agreement of Appendix 5 which will set out the justification for the financial contributions calculator.
- 2.9 Supporting documents that would be published to accompany the consultation draft of the SPD include the Strategic Environmental Assessment Scoping Report and a draft Consultation Statement summarising the early engagement undertaken in preparation of the draft SPD.

3. KEY IMPLICATIONS

- 3.1 Whilst SPDs are not part of the statutory development plan (such as the Borough Local Plan) with its associated planning status and weight in decision making, they are an important material consideration when determining planning applications, both for the Council as planning authority, and also the Planning Inspectorate in relation to appeals. This SPD will assist the Council in its negotiations with developers to achieve as much affordable housing as possible from development schemes and, by seeking to secure the right tenure and size of affordable housing in new developments, ensure that the affordable housing provided is most appropriate in meeting the affordable housing needs of the Borough. As noted above the preparation of this SPD is specifically referred to in the Borough Local Plan in relation to Policy HO3 “Affordable Housing”.

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Publication of the draft Affordable Housing Delivery SPD	SPD published for consultation in July 2024	SPD published for consultation in March 2024	n/a	n/a	SPD anticipated to be adopted July 2024

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 The cost of producing the SPD to date has been £4,000 and has been funded from within existing budgets. This is to provide consultancy support to prepare an affordable housing financial contributions calculator to sit alongside the SPD and provide a robust and consistent approach for financial contributions towards affordable housing when it is not appropriate to provide affordable housing on site. No other costs, other than staff time, have been incurred in the preparation of this draft SPD.
- 4.2 It is anticipated that the remainder of the preparation of the SPD through to adoption will be undertaken by RBWM staff. Costs for consultation on the draft SPD are expected to be limited and within existing budgets.

- 4.3 An effective Affordable Housing Delivery SPD will assist in delivering affordable housing that best meets the housing needs of the Borough, in particular social rented housing. This will help in reducing the number of people in temporary accommodation with a positive impact on the Council's revenue budget.
- 4.4 Although not the main or preferred means of delivering affordable housing, financial contributions towards affordable housing sometimes are accepted in lieu of on-site provision. The introduction of a simple but robust means of calculating these contributions, through an online calculator, will generate additional capital funds that can be directed to the provision of affordable housing to meet local housing needs. It is not possible with any degree of certainty to forecast what level of capital receipts will arise from these contributions.

5. LEGAL IMPLICATIONS

- 5.1 The SPD will not form part of the statutory development plan but will be an important material consideration in determining planning applications.
- 5.2 SPDs cannot create new policy but provide more detailed guidance on how to apply the policies in the Borough Local Plan.
- 5.3 There is a statutory process for preparing an SPD. Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) set out these requirements. The process includes the requirement for consulting on a draft SPD.
- 5.4 The Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) also require the Council to consider whether or not Strategic Environmental Assessment (SEA) of the SPD should be undertaken. Officers prepared a screening report and the Environment Agency, Historic England and Natural England were consulted. Historic England and Natural England agreed with the report's conclusion that no SEA was required. The Environment Agency did not respond.

6. RISK MANAGEMENT

Table 3: Impact of risk and mitigation

Threat or risk		Impact with no mitigations in place or if all mitigations fail	Likelihood of risk occurring with no mitigations in place.	Mitigations currently in place	Mitigations proposed	Impact of risk once all mitigations in place and working	Likelihood of risk occurring with all mitigations in place.
There is a risk that this would leave the Council without the detailed affordable housing		Major 3	Very likely	The Council currently has the policies in the Borough Local Plan	Adopt the recommendations in this report	Minor 1	Unlikely

<p>guidance considered appropriate by the Council which could result in not making the most of development opportunities to deliver the right amount and type of affordable housing.</p>				<p>and an out of date guidance document that does not relate to those policies.</p>			
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7. POTENTIAL IMPACTS

- 7.1 Equalities. An Equality Impact Assessment is available as Appendix A.
- 7.2 Climate change/sustainability. The development of new affordable housing facilitated through the Borough Local Plan and this proposed Affordable Housing Delivery SPD will also be subject to sustainability policies in the Borough Local Plan and the emerging Sustainability SPD aimed at mitigating the impact of climate change.
- 7.3 Data Protection/GDPR. The consultation on the draft Affordable Housing Delivery SPD will be undertaken in accordance with the Data Protection Act 2018 and the General Data Protection Regulation. There are not anticipated to be any impacts.

8. CONSULTATION

- 8.1 Early engagement was undertaken with registered providers of affordable housing and developers on the potential scope of the SPD and potential issues that it should address. For further information see the Affordable Housing Delivery SPD Draft Consultation Statement (see background documents).
- 8.2 The draft Affordable Housing Delivery SPD will, subject to Cabinet approval, be published for a 4-week period of consultation commencing in March 2024.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 Implementation date if not called in: March 2024. The full implementation stages are set out in table 4.

Table 4: Implementation timetable

Date	Details
March 2024	Commence public consultation on the draft SPD
April 2024	Close public consultation on the draft SPD
May/June 2024	Consideration of comments received and any amendments to the SPD as necessary
July 2024	Adopt the SPD

10. APPENDICES

10.1 This report is supported by 2 appendices:

- Appendix A – Equality Impact Assessment
- Appendix B – Draft Affordable Housing Delivery SPD
- Appendix C – Minutes from the Place Overview & Scrutiny Panel

11. BACKGROUND DOCUMENTS

11.1 This report is supported by 3 background documents:

- Royal Borough of Windsor and Maidenhead Borough Local Plan (February 2022) <https://www.rbwm.gov.uk/home/planning-and-building-control/planning-policy/development-plan/adopted-local-plan>
- Affordable Housing Delivery SPD Draft Consultation Statement (February 2024)
- Strategic Environmental Assessment and Habitat Regulation Assessment; Screening Report for the Affordable Housing Delivery Supplementary Planning Document (February 2024)

12. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory:</i>		<i>Statutory Officer (or deputy)</i>	
Elizabeth Griffiths	Executive Director of Resources & S151 Officer	9.1.24	
Elaine Browne	Deputy Director of Law & Governance & Monitoring Officer	9.1.24	29.01.24
<i>Deputies:</i>			
Andrew Vallance	Deputy Director of Finance & Deputy S151 Officer	9.1.24	6.02.24

Jane Cryer	Principal Lawyer & Deputy Monitoring Officer	9.1.24	
<i>Mandatory: Procurement Manager (or deputy) - if report requests approval to go to tender or award a contract</i>			
Lyn Hitchinson	Procurement Manager	9.1.24	
<i>Mandatory: Data Protection Officer (or deputy) - if decision will result in processing of personal data; to advise on DPIA</i>			
Samantha Wootton	Data Protection Officer	9.1.24	10/01/2024
<i>Mandatory: Equalities Officer – to advise on EQiA, or agree an EQiA is not required</i>			
Ellen McManus-Fry	Equalities & Engagement Officer	9.1.24	10.1.2024
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Stephen Evans	Chief Executive	9.1.24	
Andrew Durrant	Executive Director of Place	9.1.24	
<i>Assistant Directors (where relevant)</i>			
Adrien Waite	Assistant Director of Planning	9.1.24	
Amanda Gregory	Assistant Director of Housing, Environmental Health and Trading Standards	9.1.24	
Chris Joyce	Assistant Director for Placemaking, Partnerships and Sustainability	9.1.24	
<i>External (where relevant)</i>			
N/A			

Confirmation relevant Cabinet Member(s) consulted	Cabinet Member for Planning, Legal and Asset Management Cabinet Member for Adults, Health and Housing Services	Yes
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REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Key decision	No	No
First entered into the Cabinet Forward Plan: 13.12.23		

Appendix A - Equality Impact Assessment

For support in completing this EQIA, please consult the EQIA Guidance Document or contact equality@rbwm.gov.uk

www.rbwm.gov.uk



Royal Borough of Windsor & Maidenhead

1. Background Information

Title of policy/strategy/plan:	<u>Draft Affordable Housing Delivery Supplementary Planning Document (SPD)</u>
Service area:	<u>Planning</u>
Directorate:	<u>Place</u>

Provide a brief explanation of the proposal:

- What are its intended outcomes?
- Who will deliver it?
- Is it a new proposal or a change to an existing one?

The draft SPD is intended to provide more detailed guidance to support the implementation of the affordable housing policy in the Borough Local Plan. Approval is sought to publish the SPD for public consultation.

The intended outcome is to ensure that the amount of affordable housing delivered through the planning system is optimised and that priority is given to the provision of social rented and affordable rented homes as these best meet the housing needs of the Borough.

The delivery of affordable housing is through a combination of private developers and registered providers. Most affordable housing is secured on sites being developed by private developers, with a proportion of that housing secured as affordable housing for registered providers to manage.

Whilst the guidance is new, the underlying affordable housing policy is included in the adopted Borough Local Plan and this guidance does not and cannot change that policy approach.

2. Relevance Check

Is this proposal likely to directly impact people, communities or RBWM employees?

- If No, please explain why not, including how you've considered equality issues.
- Will this proposal need a EQIA at a later stage? (for example, for a forthcoming action plan)

Yes – the SPD will impact people and the local community by helping to secure affordable housing for those in housing need in the Borough.

It should be noted that the adopted Borough Local Plan (BLP), which this draft SPD supplements, was subject to equalities impact assessments in 2017 and 2019, and these did not identify any negative impacts for any group with protected characteristics. The SPD provides further details and guidance on the application of the affordable housing policy in the BLP; it does not create new policy.

If 'No', proceed to 'Sign off'. If unsure, please contact equality@rbwm.gov.uk

3. Evidence Gathering and Stakeholder Engagement

Who will be affected by this proposal?

For example, users of a particular service, residents of a geographical area, staff

The ultimate outcome being sought will impact those in the Borough seeking affordable housing. It will also affect private developers and registered providers who are seeking to develop housing sites in the Borough.

Council Planning and Housing Officers will be affected as they will have to take account of the guidance in the SPD during the decision making process on relevant planning applications. The guidance is intended to assist them in their role, and provide clarity to developers bringing forward planning applications.

Among those affected by the proposal, are protected characteristics (age, sex, disability, race, religion, sexual orientation, gender reassignment, pregnancy/maternity, marriage/civil partnership) disproportionately represented?

For example, compared to the general population do a higher proportion have disabilities?

Across the population as a whole, the proposal is likely to relate most to those on lower incomes. Evidence suggests younger age groups (aged 16-29) are most likely to experience housing problems, including affordability issues. People from ethnic minority backgrounds are also more likely to experience housing affordability issues.

What engagement/consultation has been undertaken or planned?

- How has/will equality considerations be taken into account?
- Where known, what were the outcomes of this engagement?

Early engagement has taken place with private developers and registered providers to help determine the issues that the SPD should address. A key consideration arising is to ensure that the affordable housing provided is affordable to those in housing need.

The report recommends that the draft SPD is published for public consultation. Comments relating to equalities considerations will be considered following the consultation and the SPD updated as appropriate.

What sources of data and evidence have been used in this assessment?

Please consult the Equalities Evidence Grid for relevant data. Examples of other possible sources of information are in the Guidance document.

Equalities evidence matrix.

4. Equality Analysis

Please detail, **using supporting evidence**:

- How the protected characteristics below might influence the needs and experiences of individuals, in relation to this proposal.
- How these characteristics might affect the impact of this proposal.

Tick positive/negative impact as appropriate. If there is no impact, or a neutral impact, state 'Not Applicable'

More information on each protected characteristic is provided in the Guidance document.

	Details and supporting evidence	Potential positive impact	Potential negative impact
Age	Improving the supply and type of affordable housing will positively assist younger people who suffer more from housing problems, including affordability issues	Yes	
Disability	The Borough Local Plan policy regarding accessibility standards for new housing and the SPD highlights this in relation to the information that needs to be provided in planning applications	Yes	
Sex	The provision of affordable housing will benefit residents in housing need regardless of their sex	Yes	
Race, ethnicity and religion	Improving the supply and type of affordable housing will positively assist those from ethnic minority backgrounds who are more likely to experience housing affordability problems	Yes	
Sexual orientation and gender reassignment	The provision of affordable housing will benefit residents in housing need regardless of their sexual orientation	Yes	
Pregnancy and maternity	The provision of affordable housing will benefit residents in housing need regardless of their maternity status	Yes	

Marriage and civil partnership	The provision of affordable housing will benefit residents in housing need regardless of their marital status	Yes	
Armed forces community	The provision of affordable housing will benefit residents in housing need regardless of whether they are in the armed forces or not.	Yes	
Socio-economic considerations e.g. low income, poverty	Improving the supply and type of affordable housing will positively assist those on low income, particularly through the provision of social rented and affordable rented housing which the Council's planning policies and draft SPD seek to prioritise.	Yes	
Children in care/Care leavers	The provision of affordable housing will benefit residents in housing need regardless of their care experience	Yes	

5. Impact Assessment and Monitoring

If you have not identified any disproportionate impacts and the questions below are not applicable, leave them blank and proceed to Sign Off.

<p>What measures have been taken to ensure that groups with protected characteristics are able to benefit from this change, or are not disadvantaged by it? For example, adjustments needed to accommodate the needs of a particular group</p>
<p>The draft SPD is not changing policy but is providing more detailed guidance to support the delivery of existing policy.</p>
<p>Where a potential negative impact cannot be avoided, what measures have been put in place to mitigate or minimise this?</p> <ul style="list-style-type: none"> For planned future actions, provide the name of the responsible individual and the target date for implementation.
<p>Not applicable</p>
<p>How will the equality impacts identified here be monitored and reviewed in the future? See guidance document for examples of appropriate stages to review an EQIA.</p>
<p>The delivery of affordable housing, including the different types of tenure, will be monitored through the Authority Monitoring report which monitors the development that occurs across the Borough against policies and monitoring indicators in the Borough Local Plan.</p>

6. Sign Off

Completed by: Ian Manktelow	Date: 9.1.24
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Approved by: Adrien Waite	Date: 2.2.24
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If this version of the EQIA has been reviewed and/or updated:

Reviewed by:	Date:
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