

**City of London**

**Planning Obligations**

**Supplementary Planning  
Document**

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## NATIONAL POLICY CONTEXT

1. Planning obligations are used to mitigate the impact of unacceptable development in order to make it acceptable in planning terms. The legislative basis for s106 planning obligations is contained within the Town and Country Planning Act 1990 (as amended). Further guidance is contained in the Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122, and the National Planning Policy Framework (NPPF) paragraph 204, which set out three statutory and policy tests for the use of planning obligations, indicating that:

“A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is-

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.”

2. Paragraph 205 of the NPPF ~~and the draft National Planning Practice Guidance~~ requires planning obligations to be applied flexibly to prevent planned development from being stalled. The 1990 Act provides for the review of planning obligations when they no longer serve their original purpose, or the amendment of the provisions relating to affordable housing.
3. CIL Regulation 123 further indicates that, from 6<sup>th</sup> April ~~2014~~ 2015, or the adoption of a Community Infrastructure Levy (whichever is sooner), the pooling of contributions from five or more separate planning obligations towards a specific type or piece of infrastructure will not be permitted. From this date, the Community Infrastructure Levy will be the principal means of generating developer contributions towards new infrastructure provision.
4. CIL Charging Authorities are required to prepare a Regulation 123 List, which sets out those items of infrastructure, or broad types of infrastructure, that will be funded through CIL. Statutory CIL guidance, issued by the Department for Communities and Local Government in ~~April 2013~~ February 2014, states (paragraph ~~87~~ 2:6:2:2):

“When a charging authority introduces the Community Infrastructure Levy, section 106 requirements should be scaled back to those matters that are directly related to a specific site, and are not set out in a Regulation 123 List.”

5. A broad definition of infrastructure, for the purposes of CIL funding, is set out in the Planning Act 2008 (section 216(2)) and includes:
  - (a) roads and other transport facilities,
  - (b) flood defences,

- (c) schools and other educational facilities,
  - (d) medical facilities,
  - (e) sporting and recreational facilities,
  - (f) open spaces.
6. CIL Regulation 63 specifically excludes the use of CIL to fund affordable housing, which will continue to be funded through s106 planning obligations.
  7. CIL is intended to fund the provision, improvement, replacement, operation or maintenance of capital infrastructure. It is not intended to provide a means of funding revenue projects which are currently funded via s106, e.g. support for training and skills activities. Such projects will continue to be funded via s106.
  8. Site specific mitigation to make a development acceptable in planning terms will also continue to be provided through s106 planning obligations, as will obligations which are necessary to ensure compliance with adopted Development Plan policy.

## **LONDON PLAN - CONTRIBUTIONS TOWARDS CROSSRAIL**

9. The London Plan (Policy 6.5, Funding Crossrail and Other Strategically Important Infrastructure, and Policy 8.2, Planning Obligations) requires contributions towards the cost of the construction of Crossrail through s106 planning obligations. The Mayor aims to raise up to £300m towards Crossrail through s106 planning obligations. In April 2013, the Mayor adopted Supplementary Planning Guidance: 'Use of Planning Obligations in the Funding of Crossrail, and the Mayoral Community Infrastructure Levy'. This SPG sets out the requirement for s106 contributions from office, retail and hotel development. Contributions within the Central London area, including the City of London, are required at a rate of:
  - £140 per square metre for office development;
  - £90 per square metre for retail development;
  - £61 per square metre for hotel development.
10. Mayoral s106 planning obligations are required on all development falling within the above categories, where there is a net increase of 500m<sup>2</sup> or more in floorspace, measured by Gross Internal Area (GIA), having regard to the impact on development viability. Payment is due on commencement of development, with rates indexed using the Consumer Price Index from April 2011 until the date of commencement.
11. Within the City of London, the City Corporation is responsible for agreeing and collecting s106 planning obligations on behalf of the Mayor. The City Corporation will apply an additional charge to cover

its reasonable costs of administration and processing of the Mayoral s106. These costs are set out on the City Corporation's website.

12. The Mayor has also set a Community Infrastructure Levy covering the whole of London, with the aim of raising a further £300m towards the construction costs of Crossrail. In the City of London this CIL is charged at a rate of £50 per square metre of net additional floorspace. The City Corporation is the designated 'collecting authority' responsible for the administration and collection of the Mayoral CIL within the City.

## **CITY OF LONDON POLICY– COMMUNITY INFRASTRUCTURE LEVY AND PLANNING OBLIGATIONS**

13. The City's development plan (Policy CS4 "Planning Contributions" The City Corporation adopted Supplementary Planning Guidance (SPG) on Planning Obligations in June 2004. This outlined the City's approach to the negotiation of s106 planning obligations to deliver the planning vision set out in the Unitary Development Plan (UDP) 2002. The local policy framework for planning obligations has since been updated with the adoption of the City of London Core Strategy in 2011. Policy CS4 sets out the justification for continued s106 planning obligations and identifies the City's infrastructure priorities the relationship between planning obligations and the City of London Community Infrastructure Levy.
14. The City Corporation's is preparing a Community Infrastructure Levy to replace much of the infrastructure funding mechanism currently provided through s106 planning obligations. The City CIL has been subject to consultation at Preliminary Draft Charging Schedule (March to May 2013) and Draft Charging Schedule (July to October 2013) stages, and has now been submitted for public examination. Community Infrastructure Levy for the City of London, to be implemented from 1<sup>st</sup> July 2014, sets the following charge rates:

<b>Land Use</b>	<b>Zone</b>	<b>CIL Rate (£ per m<sup>2</sup>)</b>
Offices	City-wide	£75
Residential	Riverside	£150
Residential	Rest of City	£95
Development used wholly or mainly for the provision of medical or health services, except the use of premises attached to the residence of the consultant or practitioner	City-wide	Nil
Development used wholly or mainly for the provision of education as a	City-wide	Nil

Land Use	Zone	CIL Rate (£ per m <sup>2</sup> )
school or college under the Education Acts or as an institution of higher education		
Development used wholly or mainly for the operational purposes of the emergency services	City-wide	Nil
All other uses	City-wide	£75

15. The CIL is accompanied by a Regulation 123 List identifying the types of infrastructure that the City will seek to fund through CIL, an Infrastructure Delivery Plan identifying the infrastructure required to meet the requirements of the City's Development Plan, and an Economic Viability Study, which considers the combined impact of CIL and s106 planning obligations on development viability in the City. The City CIL and supporting documents are available on the City Corporation's website.

~~The CIL Economic Viability Study takes into account the levels of s106 planning obligations set out in this document – making provision for financial contributions towards affordable housing from commercial and residential development and contributions towards local training, skills and job brokerage.~~

16. In line with the legislative and regulatory requirements underpinning CIL and s106 planning obligations, the City's Community Infrastructure Levy is not able to address developer contributions towards:

- affordable housing;
- revenue contributions meeting on-going costs, including training and skills provision and related initiatives.

17. These elements will continue to be funded through s106 planning obligations, alongside any site specific mitigation measures necessary to make a development acceptable in planning terms, and other requirements necessary to implement specific policies in the ~~Local~~ City's development plan.

~~In line with legislative and regulatory requirements, the Draft City of London Local Plan 2013 proposes alterations to Core Strategy CS4 to reflect:~~

- ~~• changes in national legislation and guidance concerning CIL and s106 planning obligations since 2011;~~
- ~~• charge rates set out in the City of London Draft CIL Charging Schedule;~~
- ~~• the adoption of the Mayoral CIL and revisions to the Mayoral s106 planning obligations regime for contributions to the Crossrail project.~~

The Publication Draft Local Plan Policy CS4 is set out in the box below.

#### **Core Strategic Policy CS4: Planning Contributions**

To manage the impact of development, seeking appropriate developer contributions:

1. Requiring contributions through the Community Infrastructure Levy to assist in the delivery of the infrastructure necessary to support implementation of the Local Plan.
2. Requiring s106 planning obligations, having regard to the impact of the obligation on the viability of development, for:
  - (i) site specific mitigation meeting statutory tests;
  - (ii) affordable housing;
  - (iii) local training, skills and job brokerage;
  - (iv) local procurement in the City and City Fringe.
3. Requiring qualifying development to make an additional contribution to meeting the costs of Crossrail construction in accordance with the provisions of the London Plan.

18. This SPD sets out how s106 planning obligations in the City of London will be applied within the context of the draft revised Local Plan policy and the City of London CIL. Upon adoption it will replace the 2004 SPG. However, in advance of this, the 2004 SPG will remain a material consideration to which the City Corporation will have regard when determining planning applications City of London development plan and the City of London Community Infrastructure Levy. The SPD, adopted 8<sup>th</sup> April 2014, will be implemented alongside the City of London CIL, from 1<sup>st</sup> July 2014.

## **VIABILITY TESTING**

19. In negotiating s106 planning obligations, the City Corporation will have regard to the potential impact of these obligations upon the viability of the development proposed. The Economic Viability Study prepared for the City of London CIL has demonstrated that a combination of City of London CIL, Mayor of London CIL and s106 for Crossrail and the planning obligations requirements set out in this SPD would not impact on the overall viability of development in the City. Nevertheless, in applying this SPD, the City Corporation will have regard to individual

site and development circumstances and the impact this may have on development viability.

20. Where applicants indicate that they cannot meet in full the planning obligations requirements set out in the City's development plan the Local Plan and this SPD, they will be required to provide supporting evidence in the form of a site and development specific viability study. The City Corporation does not require such viability studies to use any particular viability model, but the approach used must have regard to industry best practice guidance, including the RICS Guidance Note: Financial Viability in Planning (2012) and the general guidance provided by the Local Housing Delivery Group: Viability Testing Local Plans (2012).
21. Where an applicant submits a viability study in support of a lower level of provision of planning obligations, the City Corporation will normally appoint an independent and suitably qualified individual or company to review the viability study and provide independent advice to the City Corporation. The City Corporation will expect the applicant to meet the cost of this independent assessment. The City Corporation will have regard to the recommendations of this independent assessment when determining the planning application.

## **PAYMENT OF S106 PLANNING OBLIGATIONS**

22. The City Corporation will normally require that any financial sums required under agreed s106 planning obligations, should be paid to the City Corporation ~~either~~ upon commencement or on implementation of the development scheme, unless otherwise agreed by the City Corporation. In determining alternative payment arrangements, the City Corporation will have regard to evidence of the impact of payment terms on viability and/or the need for payments to be related to phased construction of development.
23. Payment of financial contributions towards carbon off-setting will be required upon completion of the development.

## **AFFORDABLE HOUSING**

### **1) Affordable housing requirement on commercial development**

24. London Plan Policy 4.3 'Mixed Use Development and Offices' requires increases in office floorspace within the Central Activities Zone (CAZ) to provide for a mix of uses, including housing. The City of London is identified within the London Plan as a 'strategically important, globally orientated financial and business centre', within which exceptions to the mixed use policy approach in the CAZ are considered appropriate in order to sustain the commercial cluster. The London Plan therefore



permits the use of land use swaps, housing credits or off-site contributions towards housing from commercial development within the City of London, rather than requiring on-site mixed use. Such contributions will be delivered through the mechanism of s106 planning obligations.

25. To address this policy approach, the City Corporation requires new commercial development, where there is a **net increase of 500m<sup>2</sup>** or more Gross Internal Area, to make a financial contribution towards the off-site provision of affordable housing, either elsewhere in the City, or within reasonable travel distance of the City. The financial contribution will be sought at a rate of **£20 per m<sup>2</sup>** of additional floorspace.

## 2) Affordable housing requirement on residential development

26. The City's development plan (Local Plan Core Strategic Policy CS21), seeks affordable housing contributions from new residential developments, which have the potential for 10 or more units of housing, at a rate of:

- 30% of the total number of units proposed where the affordable housing is to be provided on-site; or
- exceptionally, a rate equivalent to 60% of the number of units on the application site, where the units are to be provided off-site or through a financial contribution.

27. The presumption in policy is that affordable housing should be provided on-site.

### On-Site Provision

28. Where the affordable units are provided on-site, the City Corporation will normally require a mix of units in terms of size (number of bedrooms) and tenure. Developers should contact the City Corporation's Housing Services Section, within the Community & Children's Services Department to discuss specific needs and requirements.

### Off-Site Provision

29. Where the affordable units are to be provided off-site, Policy CS21 requires the level of provision to be equivalent to 60% of the units provided on the application site. The City Corporation considers that off-site provision should be met either through:

- provision of the required number of affordable units on an alternative site, elsewhere in the City of London or within reasonable travel time of the City. Developers will need to liaise

with the City Corporation's Housing Services Section, within the Community & Children's Services Department, on appropriate locations and the proposed mix and tenure of the units to be provided; or

- provision of a commuted sum, or cash in-lieu payment to enable the City Corporation to provide suitable affordable housing elsewhere in the City, or within reasonable travel distance of the City. Payments will be calculated on the basis of a sum per unit of affordable housing required, of **£165,000 per unit**. This level represents the average cost incurred by the City Corporation in 2012 and 2013 in providing affordable housing within the City and neighbouring boroughs. The commuted sum payment will be subject to indexation from 1<sup>st</sup> July 2014 ~~the date of adoption of this SPD,~~ until the date ~~that payment is due~~ of the grant of permission, with reference to the All-in Tender Price Index.

## LOCAL TRAINING, SKILLS AND JOB BROKERAGE

30. Since 2004, the City Corporation has used s106 planning obligations to seek contributions from commercial development towards training, skills and job brokerage.
31. Although the City of London is a successful economy and the world's leading international financial and business services centre, the City's immediate neighbouring boroughs contain some of the most deprived areas in the country, facing higher levels of unemployment, social exclusion and child poverty than elsewhere in London. Within the City itself, the Portsoken Ward is ranked within the 40% most deprived areas in England.
32. The City Corporation's Corporate Plan aims to maximise the opportunities and benefits afforded by the City's international role in supporting London's communities, including working with partners and neighbouring boroughs to promote employability and provide jobs and growth. This is reflected in development plan ~~Local Plan Core Strategic Policy CS4~~ and the City Corporation will, therefore, continue to seek s106 planning obligations towards the provision of ~~employment~~ local training, skills and job brokerage activity to help address some of the issues relating to unemployment, employability and skills both within neighbouring boroughs and within the City itself.
33. New commercial development where there is a **net increase of 500m<sup>2</sup> or more** Gross Internal Area will be required to make a financial contribution towards local training, skills and job brokerage activities at a rate of **£3 per m<sup>2</sup>** of additional floorspace.

34. Residential development, where there is the opportunity to deliver **10 or more housing units**, will also be required to make a contribution at a rate of **£3 per m<sup>2</sup>** of additional floorspace measured by Gross Internal Area.

35. The presumption is that developers should make a financial contribution. However, the City Corporation will consider proposals from developers to deliver local training, skills and job brokerage initiatives in place of a financial contribution. Where a developer wishes to consider direct provision of such initiatives they should liaise with the City Corporation's Economic Development Office to agree the scope and nature of the proposed contribution, ensuring that:

- provision meets the City Corporation's policies and criteria for local training, skills and job brokerage;
- the level of provision is commensurate with the required level of any financial contribution under this SPD;
- any initiatives are over and above those that could reasonably be expected from an employer as part of good recruitment and training practices; and
- any initiatives represent new activity which would not have taken place without the development in question.

36. In addition to any financial contribution, developers of qualifying commercial and residential development will be required to submit a local training, skills and job brokerage strategy to the City Corporation for approval. This requires the developer to work collaboratively with the City Corporation and use reasonable endeavours to meet the aims of the City Corporation's Employment Charter for Construction:

- advertising all vacancies locally (within the City of London, Camden, Islington, Tower Hamlets, Hackney, Lambeth, Southwark and Westminster), via local job brokerage and employment agencies;
- identifying in advance skills needs which could be met through local training providers and provide a plan for meeting such needs;
- undertaking to meet a target of 20% of the total workforce on site being resident in the City or neighbouring boroughs;
- requiring developers to propose a target number of apprenticeships to be generated on the site and recruited from the City and neighbouring boroughs;
- developing initiatives to provide appropriate training to ensure effective transition from unemployment into work;
- undertaking at least 2 community benefit and/or education projects per year of construction activity;
- providing information on the timing and implementation of these initiatives and suitable monitoring mechanisms.

37. Developers should liaise with the City Corporation's Economic Development Office, who can provide advice on the development and implementation of a strategy and make introductions to employment support/job brokerage agencies and training providers in neighbouring boroughs.
38. Where hotel development is proposed, the City Corporation will require two strategies addressing local training, skills and job brokerage, one covering the construction period and the second covering operation of the hotel.

## **LOCAL PROCUREMENT**

39. The City Corporation encourages City businesses and developers to procure locally from small to medium sized businesses within the City and surrounding boroughs (Camden, Islington, Tower Hamlets, Hackney, Lambeth, Southwark and Westminster). Local procurement can be an effective means of stimulating the economies of neighbouring boroughs, promoting small business growth and associated job creation. The sourcing of goods and services locally may also help to achieve a more sustainable pattern of land use and reduce the need to travel, leading to reduced road congestion, pollution and carbon emissions, in line with the objectives of the London Plan and the City's ~~Local~~ development plan.
40. The City Corporation has developed a Local Procurement Charter and associated guidance notes, which set a target for developers to source 10% of goods and services, relating to development, from small and medium sized enterprises in the City and its neighbouring boroughs. The City Corporation will seek s106 planning obligations with developers of qualifying commercial (500m<sup>2</sup> or more net increase in floorspace, measured by GIA) and residential development (10 or more housing units), requiring them to use best endeavours to meet the 10% target through their development. Further advice is available through the City Corporation's Local Procurement Charter and guidance notes, available on the City Corporation's website, or from the City Corporation's Economic Development Office.

## **SITE SPECIFIC MITIGATION**

41. The City Corporation will principally seek to mitigate the impact of development and provide necessary infrastructure through the use of CIL but, in some circumstances, it may be necessary additionally to seek site specific mitigation to ensure that a development is acceptable in planning terms. Under the provisions of CIL Regulation 122 and the NPPF paragraphs 203 - 205, such s106 planning obligations should only be sought where they meet all of the three statutory tests.

42. The nature and amount of contribution sought for such mitigation will be determined by the individual circumstances of each development proposal. In seeking such contributions, the City Corporation will have regard to the requirement in CIL Regulation 123 and Statutory CIL Guidance that infrastructure contributions under s106 planning obligations should not be sought for items that can be funded by CIL and are identified on the City Corporation's Regulation 123 List. The City Corporation's viability consultants have confirmed that the need for site specific mitigation has been reflected through estimates of construction costs and exceptional costs within the viability modelling underpinning the proposed CIL rate.

## HIGHWAYS WORKS AND S278 AGREEMENTS

43. Section 278 Agreements are legal agreements between a developer and the ~~local~~ highway authority made under s278 of the Highways Act 1980. The agreements ensure that highways works necessary to make a development acceptable in principle are funded by the developer and implemented by the ~~local~~ highway authority. As such they are a necessary cost on development and will continue to be sought by the City Corporation in addition to any CIL or scaled back s106 planning obligation. Both the City Corporation and Transport for London are highway authorities within the City of London.
44. The nature and amount of any s278 Agreement will vary according to the individual circumstances of the development, specifically the impact of the development on the highway. The City Corporation's viability consultants have confirmed that the potential need for s278 funding is reflected in the overall development costs assumed by the Economic Viability Study and has therefore been taken into account in the viability modelling underpinning the proposed CIL rate.

## TRANSPORTATION

45. ~~Core Strategic Strategy~~ The City's development plan Policy CS16: Public Transport, Streets and Walkways, part 4 (v), requires "developers to demonstrate, through transport assessments, construction logistics plans, travel plans and delivery/servicing plans, how the environmental impacts of travel and servicing will be minimised, including through the use of river transport."
46. The City Corporation will use s106 planning obligations or conditions in order to ensure that ~~such~~ information on the transport implications of development, both during construction and operation, is provided and the arrangements to minimise impacts complied with.
47. Transport Assessments and Travel Plans will be required for all major development as set out ~~below in Table 16.1 of the Local Plan below~~

and for any other development that will cause significant impacts over the local or wider area.

### Threshold for Transport Assessments and Travel Plans

Land use	Threshold
Offices	1000m <sup>2</sup>
Residential	10 units
Retail	1000m <sup>2</sup>
Hotel	10 bed spaces
Health	1000 m <sup>2</sup>
Transport infrastructure	>500 additional trips per peak hour
Mixed use	1000 m <sup>2</sup>

48. The City Corporation will also use s106 planning obligations or planning conditions to require the submission of:

- Delivery and Servicing Plans for all major development and any other development that will cause significant transport impacts on the local or wider area, through operational deliveries and servicing;
- Construction Logistics Plans for all major development and for any development that will cause significant transport impacts during its construction phase.

49. The s106 planning obligation or planning condition will also require compliance with and monitoring of the above Plans.

## CARBON OFFSETTING

50. The Government has set a legally binding target to achieve zero carbon emissions in new residential development by 2016 and in new commercial development by 2019. The Government recognises that this may not always be feasible on-site and is setting up a mechanism of 'Allowable Solutions', under which developers who are unable to achieve zero carbon on-site can offset their carbon emissions by making provision for carbon reduction elsewhere.

51. The London Plan 2014, through Policy 5.2, already requires new development to contribute towards the Mayor's aim to minimise carbon emissions and sets targets for improvements above 2010 Building Regulation requirements. From October 2013, developers of both commercial and residential buildings are required to meet a standard which delivers a 40% improvement in regulated carbon emissions over the requirements in 2010 Building Regulations. Carbon emission reductions should be delivered on site, but where this cannot be achieved the shortfall must be provided off-site or through a cash-

in-lieu contribution to the relevant borough to be ring fenced to secure delivery of carbon emission savings elsewhere.

~~The City Local Plan, Policy DM15.4: Offsetting of carbon emissions, outlines the approach that The City Corporation will take in meeting the Government's overall target of zero carbon development and the London Plan specific target. The requirement is for developers to deliver the maximum feasible and viable carbon emission reduction on-site, but where this is not possible, Policy DM15.4 allows for carbon abatement elsewhere or a financial contribution to an approved, carbon offsetting scheme.~~

52. In the City's high density urban environment there are limitations on the feasibility and viability of installing some low and zero carbon technologies and, consequently, it may not be feasible for City development to meet Government targets. Most developers are likely, therefore, to make use of carbon offsetting through the Allowable Solutions mechanism.

53. The City Corporation will require developers to deliver the maximum feasible and viable carbon emission reduction on-site, but where For these developments which are not able to meet the current London Plan requirement for a 40% improvement in regulated carbon emissions, carbon abatement should be delivered elsewhere or through a financial contribution to either the City Corporation's, or an alternative approved, carbon offsetting scheme. ~~The City Corporation will ensure compliance with the London Plan by requiring a financial payment to enable carbon offsetting elsewhere.~~ The City Corporation will secure such financial contributions through s106 planning obligations, at an initial cost of **£46 per tonne of carbon to be offset, calculated over a 30 year period**. This rate is derived from the Mayor's Draft Sustainable Design and Construction Supplementary Planning Guidance 2013 and the Government's Zero Carbon Hub. It will be periodically updated in line with amendments published by the Mayor or the Zero Carbon Hub. These updates will be published on the City Corporation's website.

54. Financial contributions for carbon offsetting will be required on commencement or implementation completion of development and prior to occupation. The level of contribution required will be calculated on the basis of carbon reduction projections set out in an Energy Statement submitted as part of the planning application. Developers may submit a further revised assessment demonstrating levels of carbon reduction and revised off-setting contributions upon completion. Funds raised through this mechanism may be used by the City Corporation for individual carbon offsetting projects or pooled by the City Corporation ~~through an approved carbon offsetting scheme,~~ and the funds invested in carbon reduction schemes both within and

outside of the City of London. In the event that no City of London carbon off-set scheme is in place, financial contributions should be made into a recognised carbon off-setting scheme, details of which have been provided to and approved by the City Corporation. ~~Schemes funded through the City Corporation and the level of carbon reduction achieved will be verified by independent accreditation through an approved carbon offsetting scheme.~~

## **Planned Changes to Allowable Solutions**

55. The Government's preferred solution is for zero carbon standards and requirements for allowable solutions to be incorporated into Building Regulations ~~and the Government consulted on such an approach in August 2013.~~ If this is progressed, it is likely that from April 2016 (for residential development) and from April 2019 (for commercial development), responsibility for ensuring zero carbon standards and delivering offsetting of emissions/allowable solutions will pass from local planning authorities to authorised Building Control bodies.
56. The City Corporation will continue to seek planning obligations towards carbon offsetting, in line with the London Plan, up to and until the proposed national change comes into effect.

## **OPEN SPACES**

57. ~~The City's development plan, Core Strategic Policy CS19: Open Spaces and Recreation seeks to maintain a ratio of at least 0.06 hectares of high quality, publicly accessible open space per 1,000 weekday population. It seeks to achieve this by maintaining and improving the level of open space provision in the City, where possible seeking to ensure public access to this open space. Policy DM19.1 requires~~ New development will be required to provide new or enhanced open space where possible, or provide for such enhancement near the development or elsewhere in the City.
58. Where necessary, the City Corporation will use s106 planning obligations to ensure that developers deliver the necessary improvements, provide for maintenance and secure public access where feasible. The City Corporation may require a financial contribution in lieu of actual provision.

## **UTILITY CONNECTIONS TO THE DEVELOPMENT**

59. City development plan ~~Core Strategic Policy CS2: Utilities Infrastructure encourages early engagement between developers and utility providers to identify the infrastructure needs arising from development and ensure that this provision is in place in time to serve the development. Policy DM2.1: Infrastructure provision and connection,~~



~~provides more detailed guidance and requires~~ Developers will be required to identify and plan for necessary connections, including for electricity, gas, water supplies, heating and cooling, telecommunications and drainage, including the use of Sustainable Drainage Systems (SuDS). The City Corporation may use s106 planning obligations to ensure that these provisions are delivered in a timely fashion, that all necessary utilities are in place prior to occupation of the development and that adverse impacts arising from installation of utilities infrastructure under public highways is minimised, for example by promoting the coordination of street works, where possible.

## **WIND MITIGATION**

60. ~~Local Plan policy DM10.1: New development, requires~~ Developers to should avoid unacceptable wind impacts at street level arising from their development on the surrounding landscape and public realm. The City Corporation will use s106 planning obligations to require developers to submit a Wind Audit Assessment Scoping Report, if required, for approval ~~and including~~ details of wind mitigation measures to be implemented.

## **TELEVISION SURVEY**

61. If required, the City Corporation will use s106 planning obligations to require developers to submit a Television Interference Survey and to mitigate adverse impacts on reception.

## **OTHER PLANNING OBLIGATIONS**

62. This SPD has set out the principal s106 planning obligations that the City Corporation may seek from developers, to ensure that development is acceptable in planning terms. The City Corporation reserves the right to seek additional or alternative s106 planning obligations to those listed above, where justified by local circumstances or to deliver other priorities in the Development Plan, such as mitigating the impact of development on heritage assets, and where such planning obligations can meet the statutory tests set out in CIL Regulation 122.

## **EXEMPTIONS**

63. The City Corporation will seek s106 planning obligations on all new development where required and where that development meets or exceeds the thresholds set out in this SPD.
64. Community Infrastructure Levy Regulations (~~Regulations 43-48~~), provide for relief from CIL for charities undertaking development wholly or mainly for charitable purposes, where the charity owns a material

interest in the relevant land for a period of 7 years beginning with the day on which the development commences. If the development ceases to be used for charitable purposes within this 7 year period, CIL then becomes liable.

65. The Mayor has extended this exemption to cover his s106 planning obligations contributions towards Crossrail. To ensure consistency of approach between CIL and s106 in the City and consistency with the approach adopted by the Mayor, the City Corporation proposes to offer a similar exemption from s106 planning obligations for development where:

- (a) a registered charity has a material interest (a freehold or lease for more than seven years after the date planning permission is granted) in the relevant land; and
- (b) the development will be used wholly or mainly for charitable purposes.

66. This exemption will not apply where s106 planning obligations are required to deliver site specific mitigation necessary to make a development acceptable in planning terms, or to a requirement to enter into a s278 agreement to deliver necessary highways works.

## **AMENDMENTS TO PLANNING PERMISSIONS**

67. Under s73 of the Town and Country Planning Act 1990, amendments can be made to the conditions attached to a planning permission. Where such amendments are made, they constitute a new consent. In line with the approach set out in CIL Regulations, where a s73 application is made, the City Corporation will only seek additional financial contributions through a s106 planning obligation, where the new application results in a net increase in floorspace above the original permission. The need for any additional site specific mitigation measures will be assessed on a site by site basis.

68. Where a s73 application results in a reduction in floorspace, when compared with the original permission, the City Corporation will make a refund.

69. S96A of the 1990 Act allows non-material changes to be made to a planning permission. Such changes are unlikely to result in an increase in floorspace and should not, therefore, generate any additional requirement for s106 planning obligations.

## INDEXATION

70. The charge rates for affordable housing, training, skills and job brokerage set out in this SPD s106 planning obligations requiring a financial contribution, commuted sum payment or cash in lieu payment, will be subject to indexation from the date of adoption of this SPD to the date of permission, as set out below: that payment is due (normally the date of commencement of development).
- Indexation for affordable housing, will be by reference to the All-in Tender Price Index, to ensure consistency with the approach required for the City CIL;
  - Indexation for training, skills and job brokerage will be by reference to the Consumer Price Index.
71. Where site specific mitigation, or other financial contributions are required through a s106 planning obligation, these contributions will be indexed by reference to the All-in Tender Price Index from the date of the Planning & Transportation Committee's resolution to permit until the date that payment is due.
72. Contributions required under s278 agreements should meet the full cost of the required remedial or reinstatement works and will not be subject to indexation.
73. Carbon off-set contributions will be calculated according to the price of carbon set out in this SPD, or otherwise notified on the City Corporation's website, at the date of signature of the s106 agreement. They will not be subject to further indexation. Indexation will be by reference to the All in Tender Price Index, to ensure consistency with the approach required for the City CIL.

## ADMINISTRATION AND MONITORING

74. The City Corporation requires charges to be applied to cover the cost of administration and monitoring of City of London s106 planning obligations. A further charge is applied to cover the costs of monitoring and administering the collection of contributions towards Crossrail on behalf of the Mayor. These charges are set out on the City Corporation's website and will be reviewed from time to time to ensure that they continue to cover City Corporation costs. The costs incurred by the Comptroller and City Solicitor in negotiating, drafting and signing s106 agreements will also be charged and the amount will depend according to the circumstances.

## PROCESS

75. The City's Section 106 template is available on the City Corporation's website ~~can be found at (to be inserted in final document)~~. It will be updated from time to time as appropriate to reflect the development plan. Where a section 106 agreement is required, applicants will be expected to enter into section 106 agreements in the form indicated in the template and in a timely manner, and to ensure that all parties with interests in the land, including chargees, will join in the agreement before making the application.
76. The applicant will be expected to provide Heads of Terms reflecting the requirements in the template, the obligations outlined in this SPD, and reflecting all parties with interests in the relevant land.
77. Where appropriate the City Corporation will make it a condition of a planning permission that there shall be no commencement (including demolition) until such time as the terms of the section 106 agreement in accordance with the approved Heads of Terms and template have been agreed and entered into by all the parties with interests in the land.
78. Where such a condition is not appropriate, for example because one or more of the site specific Heads of Terms are not drafted with sufficient certainty, the permission will not be issued until the section 106 agreement has been completed. Failure to complete the agreement in a timely manner may risk refusal.

## SUMMARY OF FINANCIAL REQUIREMENTS

Development Type	Threshold	S106 obligation
Mayoral Crossrail s106	500m <sup>2</sup> GIA Office  Retail Hotel	£140 per m <sup>2</sup> net increase £90 per m <sup>2</sup> net increase £61 per m <sup>2</sup> net increase
Affordable Housing (commercial development)	500m <sup>2</sup>	£20 per m <sup>2</sup> net increase
Affordable Housing (residential development)	10 or more units	£165,000 per unit
Local training, skills, and job brokerage	500m <sup>2</sup> (commercial) 10 units or more (residential)	£3 per m <sup>2</sup> net increase
Carbon Offsetting	40% improvement in CO <sub>2</sub> emissions over 2010	£46 per tonne of carbon to be offset over a 30

<b>Development Type</b>	<b>Threshold</b>	<b>S106 obligation</b>
	Building Regulations	year period