Draft Planning Contributions
Supplementary Planning Document
September 2017

THE ROYAL BOROUGH OF
KENSINGTON AND CHELSEA
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1. Introduction

Purpose of the Supplementary Planning Document

1.1 This Supplementary Planning Document (SPD) provides guidance on the delivery of Local Plan\(^1\). Policy C1 Infrastructure Delivery and Planning Obligations. Specifically, it sets out the Royal Borough of Kensington and Chelsea’s approach and procedures in respect of planning contributions. It will replace the Planning Obligations SPD 2010 and the Public Art Supplementary Planning Guidance 2004.

1.2 The SPD details the type of planning contributions that may be required, the qualifying development thresholds and the level of monetary contribution where appropriate. It also provides guidance on how information relating to viability should be received and how this will be assessed. The SPD will operate alongside the Community Infrastructure Levy (CIL) Charging Schedule which took effect in the borough in April 2015.

Status of the SPD

1.3 The SPD has been prepared in accordance with the Planning Act 2004 and the associated Town and Country Planning (Local Planning) (England) Regulations. Once adopted it will be capable of being a material consideration in deciding planning applications.

Consultation

1.4 This draft SPD has been published for a six-week period of public consultation from 12\(^{th}\) September 2017 to 24\(^{th}\) October 2017.

1.5 Please use the response form available on the Council’s website to respond to this consultation. We prefer to receive your consultation responses online using the link below. However, you may also respond by email or post using the details below:

**Online (preferred) –** [https://planningconsult.rbkc.gov.uk/](https://planningconsult.rbkc.gov.uk/)

**Email –** planningpolicy@rbkc.gov.uk

**Post –** Planning Policy Team, Planning and Borough Development
Royal Borough of Kensington and Chelsea, Kensington Town Hall
Hornton Street, London W8 7NX

\(^1\) With consolidated changes including those made in the Local Plan Partial Review which is anticipated to be adopted in Spring 2018 – see [www.rbkc.gov.uk/localplan](http://www.rbkc.gov.uk/localplan)
2. What are Planning Contributions?

2.1 The Local Plan Partial Review identifies that the delivery of infrastructure through planning contributions is critical to the delivery of all its strategic objectives. The Community Infrastructure Levy (CIL) and planning obligations are the two types of planning contributions through which the Council can gain the necessary resources to assist the delivery of the infrastructure required to mitigate the impacts of new development.

2.2 The Planning Act 2008 introduced the ability for Local Planning Authorities to collect monies from developers for infrastructure using a mechanism called the Community Infrastructure Levy (CIL). The intention of CIL was to introduce a tariff based approach for funding new infrastructure which is more certain and transparent than the negotiation of planning obligations, is also fairer in that it can be charged on a larger number of developments. However, the introduction of a CIL charge is not compulsory, and there remain a number of non-infrastructure based contributions to which developers are required to contribute such as affordable housing that must still be secured and delivered through planning obligations.

2.3 The Royal Borough elected to introduce a CIL charge, which came in effect on 6 April 2015. The Council’s current CIL rates are set out in a CIL Charging Schedule and vary according to the nature and location of a development. In accordance with CIL Regulation 123, the Council has published a list on its website of infrastructure to be funded through CIL, for which contributions cannot also be taken through planning obligations. It is also important to note that for uses where a zero CIL rate has been set, S106 contributions cannot also be secured from these developments for infrastructure identified on the Regulation 123 list, as they remain eligible in principle for CIL. However, it is important to note that the Regulation 123 list also includes an exception for all categories of infrastructure for the Earls Court and Kensal Canalside Opportunity Areas. Infrastructure for these areas will be secured through planning obligations as set out in the Development Plan.

2.4 Within London, it is important to note that the Mayor of London has also introduced a CIL charge to contribute towards the funding of Crossrail and this is chargeable on qualifying developments within the borough at a rate of £50 per sq m. The Royal Borough is responsible for collecting the Mayor of London’s CIL.

Planning Obligations

2.5 Since April 2015, the primary mechanism for funding necessary infrastructure within the borough has been the Community Infrastructure Levy (CIL). However, planning obligations will still be required to mitigate matters that are specific to the site and to secure the delivery of non-infrastructure related planning contributions.
2.6 Planning obligations are secured through legally binding agreements between the Council as the local planning authority and a developer, and can involve financial or non-financial obligations. Their purpose is to make acceptable development which would otherwise be unacceptable in planning terms. They can be used to specify the nature of a development, compensate for loss or damage created by a development or address a development’s impact on the local area.

2.7 In some limited circumstances, the applicant for planning permission might be able to submit a unilateral planning obligation known as a ‘unilateral undertaking’. This is where the Council is not a party to the agreement, and does not make any covenants on the Council’s behalf.

2.8 In any case where a planning obligations legal agreement or unilateral undertaking is required, all parties with an interest in the development site must be a party to the agreement so that the agreement is acceptable to the Council, and enforceable to secure the delivery of the planning obligations concerned.

2.9 The legislative basis for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990 and the Community Infrastructure Levy Regulations (CIL) 2010. Section 106 (S106) planning obligations must meet the tests set out in CIL Regulation 122 that a planning obligation may only be a reason for granting planning permission for the development if the obligation is:
- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonable related in scale and kind to the development.

2.10 CIL Regulation 123 restricts the use of planning obligations for infrastructure that is capable of being funded by CIL to ensure that there is no duplication between the two types of developer contributions. The Council has published a list of infrastructure types and projects that it intends will be funded wholly or partly by its CIL charge which is known as the Regulation 123 List.

2.11 CIL Regulation 123 also restricts the pooling of S106 contributions so that no more than five developments may contribute to the same item of infrastructure. However, the government’s Planning Practice Guidance also makes clear that for provision not capable of being funded by CIL, such as affordable housing and other non-infrastructure obligations e.g. training, local planning authorities are not restricted in terms of the number of obligations that may be pooled, however, they must have regard to the wider policies on planning obligations set out in the National Planning Policy Framework (NPPF).

2.12 The Planning Practice Guidance also identifies that contributions for affordable housing and tariff style S106 planning obligations cannot be sought from small scale (10 residential units or less and combined gross internal area of no more than 1000 sq m) and self-build development. This follows the order of the Court of Appeal dated
13 May 2016, which gave legal effect to the Written Ministerial Statement of 28 November 2014. However, the Local Plan Partial Review identifies a lower threshold for affordable housing contributions of 650 sq m. This lower threshold is justified by viability evidence prepared in support of the Local Plan Partial Review which identifies that the extremely high land values in the borough mean that affordable housing contributions are not a disproportionate burden on development.

3. What Planning Obligations will be sought?

3.1 Planning obligations can only be used in certain circumstances as a reason to grant planning permission. The National Planning Policy Framework (NPPF) requires Councils to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition, should take account of changes in market conditions over time and be flexible enough to prevent planned development being stalled (NPPF, para. 203 – 206). The National Planning Practice Guidance is also clear that “the Government considers there is still a legitimate role for development-specific planning obligations to enable a local planning authority to be confident that the specific consequences of development can be mitigated” (paragraph 094, NPPG CIL).

3.2 Policy 8.2 of the London Plan outlines the Mayor’s approach to S106 planning obligations, and sets out that boroughs should provide clear frameworks for negotiating planning obligations in their development plan documents. The policy also states that development proposals should address strategic as well as local priorities in planning obligations and that the areas of highest strategic importance are affordable housing, the funding of Crossrail, and where appropriate other public transport improvements. The Mayor has produced supplementary planning guidance to further support the securing of these obligations. Other important uses for S106 funding that apply generally across London identified in the supporting text to Policy 8.2 includes measures to mitigate and adapt to climate change, the improvement of air quality, the provision of social infrastructure and small shops.

3.3 Policy C1 of the borough’s Local Plan Partial Review states that planning obligations will be negotiated on a case-by-case basis in accordance with current legislation, national policy and guidance. The policy outlines the factors that will be taken into account when determining what planning obligations are required to make a development acceptable in planning terms. These include the characteristics of the site, the infrastructure needs of the site and the surrounding area, and the London Plan. Proposals that form part of potentially wider sites will also be assessed in terms of the capacity of the site as a whole. The policy also addresses issues of viability stating that where a development is unable to deliver and the policy allows
for consideration of issues of viability, a viability study will be required for independent assessment.

3.4 Paragraph 29.2.6 of the supporting text to Policy C1 (as set out in the Local Plan Partial Review) outlines the types of planning contributions that the council may seek subject to the S106 tests in CIL Regulation 122:

Para 29.2.6 from Local Plan Partial Review Publication Policies
1. Environmental improvements - to buildings, the street (including townscape enhancements), improvements for inclusive design, utility provision, nature conservation and biodiversity measures, flooding and drainage and mitigating the effects of a development proposal
2. Economic initiatives - securing jobs for local residents, apprenticeships, work placements, community based initiatives, employment training schemes, the provision of small business units and affordable shops, and support for local procurement initiatives, workspace nurseries, flexibly sized accommodation and partnership with regeneration initiative.
3. Provision of affordable housing - including an appropriate mix of residential units
4. Provision of community, social and health facilities - including welfare, childcare, information and advisory centres, social service uses and facilities, education facilities including nurseries, health facilities including primary health care facilities and specialist functions linked to the health service and dentists, libraries and associated facilities, police and fire services infrastructure, affordable premises for voluntary and community organisations and churches and other religious facilities
5. Provision of transportation facilities – including facilities for walking and cycling, inclusive public transport and highway improvements to cater for the impact of the development and impact of the construction of development in relation to traffic, air quality and noise on the amenity of residents, and towards Crossrail where development within the Central Activities Zone (CAZ) or in other circumstances, would require this as a result of London Plan Supplementary Planning Guidance (SPG), and permit-free development
6. Conservation of buildings of architectural or historic interest and other conservation projects such as archaeological investigation
7. Sports, leisure, recreational and visitor facilities
8. Green infrastructure improvements – to the network of multi-functional open spaces in the borough including the creation of new public open space, improvements to existing open space, and securing public access to private open space
9. Cultural facilities – securing the provision of arts, cultural and entertainment facilities, cultural place making such as new works of art or performing arts space in association with development proposals
10. Play facilities – providing play provision through publicly accessible play space and facilities in new residential developments
11. Energy efficiency and renewable energy
12. Utility infrastructure requirements – including water, foul drainage and sewage treatment, and energy utilities
13. Waste management and recycling to mitigate the impact of the development
14. Land charges, legal, project management, monitoring and implementation costs, and management and maintenance costs on completion

3.5 This SPD will necessarily focus on those contributions which are not contained within the Council’s Regulation 123 List for CIL. These include:

- Affordable housing
- Public Art
- Site specific highways, transport and public realm measures
• Parking restrictions
• Travel plans
• Carbon offsetting and renewable energy mitigation.
• Employment and training

3.6 Further details of when and how these obligations will be secured is set out in the remainder of the document. It should be noted that this is not an exhaustive list, but details the standard obligations and charges that will be frequently sought.

4. Approach to Opportunity Areas

4.1 Opportunity Areas are key sources of housing supply in London identified in the London Plan. The Royal Borough contains two Opportunity Areas – Kensal Canalside and Earls Court (part). By their nature, they are complex to bring forward and often require significant investment in infrastructure. The Mayor, through his Affordable Housing and Viability SPG, encourages boroughs to take a more localised approach to planning contributions including affordable housing in these areas. The Local Plan Partial Review identifies such an approach for the Earl's Court Opportunity Area, and a proposal to prepare a separate SPD for the Kensal Canalside Opportunity Area which will also address issues of infrastructure. The CIL Regulation 123 List also includes an exception for infrastructure provision within these allocations to be secured through S106 for any infrastructure required in accordance with the Development Plan.

5. Negotiating Planning Obligations

5.1 This SPD seeks to ensure that the process for negotiating planning obligations is fair and consistent with this document and as such it can be used as a clear starting point for the negotiation process. It is capable of being used by the Council as a material consideration when assessing planning applications. Applicants should draw on this document, together with the CIL Charging Schedule and Planning Contributions calculator, to assist in their costings.

5.2 Developers should start discussions on planning obligations requirements with the Council as soon as possible, ideally during the pre-application stage where appropriate. The ‘Heads of Terms’ of any planning agreement will need to be finalised before applications are reported to committee for decision. Where planning obligations are required to make a development acceptable, planning permission will only be granted once the S106 agreement between the Owner (which usually includes the Freeholder and any persons with an interest in the Land, for example any leaseholders where applicable), any beneficiary of a legal charge (e.g. a bank) and the Council has been completed. Planning permission may be refused in circumstances where the required S106 legal agreement or unilateral undertaking is
not sufficiently completed or executed within the appropriate timescale i.e. 8 or 13 weeks.

5.3 A planning obligation can be financial, in which case it will require a sum or sums to be paid to the Council on a specified date or on particular trigger points as appropriate, for example on the commencement or completion of development. A planning obligation can also be non-financial in which case it might restrict the use of land in any specified way; require specified operations or activities to be carried out in, on, under or over the land; or require the land to be used in a specified way.

5.4 It should be noted that on referable schemes, the Greater London Authority and Transport for London may also require planning obligations such as highways works on the strategic road network. Transport for London may also need to be included as a party in the S106 agreement for works funded on the strategic transport network.

**Index Linking**

5.5 Contributions sought from developers will be index linked in the S106 legal agreement, in order to maintain the value of the contribution. The Retail Price Index is the measure of inflation that will be used to calculate index payments. A standard formula for calculating indexation will be set out within the legal agreement.

**Late Interest Payments**

5.6 Interest will be charged on late payment of planning obligations from the date of default until the contribution(s) have been paid in full.

**Legal Fees**

5.7 The Council’s full legal fees in drafting, negotiating, preparing, checking and the anticipated completion and post completion costs incurred for a Section 106 agreement or unilateral undertaking will have to be paid (by the applicant or owner of the land as applicable) before the Agreement or Undertaking is executed and completed. The Council’s full legal fees will also have to be paid in the event of the agreement/ undertaking not being completed for whatever reason, or where planning permission is refused or where the applicant does not proceed with the development or proposal. The Council’s legal fees are charged at an hourly rate based on the number of hours dealing with the case.

5.8 The legal adviser acting for the applicant or owner of the land (as applicable) will be expected to provide the Council’s legal adviser with an undertaking to pay the Council’s reasonable legal fees whether or not the matter proceeds to completion at the outset of the matter before any work is commenced by the legal department.
5.9 Where applications are referred to the Mayor of London and Transport for London, and legal input is required in drafting and preparing a Section 106 Agreement, their legal fees will also be met by the developers.

Local Land Charge

5.10 Planning obligations are registered as a Local Land Charge and as such would come to the notice of a prospective buyer of the land. The Council will require that they will also be registered against the title to the land at the Land Registry.

Referrals, call-ins and appeals

5.11 The Mayor of London must be consulted on planning applications that are considered of potential strategic importance. He can comment on and support these applications or, if he considers it necessary on strategic planning grounds, he can direct the Royal Borough to refuse planning permission if he is not satisfied that the proposed conditions and obligations will, in his opinion, make the development acceptable in planning terms. The applicant has the right then to appeal to the Secretary of State and at that stage the Mayor may state what obligations should be included in a legal agreement/unilateral undertaking. Further changes to the Mayor’s powers will be taken account of through applying the provisions of this SPD.

5.12 Planning applications may be appealed, or the Secretary of State may call-in an application for his determination. In such cases, the Council will be unable to negotiate a planning obligation, as the Secretary of State/Planning Inspectorate will decide this. However, the developer can submit a unilateral undertaking and the Council will, in cases where the development would be acceptable if planning obligations were secured, seek to negotiate with the developer and would set out the nature of the planning obligations which would be sought.

6. Assessing Viability

6.1 Understanding viability has become critical both to demonstrating the overall delivery of proposals set out in the Local Plan Partial Review and in the determination of planning applications if required by planning policy. The Council recognises that in specific instances planning obligations may be a significant factor that affects development viability. However, planning obligations are a necessary cost of development and it is expected that the likely cost of obligations will have been factored into the development costs from an early stage. The onus will therefore be on the developer to provide robust information regarding the viability of an individual scheme.
Policy Context

6.2 Paragraph 173 of the NPPF requires that careful attention is paid to viability to ensure that the scale of obligations do not threaten the viability of development, and allow for competitive returns to a willing land owner and willing developer. The policies in the Local Plan Partial Review have been tested for their impact on scheme viability during its development, and are considered to be sufficiently flexible to prevent planned development being stalled. However, where safeguards are necessary to make a particular development acceptable in planning terms (such as environmental mitigation or compensation), paragraph 176 of the NPPF is clear that development should not be approved if the measures required cannot be secured through appropriate conditions or obligations.

6.3 With reference to deciding planning applications, the National Planning Practice Guidance identifies that whilst decision-taking on individual applications will not normally require consideration of viability, where the deliverability of a development may be compromised by the scale of planning obligations, a viability assessment may be necessary. The Council considers that such an assessment is unlikely to be necessary for the majority of planning applications as the cost of planning obligations including affordable housing should have been factored in at the earliest stages of land purchase and/or scheme design and costings. The National Planning Practice Guidance does not identify a single approach for assessing viability, instead recognising that there are a range of methodologies available. However, it does identify the following key factors to be taken into account when the assessment of viability is required:

- Gross Development Value
- Costs
- Land value
- Competitive return to developers and land owners

6.4 At a London level, the Mayor of London has sought to provide further guidance on the most appropriate method for assessing development viability in support of delivering the requirements of the London Plan through the Mayor’s Affordable Housing and Viability Supplementary Planning Guidance (SPG) published in August 2017. This SPD takes account of the guidance in the SPG. Detailed guidance is provided on viability assessments aiming to establish a standardised approach to viability across London. It sets out the information and assumptions that should be included within viability appraisals, and is explicit about the Mayor’s preference for the Existing Use Value Plus as the comparable Benchmark Land Value when assessing the viability of a proposal. Standards are also proposed on transparency and the use of review mechanisms. Finally, the Mayor’s SPG also introduces the threshold approach to viability assessments for affordable housing. This establishes that any schemes which meet the Local Plan Partial Review’s target and provide 35
per cent of housing as affordable (without the use of public subsidy) will not be required to submit a viability appraisal.

6.5 In terms of local planning policies, the Council has fully considered the cumulative impact of its policy requirements on development viability as part of the preparation of its Local Plan Partial Review and the CIL Charging Schedule. This has demonstrated the general viability of development in Kensington and Chelsea, and given a strong indication that the requirements of planning policies will not threaten the viability of sites in the borough. This evidence supports the expectation from the Council that in general, the scale of planning obligations identified in this SPD is deliverable.

Viability Assessment Process

Pre-application Advice

6.6 The Council strongly recommends that pre-application advice is sought before making a planning application. This provides an opportunity to enter into discussions regarding planning obligation requirements with Council officers so that the nature of planning obligations that are likely to be required for a particular development are made known to the developer as early as possible in the planning process using the SPD as a basis. These early discussions help to ensure that formal applications can be dealt with in a more certain and speedy manner and allow for the S106 legal agreement or unilateral undertaking to be executed and completed as soon as practicable.

6.7 Where planning obligations will be required, the pre-application stage offers the opportunity to identify the draft S106 Heads of Terms and to consider viability appraisals prior to submission.

Planning Applications

6.8 The Local Plan Partial Review requires that an open book viability appraisal is submitted for all applications where policy requirements will not be met and the relevant policy allows for consideration of viability issues. Viability appraisals should be submitted alongside other application documents and should include all relevant information as set out in this SPD.

6.9 In line with the Mayor’s threshold approach to viability, as set out in the Local Plan Partial Review, where schemes meet or exceed the Partial Review’s affordable housing target of 35 per cent without public subsidy, provide affordable housing on-site, meet the specified tenure mix, and meet other planning requirements and obligations to the satisfaction of the council and the Mayor where relevant, they will not be required to submit viability information. Such schemes will however be subject to review mechanisms.
6.10 In appropriate cases where S106 requirements are known, developers will be required to submit draft or executed unilateral planning obligations as part of their planning application. Where a unilateral obligation is not appropriate, developers should use this SPD to submit and identify the Heads of Terms of the S106 agreement with their planning application, using the Royal Borough’s standard legal agreements. Copies of the Council’s preferred form of standard legal agreement is available from the Council’s website.

**Guidance on Viability Appraisals**

6.11 Viability evidence will be assessed by the Council, which will normally take advice from an independent third party of the Council’s choice. The Council will require its reasonable costs associated with the use of an external assessor or any other necessary valuation advice to be paid for by the developer following the assessment being carried out.

6.12 The overall aim of the appraisal is to establish that when the Local Plan policy allows for consideration of viability, whether the level of contributions is the maximum or whether greater policy compliance could be achieved. When assessing an applicant’s viability evidence, the Council or its consultants may request clarification or additional information. In this instance, all correspondence should be copied directly to the Council.

6.13 The applicant should also provide a detailed explanation of all the inputs and assumptions used in their viability appraisal. Where use is made of a viability model, the Council should be provided with the full working models and/or all of the assumptions and calculations included in the modelling so that these can be tested and interrogated. This will also allow officers to vary assumptions to determine the impact on viability.

6.14 To ensure consistency with the London-wide approach proposed by the Mayor and to avoid unnecessary duplication, applicants should follow the requirements for viability appraisals set out in the Mayor’s Affordable Housing and Viability SPG. In particular, the Council will require the use of the Existing Use Value plus premium approach to determine benchmark land values, as set out in paras. 35.3.40 and 35.3.41 of the Local Plan Partial Review.

**Viability Reviews**

6.15 The Local Plan Partial Review supports the use of review mechanisms when financial viability assessments demonstrate that current market conditions will support less than the target for affordable housing in policy CH2. Also known as contingent obligations, these can oblige the applicant to resubmit a financial appraisal at various trigger points. This approach recognises that the costs, values
and other factors of a scheme can alter significantly from the point at which planning permission was granted, and ensure that any improvements in the viability of a scheme will contribute towards meeting minimum policy requirements. All review mechanisms will be capped at the level of policy compliance. The Mayor of London also supports the use of such mechanisms through the Affordable Housing and Viability SPG. Reviews in Kensington and Chelsea will be undertaken based on the process and formulas outlined in the Mayor’s SPG, which will be set out in S106 agreements to provide transparency.

**Transparency**

6.16 The Council recognises the importance of public participation and the availability of viability information in the planning decision making process. The onus will be on the applicant to make a case for exceptional circumstances in relation to any element of their assessment, which the Council will consider with references to the 'adverse effect' and overriding public interest tests in the Environmental Information Regulations 2004 (EIR).

### 7. Standard Charges and Obligations for S106

7.1 Where a development will require affordable housing or site specific mitigation which is not included on the CIL Regulation 123 List, and is in compliance with the tests set out in CIL Regulation 122, a planning obligation will be required. The sections that follow set out those charges and obligations which the Council envisages being frequently required through S106 agreements which meet the eligibility requirements set out.

7.2 While this is intended to provide clarity and transparency for the planning process, it does not form an exhaustive or complete list of planning obligations which might be required in every case. Some developments may require a specific form of mitigation to be acceptable in planning terms and mitigate all site specific impacts; and this will be determined on a case by case basis. There may be also be cases where infrastructure provision necessary to make a development acceptable cannot be delivered on site, in which case the Council will expect off-site contributions, whether as alternative provision or a commuted sum.

### Pooling of Funds

7.3 The CIL Regulations place a limitation on the pooling of S106 contributions. Planning obligations may only be sought from a maximum of up to five separate planning applications for projects or types of projects that could otherwise be funded by CIL. The Council will identify specific projects for these types of obligations to ensure that the applicability of the restrictions is clear.
However, it is important to note that this limit does not apply to items that are not capable of being funded through CIL. This includes all non-infrastructure obligations such as affordable housing or employment training contributions.

### 8. Diversity of Housing

8.1 This section of the SPD explains the Royal Borough of Kensington and Chelsea’s approach to the delivery of affordable housing through S106 planning obligations. It is supplementary to, and expands upon, the development plan policies for affordable housing which are listed below. It explains how the policies will be applied and provides additional information on what will be expected when dealing with planning applications for development for which a proportion of affordable housing is required.

#### Policy and Guidance

- **London Plan Policies**
  - 3.8 Housing choice
  - 3.9 Mixed and balanced communities
  - 3.10 Definition of affordable Housing
  - 3.12 Negotiating affordable housing on individual private residential and mixed use schemes
  - 3.13 Affordable housing thresholds

Mayors of London Housing Supplementary Planning Guidance May 2016
Mayor of London Affordable Housing and Viability Supplementary Planning Guidance August 2017

- **Local Plan Partial Review**
  - CH2 Affordable Housing
  - CH5 Estate Renewal

#### Affordable Housing

**Threshold**

8.2 Policy CH2 of the Local Plan Partial Review seeks to achieve the maximum reasonable amount of affordable housing by requiring sites that provide 650sqm or more gross residential floor space (GIA) to provide 35 per cent of residential floorspace as affordable. Once the 650sqm threshold is met, all gross residential floorspace is liable for an affordable housing contribution. The policy is also clear that provision of affordable housing should be on-site unless exceptional circumstances can be demonstrated to justify off-site provision or a payment in lieu.
Requirements

8.3 Where a qualifying scheme does not provide 35 per cent of gross residential floorspace (GIA) as affordable floorspace on-site, policy CH2 requires the applicant to demonstrate that the maximum reasonable amount is being provided through the provision of an open book financial viability assessment together with evidence of the exceptional site circumstances or other public benefits to justify the reduced affordable housing provision.

8.4 Applicants should follow the appraisal requirements set out in Section 6 of this SPD and Part 3 the Mayor’s Affordable Housing and Viability SPG. Applicants should present affordable housing figures as a percentage of total residential provision by habitable rooms, by units, and by floorspace.

Off-site Provision

8.5 On-site provision is the borough’s normal requirement for how affordable housing will be provided. However, both the Local Plan Partial Review and the London Plan recognise that there may be exceptional circumstances where on-site provision is inappropriate in terms of the policies in the development plan. Examples of where it may be accepted are (NB this list is not exhaustive):

- Where ongoing necessary costs of a considerable amount would be incurred by the occupants of the affordable units of a development, such as necessary and reasonable service charges.
- Where certain affordable housing types (e.g. size or tenure) cannot be easily accommodated or would be unsuitable on sites.
- On small sites where it is not practical from a design or management perspective to provide a small number of on-site affordable units, and that this has been confirmed with a number of registered providers.
- Where an offsite scheme would secure a significantly higher level of provision.

8.6 In instances where it is accepted that off-site provision is appropriate, the onus will be upon the developer to find and acquire a more suitable site which would not otherwise be expected to come forward for affordable housing, within the vicinity of the originating development. In such instance the amount of affordable housing will be negotiated and secured through a S106 agreement. Off-site provision should be financially neutral i.e. there should be no financial advantage to a developer in providing the housing this way.

8.7 Policy CH2 requires that in such circumstances, applications for the off-site affordable housing should be made concurrently with the main planning application and that the two applications are linked through a S106 agreement or unilateral undertaking.
Payments in Lieu

8.8 Where neither an on-site or off-site contribution is possible, the London Plan (Policy 3.12 and the supporting text) provides guidance for where payment in lieu of provision may be accepted. Paragraph 35.3.36 of the Local Plan Partial Review in support of Policy CH2 tailors these circumstances to the borough as follows:

- Secure a significantly higher level or provision; and/or
- Better address priority needs as indicated in the Council’s most up-to-date published needs assessment.

8.9 If the principle of a payment in lieu for affordable housing has been accepted, the process for calculating the value of payments in lieu is set out in Policy CH2. It is based on the principle that replacing on-site affordable housing provision with a payment in lieu should be financially neutral for the developer.

8.10 Applicants are required to provide two viability appraisals comparing residual land values on a site-by-site basis – one reflecting the maximum reasonable amount of affordable housing provision on-site and the second with 100% private housing. The two agreed residual land values will then be compared to the existing use value plus premium benchmark. If the residual land value of the scheme with affordable housing equals or exceeds the benchmark land value, then a payment in lieu is calculated using the formula set out below. In situations where a scheme that meets the Council’s affordable housing target would be unviable, the affordable housing percentage should be adjusted downwards until the scheme becomes viable.

**Payment in Lieu Formula**

Where the residual land value of a scheme with affordable housing exceeds the benchmark land value, the value of the payment in lieu will be calculated using the following formula:

\[
\text{Residual Land Value - all private housing} \\
\text{Less} \\
\text{Residual Land Value with maximum reasonable amount of affordable housing} \\
\text{Equals} \\
\text{Value of payment in lieu}
\]
8.11 All financial contributions received from payments in lieu will be placed in the Council’s Affordable Housing Fund, which is a specific interest bearing account administered by the Housing Department. The Fund is only used for the provision of affordable housing within Kensington and Chelsea in accordance with policy and procedure determined by the Royal Borough. The Council also intends to spend affordable housing payments on projects such as ‘Hidden Homes’ to deliver more affordable housing.

**Vacant Building Credit**

8.12 National policy provides an incentive for brownfield development on sites containing vacant buildings. Generally, known as the vacant building credit, it requires that the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace. The Local Plan Partial Review is clear that the Council considers that the vacant building credit should not apply to development in the borough. This is because given the central London location and highly dense character of Kensington and Chelsea, all sites are brownfield and the vacant building credit will not bring forward more development. This approach has been endorsed by the Mayor’s Affordable Housing and Viability SPG (August 2017).

**Securing Affordable Housing**

8.13 The preferred method for securing affordable housing is via a S106 legal agreement. This is to ensure that affordable housing continues to be affordable to those in housing need, and managed to standards set by the relevant requirements.

8.14 The proposed number and tenures of affordable units, the gross internal floor area and the number of bedrooms in each unit, will be stated in the legal agreement or unilateral undertaking. All parties with an interest in the land will be bound by the legal agreement or unilateral undertaking.

**9. An Engaging Public Realm**

**Public Art**

9.1 The Local Plan highlights how public art can promote civic pride and help create a sense of place and promote local distinctiveness. The provision of public art and artistic features will therefore be sought as an integral element to major development.
Policy and Guidance

London Plan Policies
7.5 Public Realm

Local Plan Partial Review
CR4 Streetscape

Threshold
All major developments will be required to make a contribution to Public Art. A major development is defined as development capable of providing 10 residential units or more, or of an area of 0.1 hectares or more irrespective of the number of units or 1,000 sq m or more for any other use (office, retail, industry, community, and leisure)

Requirements
9.2 Policy CR4 requires that all qualifying developments provide new public art that is of high quality and either incorporated into the external design of the new building, or carefully located within the public realm. The public and artist designed elements should be up to 1% of the value of the development.

9.3 The artwork is expected to be free-standing from the development or independently commissioned, supporting the Arts and Culture Policy. The overall public art provision will be subject to consideration in light of other planning obligations sought, and the design and architectural merits of the development proposed.

9.4 As appropriate, the funding of art can be by means of a sum set aside to be spent by the developer or a financial contribution to the Council. A transparent process of commissioning public art work, involving professional art organisations and/or stakeholder community engagement will be expected and will be overseen by the Council’s Public Art Panel.

9.5 The Public Art Panel acts as an advisory panel to the Cabinet Member for the Arts when making decisions about public art. The Public Art Panel encourage the installation and inclusion of high quality public art in developments by developers and will also consider works that are permanent or semi-permanent destined to be installed on the public highway.
10. Better Travel Choices

10.1 The Local Plan Partial Review seeks to ensure that new developments include all the facilities that will enable residents, workers and visitors to make the most sustainable travel choices. Whilst strategic transport and connectivity infrastructure items will be funded through CIL contributions where appropriate, some transport and connectivity measures directly related to the site may also be required to make a development acceptable in planning terms, particularly where they generate new transport demand or have significant transport impacts. Planning obligations may therefore be sought for site specific traffic and highway works, contributions to public transport not capable of being collected through CIL (i.e. revenue funding of bus services), parking restrictions, travel plans or other management plans. Further guidance can also be found in the Council’s Transport and Streets Supplementary Planning Document.

### Policy and Guidance

**London Plan Policies**
- 6.2 Providing public transport capacity and safeguarding land for transport.
- 6.3 Assessing effects of development on transport capacity
- 6.5 Funding Crossrail and other strategically important transport infrastructure
- 6.7 Better streets and surface transport
- 6.11 Smoothing traffic flow and tackling congestion
- 6.12 Road network capacity
- 8.2 Planning Obligations

Crossrail Funding SPG (March 2016)

**Local Plan Partial Review**
- CT1 Improving alternatives to car use

RBKC Transport and Streets Supplementary Planning Document (2016)

### Highway and Traffic Works

**Threshold**
All developments dependant on the nature of the proposals and the extent of the need for highway and traffic mitigation works to be carried out as a result of the proposals.

**Requirements**
10.2 Many developments, by generating additional trips or by changing the way a site is accessed, will have significant impacts on the surrounding highway network and/ or
public realm. Policy CT1 of the Local Plan Partial Review requires all major developments to submit a transport assessment at the application stage to outline the impact of a major development on the transport network and to recommend mitigation measures required. These assessments will be used to identify the types of obligations that will be secured through S106 obligations to make the development acceptable.

10.3 Examples of works that may be required include traffic calming measures, new road alignments, junction improvements and footway improvements. Such contributions may take the form of a financial payment towards the delivery of mitigation works, the safeguarding of land to provide the works in the future, or an obligation to deliver the mitigation as part of the on-site works.

10.4 Where the site specific impacts of a development are more appropriately mitigated by a Section 278 (S278) agreement or ‘highways agreement’ this will be used to secure the measures required. The S106 pooling restrictions do not apply to S278 highways agreements.

**Public Transport**

**Threshold**
The scale of development that would require development contributions towards improvements in public transport provision or in access to existing public transport facilities will depend on site-specific circumstances including the public transport accessibility level, and the likely demand for public transport services.

**Requirements**

10.5 Through Policy CT1(j), the Local Plan Partial Review requires that new development is connected into the existing public transport networks, and that any negative impacts on the local or wider connectivity of the area mitigated. Planning obligations will be used to secure mitigation of site specific impacts and take advantage of any opportunities to enhance the wider transport networks where related to the site and which cannot be funded through CIL. Examples of obligations that may be required include connections to the local bus and cycle networks, relocation of bus stops, and revenue contributions for the provision of new or enhanced bus services serving the site.

**Crossrail/ Elizabeth Line (Central Activities Zone only)**

**Threshold**
All major developments within the Central Activities will be required to make a contribution to Crossrail. A major development is defined as development capable of providing 10 residential units or more, or of an area of 0.1 hectares or more
irrespective of the number of units or 1,000 sq m or more for any other use (office, retail, industry, community, and leisure) Requirements

Requirements

10.6 The borough is responsible for collecting Crossrail funding on behalf of the Mayor through both the Mayoral CIL and planning obligations. The two types of developer contribution operate in tandem with Mayoral CIL payments offset against Crossrail S106 where necessary. Any remaining S106 charge will be payable as a ‘top up’ in addition to the CIL charge. If the CIL charge is greater than the S106 Crossrail charge there will be no S106 Crossrail charge.

10.7 The Mayor’s CIL in Kensington and Chelsea is £50 per sq m and applies to all those developments which are liable as per the CIL regulations. The S106 charge for those small parts of the borough which are in the Central Activities Zone as shown on the Proposals Map are:

- Office – £140 per sq m
- Hotel - £61 per sq m
- Retail - £90 per sq m

10.8 The Mayor recently published a Preliminary Draft Charging Schedule for a second Mayoral CIL (MCIL2) for consultation from 26 June 2017 to 7 August 2017. It is intended that the MCIL2 will be collected to fund Crossrail 2, and will be charged from April 2019 once the current Mayoral CIL ends in March 2019.

Parking Restrictions

Threshold

10.9 Local Plan Partial Review Policy CT1(c) requires ‘that all new additional residential development be permit-free’.

Requirements

10.10 Full details regarding the implementation of this policy are set out in the Council’s Transport and Streets SPD 2016, which identifies that permit-free provisions will be secured by legal agreement.

Travel Plans

Threshold

10.11 Travel Plans are required at the application stage for the following scale and type of development:

- those of 80 residential units or more;
• commercial developments of more than 2500m² (26,896ft²) GFA;
• retail developments of 1000m² (10,758ft²) or more;
• hotels with 50 beds or more; and
• schools or childcare facilities of any size.

Requirements

10.12 The measures set out in the Travel Plan will be secured by way of a condition on the permission or a S106 planning obligation. In addition, the Council will require developer funding by planning obligation for the monitoring and review of Travel Plans. Further details on the requirements for Travel Plans are set out in the Council’s Transport and Streets SPD.

11. Respecting Environmental Limits

11.1 A strategic aim of the Local Plan Partial Review is to contribute to the mitigation of and adaptation to climate change; including through the significant reduction of carbon dioxide emissions. Vehicles, including those passing through the borough, the heating and cooling of buildings and the use of biomass are all significant emitters of gases and increase air pollution. Tackling these issues is central to improving our resident’s quality of life.

Policy and Guidance

London Plan Policies
5.2 Minimising Carbon Dioxide Emissions
5.7 Renewable Energy
7.14 Improving Air Quality

Mayor’s Housing Supplementary Planning Guidance (March 2016)
Mayor’s Sustainable Design and Construction Supplementary Planning Guidance (April 2014)
Energy Planning - GLA guidance on preparing energy assessments (March 2016)

Local Plan Partial Review
CE1 Climate Change
CE2 Flooding
Carbon Offsetting

Threshold
11.2 All residential units in a major residential development. A major residential development is defined as development capable of providing 10 residential units or more, or of an area of 0.1 hectares or more irrespective of the number of units.

Requirements
11.3 It is recognised that the emission of carbon dioxide can be lowered by reducing the amount of heat and energy we used in our buildings, through energy efficient design, materials and construction.

11.4 The London Plan and Local Plan Partial Review both seek to ensure that new development proposals make the fullest contribution to minimising emissions in accordance with targets for minimum standards which are designed to lead to zero carbon residential buildings. The Mayor’s Housing SPG confirms the London Plan policy on ‘zero carbon’ homes. Zero carbon homes are defined as ‘homes that form part of major development applications where the residential element of the application achieves at least a 35 per cent reduction in regulated carbon emissions (beyond Building Regulations Part L 2013) on-site’. The remaining regulated carbon emissions up to 100 per cent are to be offset through a cash in lieu contribution to the relevant borough. Policy CE1 as revised in the Local Plan Partial Review requires an assessment to demonstrate that major residential development meets these carbon reduction requirements set out in the London Plan.

11.5 Where an energy assessment demonstrates that the carbon savings required cannot be delivered on-site, the remaining regulated emissions will incur a charge in the form of a cash in lieu payment to the Council’s carbon offset fund which will be secured through a S106 legal agreement.

11.6 For all residential units in major developments the payment required is based on the nationally recognised ‘Zero Carbon Hub’ price per tonne of carbon dioxide of £60, offset over 30 years as set out in the Mayor’s Sustainable Design and Construction Supplementary Planning Guidance. This gives an overall price of £1,800 (£60 x 30 years) per tonne of carbon to be offset. The tonnes of carbon that will need to be offset should be clearly set out in the applicant’s energy statements as recommended in the GLA’s Energy Planning Guidance.

11.7 Contributions to the Council’s Carbon Offset Fund will be spent on measures that will reduce carbon emissions in the borough such as retro-fitting the existing housing stock with energy efficiency measures or the funding of renewable energy generation on existing public buildings.
Renewable and Decentralised Energy

Threshold

11.8 All major developments. A major development is defined as development capable of providing 10 residential units or more, or of an area of 0.1 hectares or more irrespective of the number of units or 1,000 sq m or more for any other use (office, retail, industry, community, and leisure) Requirements

Requirements

11.9 The Local Plan Partial Review states the Council’s intention to take a leading role in identifying new and existing opportunities for decentralised heat and energy networks through heat and energy master planning. To deliver this the Council, through policy CE1 requires that carbon dioxide and other greenhouse gases in all major developments are reduced in accordance with the following hierarchy:

i. energy efficient building design, construction and materials, including the use of passive design, natural heating and natural ventilation;
ii. provision of on-site renewable and low-carbon energy sources;
iii. decentralised heating, cooling and energy supply, through Combined Cooling Heat and Power (CCHP) or similar, while ensuring that heat and energy production does not result in unacceptable levels of local air pollution in particular on site allocations such as Kensal, Womrington Green, Latimer and Earl’s Court

11.10 Where necessary the provision of on-site renewable energy and decentralised energy generation will be secured through planning obligations.

12. Fostering Vitality

12.1 Policy C1 of the Local Plan Partial Review which sets out the Council’s approach to securing planning obligations, identifies various employment and training measures that may be sought through planning obligations. These could include apprenticeships, work placements, construction training, job brokerage, general employment and training contributions, the provision of small business units and support for local procurement initiatives. The Mayor of London is also clear that strategic development proposals should support local employment, skills development and training opportunities.
Construction Phase – Skills, Training and Employment

Threshold

12.2 All major developments will be required to make a contribution to construction training. A major development is defined as development capable of providing 10 residential units or more, or of an area of 0.1 hectares or more irrespective of the number of units or 1,000 sq m or more for any other use (office, retail, industry, community, and leisure).

Requirements

12.3 The Council will seek to secure access for residents to the jobs created by the construction of the new development. There will be an obligation upon the developer, their main contractors and subcontractors to notify all job vacancies generated during the preparation, construction and operational phase of developments. The Council will require the monitoring of the proportion of residents employed during the development through the submission of a regular report by the developer.

12.4 On qualifying schemes with an anticipated construction cost over £30 million, the council will primarily seek for these obligations to delivered in house by the developer. Where such construction and end-user obligations are agreed, developers and occupiers will be required to work with the council to develop a Construction Training Agreement (CTA). Funding to deliver the CTA will be the responsibility of the developer. The developer will be required to work closely with the Council's Economic Development team to develop the content and support the delivery of plans. A fee of £3,000 will be required by the Council to cover the project management and compliance checking costs of the Economic Development team in overseeing the delivery of each CTA. These are based on current costs as of financial year 2017-18.

12.5 CTAs will be expected to comply with the following requirements:

- **An Employment and Skills Plan**: The developer will need to produce an employment and skills plan outlining the approach they will take to delivering
target employment, apprenticeship outcomes and engagement with schools and education providers.

- **A single point of contact** (Workplace co-ordinator where appropriate): To manage demand and to provide regular skills forecasting updates.

- **Notification of vacancies**: Arrangement should be put in place for the notification of job vacancies, arising from construction, to the Council (Economic Development Team) and/or any other agency nominated by the Council.

- **Trainee/apprenticeship placements/education programmes**: To offer an agreed number of training opportunity/apprenticeships over the life time of a construction contract. These work-based placements will be available to candidates nominated by the Council (or another agency as agreed by the Council) who are seeking recognised Level 2 or above NVQ qualifications. The Council is willing to consider developments adopting recognised models, such as the Client Based Approach from The Construction Industry Training Board (CITB), which provides an approach to defining apprenticeship and trainee numbers along with other performance indicators.

- **Accredited training**: Training opportunities must follow an accredited framework, to provide trainees with the right level of skills to enter and sustain employment within the construction sector. Generally, a minimum of NVQ Level 2 (e.g. CITB Construction Skills Modern Apprenticeship) for trainees will be sought, which will require the developer (either directly or via the build contract and supply chain) to employ trainees and support day release arrangements until attainment of their qualification.

12.6 Where the construction value is below £30 million, or where developers choose not to implement a CTA in house, a financial contribution will be sought to deliver a package of training and skills activity for local residents, including job brokerage, sector related training and pre-employment training related to the construction sector and supply chain employment. The Council will use the following formula to calculate the value of the contribution.
General and End-User Employment & Training Contributions

**Threshold**

12.7 Major commercial developments defined as 1,000 sq m or more of any office, retail, or industrial use. Additionally, any development that is likely to employ in excess of 50 employees will be required to make a contribution towards training measures.

**Requirements**

12.8 In order to maximise employment opportunities for local people who need work, the Council will seek to secure planning obligations relating to job-brokerage and skills training from all new major commercial developments. These obligations will be utilised for the recruitment and development of skills and career paths of local people. This reduces travel to work distance, increases local household income, skill levels and career opportunities and helps community cohesion.

12.9 The contribution required will be related to the number of jobs created by the development. The formula takes account of the likely number of jobs created by the development, and the target number of jobs for local residents in need of training and assistance to access the types of jobs being created.
Use of Local Suppliers

Threshold

All major developments will be required to promote the use of local suppliers. A major development is defined as development capable of providing 10 residential units or more, or of an area of 0.1 hectares or more irrespective of the number of units or 1,000 sq m or more for any other use (office, retail, industry, community, and leisure).

Requirements

The Council will seek opportunities to ensure that local businesses benefit from the construction and successive use of developments. The Council will expect developers of major schemes to work to promote and advertise tender opportunities locally wherever possible, and to achieve the procurement of construction contracts and goods and services from companies and organisations based in the borough.

**Formula**

\[
A \times B \times C
\]

Where:

- **A** - Number of new jobs created
- **B** - 8%
- **C** - £6,500

**Guidance**

A – Net new floor area (GIA)/ number of employees per sq m taken from the most up-to-date Employment Density Guide (currently HCA 2015)

B – Proportion of RBKC residents unemployed and seeking work.

C – Average cost of job training/ support per person as benchmarked against figures for the DWP Work Programme (July 2014) supporting a JSA claimant into sustained work (NB. the cost of training will be index-linked and reviewed annually through the Monitoring Report).
Developers will be expected to brief subcontractors on the requirements of the agreement, and ensure cooperation is agreed as a pre-requisite to accepting sub-contract tenders, and include a written statement in contracts with sub-contractors encouraging them to work with local businesses.

The Council will require agreement on regular monitoring and information to be provided in respect of contract tendering activity, and the outcomes with regard to local businesses. Opportunities to ensure that local businesses benefit from the construction phase and successive use of developments will also be secured through appropriate planning obligations. Further information is available from the Council’s Economic Development Team.

Opportunities will be sought to ensure that local businesses benefit from the construction and successive use of developments. The Council will expect developers to work with it to promote and advertise tender opportunities wherever possible, and to achieve the procurement of construction contracts and goods and services from companies and organisations based in the borough.

The Council’s Local Procurement Code available from the Economic Development Team sets out the obligations on the developer that will be sought and establishes the actions and responsibilities of primary and sub-contractors, which will be passed on to them by the developer.

The Code sets out how the developer will work with the Council to provide opportunities for local businesses through:

- Sharing of procurement schedules.
- Identification and marketing of opportunities for local businesses.
- Passing on of obligations to sub-contractors through contracts.
- Monitoring and reporting of outcomes.
- Generation of post-construction opportunities for local businesses.

The Code also sets out the financial contributions that may be sought from developers which will be put toward the costs of facilitating this process, i.e. identifying and screening appropriate local enterprises, brokerage with contractors and owners, periodic Meet the Buyer and business briefing events, maintaining a directory of suppliers and performance monitoring.
13. Delivery of Planning Obligations

Monitoring

13.1 It is important that developers entering into S106 planning obligations know where, when and how their money will be spent. The Planning and Borough Development department takes a strategic lead on the overall receipt, monitoring and programme management of financial contributions, working with other parts of the Council and relevant external agencies such as Transport for London.

13.2 Planning obligations are enforceable by the Council as the local planning authority under the Town and Country Planning Act 1990. Payments are usually required on commencement of development unless otherwise specified in the agreement to be phased according to impact and need. The total value of the agreed planning obligation will exclude the monitoring costs set out in this section. These are additional and will be added to the final cost.

13.3 The Council maintains records of financial and non-financial planning including details of the developments site, relevant dates for the receipt of funds, the purpose of the obligation and the level of funding. Developers or interested parties are welcome to contact the Council to enquire as to the use and status of planning obligations. The value of contributions agreed and received is also reported annually in the Planning and Borough Development Monitoring Report.

13.4 The discharge of planning obligations over time requires monitoring and the input from a number of Council departments. For example, the delivery of on-site affordable housing units is achieved through the Housing Department. This complex process is overseen by a dedicated planning officer who is responsible for ensuring compliance with the multiple trigger points, ensuring the successful delivery of the planning obligations. As the Council starts managing and monitoring each S106 Agreement/Unilateral Undertaking from the moment it is signed, payment will be required at this stage.

13.5 The costs of administering planning obligations will be financed through fees charged by the Council under section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011. The value of the fee will be set out within the individual S106 agreements and will be based on the cost of monitoring and implementing the clauses in the agreements at a rate of £280 per clause (assuming 4 hours of officer time at a rate with on costs of £70 per hour). These are based on the current costs at financial year 2017-18.

<table>
<thead>
<tr>
<th>Number of Principal Clauses</th>
<th>Administration Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 or less</td>
<td>£600</td>
</tr>
<tr>
<td>4 or more</td>
<td>£280 per principle clause</td>
</tr>
</tbody>
</table>
Where planning obligations require specific compliance checks, monitoring, project management and implementation through the Council and its service areas, then an appropriate project management cost is to be negotiated as part of the clause. Please see the relevant topic based sections for further information on possible project management costs. For instance, specific monitoring and maintenance fees are set out for Construction Training Agreements.

**Expenditure**

The expenditure of developer contributions for local projects is considered as part of an annual rolling programme of S106 projects to be determined by the Council’s relevant spend department. In this way both Councillors and the public are able to see that the expenditure is appropriate, properly justified and that it meets the requisite legal tests. The Council’s Cabinet and Corporate Services Scrutiny Committee is responsible for scrutinising the Council’s finances and a report on S106 planning obligations is produced on a regular basis for that Committee or as and when requested.