

## LONDON BOROUGH OF CROYDON

To: Croydon Council website  
Access Croydon & Town Hall Reception

### **STATEMENT OF EXECUTIVE DECISIONS MADE BY THE CABINET MEMBER FOR HOMES REGENERATION AND PLANNING ON 23 JUNE 2017**

This statement is produced in accordance with Regulation 13 of the Local Authorities (Executive Arrangements) Meetings and Access to Information) (England) Regulations 2012.

The following apply to the decisions listed below:

**Reasons for these decisions:** are contained in the **attached** Part A report

**Other options considered and rejected:** are contained in the **attached** Part A report

**Details of conflicts of Interest declared by the Cabinet Member:** none

**Note of dispensation granted by the head of paid service in relation to a declared conflict of interest by that Member:** none

The Leader of the Council has delegated to the Cabinet Member the power to make the executive decisions set out below:

#### **CABINET MEMBER'S DECISION REFERENCE NO. 2117HRP**

**Decision title: Adoption of Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017**

The Leader of the Council has delegated to the Deputy Leader (Statutory) and Cabinet Member for Homes Regeneration and Planning (Reference 2117LR) the power to make the decisions set out below.

#### **RESOLVED:**

Having carefully read and considered the Part A report and the requirements of the Council's public sector equality duty in relation to the issues detailed in the body of the reports, the Deputy Leader (Statutory) and Cabinet Member for Homes Regeneration and Planning in consultation with the Heather Cheesbrough (Director of Planning and Strategic Transport) and Steve Dennington (Interim Head of Spatial Planning)

To agree the adoption of the Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017.

**For General Release**

<b>REPORT TO:</b>	<b>Councillor Alison Butler, Deputy Leader (Statutory) - Cabinet Member for Homes, Regeneration &amp; Planning</b>
<b>SUBJECT:</b>	<b>Adoption of Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017</b>
<b>LEAD OFFICER:</b>	<b>Heather Cheesbrough – Director for Planning and Strategic Transport Steve Dennington – Interim Head of Spatial Planning</b>
<b>CABINET MEMBER:</b>	<b>Councillor Alison Butler, Deputy Leader (Statutory) - Cabinet Member for Homes, Regeneration &amp; Planning</b>
<b>WARDS:</b>	All
<b>CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON:</b>	
This report supports the ambitions of the Corporate Plan with particular regard to the growth agenda which aims to create growth in our economy and to create a welcoming, pleasant place in which local people want to live.	
<b>FINANCIAL IMPACT</b>	
There is no financial impact arising from the decision of this report.	
<b>KEY DECISION REFERENCE NO.</b> This is not a key decision.	

<b>1. RECOMMENDATIONS</b>
1.1 Having carefully read and considered this report and the requirements of the Council’s public sector equality duty in relation to the issues detailed in the body of the report, Councillor Alison Butler, Deputy Leader (Statutory) - Cabinet Member for Homes, Regeneration & Planning is recommended to :-
1.2 Agree the adoption of the Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017.

**2. EXECUTIVE SUMMARY**

2.1 All the discussions and meetings with the relevant council officers and stakeholders regarding the proposed changes to the guidance have taken place. The amended document has been finalised following consultation between 5<sup>th</sup> September 2016 and 17<sup>th</sup> October 2016. The document will provide clearer guidance to officers within Development Management and also to developers as to the level of contributions and planning obligations sought

during negotiations of major planning applications.

### **3. DETAIL**

- 3.1 The Government introduced the Community Infrastructure Levy (CIL) in April 2010 to enable charging authorities, including Croydon, to raise a levy on most development to fund important infrastructure. Such infrastructure is described in the Council's Infrastructure Delivery Plan (IDP) and Capital Programme. The infrastructure outlined in the IDP and Capital Programme is that needed to support the growth outlined in the Croydon Local Plan: Strategic Policies. The Council introduced the borough's Community Infrastructure Levy (CIL) in April 2013. In February 2013 the Council agreed the assignment of the borough's CIL to the infrastructure types included on the Council's CIL Regulation 123 list (infrastructure types that can be funded in full or partially by the CIL). Since April 2013, the scope of Section 106 (planning gain) has been reduced by the introduction of the borough's CIL.
- 3.2 The guidance sets out the Council's approach to infrastructure funding and developer contributions. The document outlines what types of obligations will be sought and in which circumstances as well as a process for negotiating and securing planning obligations. CIL differs from S106 as it is a local levy that is placed on new development for the purpose of raising funds to deliver infrastructure that is required to enable growth borough wide. The guidance indicates the type of infrastructure the Council use CIL to wholly or partly fund. CIL provides a more consistent and transparent mechanism to raise financial contributions sought through planning obligations. The guidance also sets out a number procedural matters regarding CIL and CIL's relationship with S106.
- 3.3 The Council has now undertaken a partial review of the document called "the Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance." The review of the guidance has been undertaken to update the Council's S106 requirements to complement CIL, update the requirements of the associated obligations and take account of recent legislative changes. The changes that were the basis of consultation and now adoption are:
1. Employment, Skills and Training - developers would be required to produce an Employment and Skills Plan for the Construction and/or end-use outlining the approach they will take to delivering employment, training and apprenticeship outcomes.
  2. Carbon offsetting – to enable the Council to conform to the London Plan and Zero Carbon Homes standard.
  3. Removing Affordable housing commuted sum from schemes of nine units or less – to reflect the November 2014 amendments to the National Planning Practice Guidance (for sites of 10-units or less, and which have a maximum combined gross floor space of 1000 square metres, affordable housing contributions should not be sought).
  4. Air Quality- All residential schemes of 10 dwellings and above, and mixed use and commercial schemes of 500m2 and above should contribute £100 per dwelling and £100 per 500m2 unit
  5. Amendments to the S106 Monitoring Fees.

- 3.4 This report seeks approval to adopt the Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017.

#### **4. CONSULTATION**

- 4.1 Public consultation on the Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017 was undertaken for a period of 6 weeks took place between 5<sup>th</sup> September 2016 and 17<sup>th</sup> October 2016. Consultation was focused towards relevant stakeholders and conformed to the Council’s Statement of Community Involvement.
- 4.2 A Consultation Log of responses to representations received is included as Appendix 2.
- 4.3 A total of 19 responses were received. They mainly came from major developers and landowners, other local authorities, Residents Associations and statutory bodies. Most responses had concerns regarding the Employment and Skills section and the impact of the Affordable Housing requirements.
- 4.4 The comments have been considered and changes incorporated into the Employment and Skills section and Affordable housing sections.

#### **5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 5.1 There will be clearer guidance to officers within Development Management and also to developers as to the level of contributions sought during negotiations of major planning applications

### **2 The effect of the decision**

There will be clearer guidance to officers within Development Management and also to developers as to the level of contributions sought during negotiations of major planning applications.

### **3 Risks**

The Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance has become increasingly out of date and open to challenges from developers on the amount of contributions sought during planning negotiations. The scope of the Section 106 planning gain process has been reduced after April 2014 and without the revision the Council will find itself open to more rigorous challenges when meeting the infrastructure needs of the borough.

### **4 Options**

If the Council chooses not to adopt the Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017 the outcome of such an approach would result in the Council failing to capture a significant funding source for the delivery of infrastructure to support the borough's future growth needs. The Council may then find itself compromised when addressing future infrastructure requirements.

## **5 Future savings/efficiencies**

The adoption of the Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017 should speed up planning negotiations and planning application determination, leading to time savings and potentially reduced revenue costs.

(Approved by Liam Green on behalf of the Department Head(s) of Finance)

## **6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER**

6.1 There are no immediate implications.

(Approved by: Sarah Banton Lawyer on behalf of the Council Solicitor)

## **7. HUMAN RESOURCES IMPACT**

7. It is considered that current resource levels in Spatial Planning are sufficient to deliver the Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017 project.

(Approved by: Jason Singh, Head of HR Employee Relations on behalf of the Director of Human Resources)

## **8. EQUALITIES IMPACT**

8.1 Statutorily no Equality Analysis is required.

## **9. ENVIRONMENTAL IMPACT**

9.1 There is no requirement to undertake a Sustainability Appraisal and Strategic Environmental Assessment to support the adoption of the Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017.

## **10. CRIME AND DISORDER REDUCTION IMPACT**

10.1 The Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017 is not envisaged to have any impact on crime and disorder.

## **11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

11.1 The adoption of the Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017 should provide clarity with regard to planning gain negotiations and planning application determination.

## **12. OPTIONS CONSIDERED AND REJECTED**

12.1 The existing Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance has become increasingly out of date and as a result open to challenges from developers during negotiations on major planning applications

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### **CONTACT OFFICER:**

***Steve Dennington – Interim Head of Spatial Planning - Ext 64973***

### **BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972**

Appendix 1- Section 106 planning obligations in Croydon and their relationship to the Community Infrastructure Levy - Non-statutory guidance – Review 2017

Appendix 2- Consultation Log of representations and responses

# **Section 106 Planning Obligations in Croydon and their Relationship to the Community Infrastructure Levy - Review 2017**

**June 2017**

# Contents

<b>1. Introduction to Section 106 and the borough’s and Mayoral CIL</b> .....	<b>2</b>
<b>2. The relationship between the borough’s Section 106 planning obligations and CIL</b> .....	<b>3</b>
<b>3. What CIL and Section 106 will fund</b> .....	<b>3</b>
The Infrastructure Delivery Plan (IDP).....	4
Using the IDP Report .....	5
The IDP Schedule .....	5
<b>4. What infrastructure will be deemed as standard site/design mitigation and will be sought through Section 106 Agreements.</b> .....	<b>5</b>
<b>5. Skills, Training and Employment</b> .....	<b>6</b>
General Principles.....	7
Construction phase .....	7
End-use / General Employment and Skills .....	8
Business Support.....	9
<b>6. Carbon Offsetting Guidance</b> .....	<b>9</b>
<b>7. Air Quality</b> .....	<b>10</b>
<b>8. The Pooling of S106 under CIL Regulation 123 explained, including current position</b> .....	<b>11</b>
<b>9. Guidance on the application of Croydon Local Plan – Strategic Policies – affordable housing policy (include Housing Technical Paper Flowchart)</b> .....	<b>11</b>
Scenarios of implementing Policy SP2 for on-site provision of affordable housing ...	11
<b>10. The mechanism for the calculation of affordable housing commuted payments in accordance with Croydon Local Plan: Strategic Policies – affordable housing policy</b> .....	<b>13</b>
Affordable housing review mechanism within the Opportunity Area Planning Framework (OAPF) .....	14
Viability appraisals and gross development value (GDV) at the point of sale.....	15
Donor Sites .....	15
Default position should a Registered Provider (RP) not pursue a donor site.....	16
<b>11. Role and function of the Council’s Infrastructure Finance Group</b> .....	<b>16</b>
<b>12. Approach to Section 106 and CIL monitoring and availability / source of information</b> .....	<b>16</b>
Viability.....	16
Review of Section 106 Agreements .....	17
Section 106 Planning Obligations, Monitoring and Other Fees .....	17
Non-financial Planning Obligations .....	19
Affordable Housing Planning Obligations .....	19
The Review Mechanism .....	19
Justification .....	19
Specific Examples of Obligations and Associated Tasks .....	19
Project Management Fees .....	21



# 1. Introduction to Section 106 and the borough's and Mayoral CIL

**1.1** On 1 April 2013, the Croydon Community Infrastructure Levy (CIL) came into force. CIL is a charge which local authorities can levy on most types of new development. All developments permitted after this date in Croydon will potentially be liable to pay the levy. The introduction of CIL changes the way in which developers contribute to the provision of infrastructure in Croydon. The proceeds of the levy will provide new local and sub-regional infrastructure to support the development of the borough in line with Croydon's development plan and infrastructure planning.

**1.2** The previous guidance on Planning Obligations (April 2013) has now been withdrawn by the Council and replaced by this guidance which takes account of the Council's CIL and its aim is to better align the Council's requirements with the Infrastructure Delivery Plan. This guidance describes the Council's approach in securing planning obligations and the differences between CIL and Section 106 Agreements and Unilateral Undertakings (collectively referred to as the "S106"), together with the procedures that the Council will employ to collect contributions under both the CIL & S106 regimes.

**1.3** This guidance is non-statutory guidance and supplements the Croydon Local Plan – Strategic Policies. The policies are used to determine applications for planning permission in the borough, along with the London Plan, the UDP Saved Policies 2013 and other planning documents, such as Supplementary Planning Documents.

**1.4** This guidance document will assist prospective developers by identifying the planning obligations that will be sought by the Council, through the grant of planning permissions for development, where such development generates a need for new infrastructure. The Council considers that acknowledgement and preparation for the required planning obligations should be integral to negotiation of the land transactions, and the formulation of development proposals.

**1.5** The Council will expect developers to enter into discussions on planning obligation requirements with Council officers as soon as possible, preferably at the pre-application stage. The Council's aim is to agree in principle the Heads of Terms of any planning agreement before the planning applications are submitted.

**1.6** The aim of the guidance is to provide a transparent and consistent basis for the negotiation of S106 contributions by setting out the following:

- The types of developments that would be subject to planning obligations, in terms of their scale, nature, proposed use and their location;
- The broad range of likely contributions that may be sought, why these may be required and a description of any associated policy documentation; and
- The amount of financial contributions and the means by which it will be calculated.

## 2. The relationship between the borough's Section 106 planning obligations and CIL

**2.1** The CIL Regulations (Regulation 122) introduced three legal tests to be considered when negotiating, securing and implementing planning obligations. These tests are:

- 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

**2.2** Whilst it is the Government's intention to replace planning obligations for general types of community infrastructure, planning obligations will still be used for site-specific mitigation measures that are required to make a development acceptable in planning terms.

**2.3** The planning obligations captured in S106 Agreements and Unilateral Undertakings (as mentioned above, the Agreements and Unilateral Undertakings are collectively referred to in this guidance as "S106") are normally entered into in accordance with Section 106 of the Town & Country Planning Act 1990 (as amended). They are intended to make development acceptable which would otherwise be unacceptable in planning terms.

**2.4** Planning obligations can be used to prescribe the nature of the development (e.g. a proportion of the housing must be affordable); to compensate for loss or damage caused by the development (e.g. loss of open space) or mitigate a development's impact (e.g. increase public transport provision). The S106 must be governed by the fundamental principle that planning permissions may not be bought or sold.

**2.5** CIL provides a more consistent and transparent mechanism to raise financial contributions currently sought through planning obligations. In short planning obligations differs from CIL in that the contributions are tailored to a specific development and must be directly related to its impact, whereas CIL may be applied anywhere in the borough or on Crossrail.

**2.6** CIL allows local authorities to raise funds from development to pay for the infrastructure. CIL takes the form of a tariff per m<sup>2</sup> of additional floorspace. The level of the tariff is set by the local authority based on the needs identified through infrastructure planning, but also tested to ensure that it will not affect the viability of developments. The local levy rate(s) are set out in a CIL Charging Schedule.

<http://www.croydon.gov.uk/contents/departments/planningandregeneration/pdf/cil/cilcharging.pdf> - Charges are index linked.

## 3. What CIL and Section 106 will fund

**3.1** Regulation 123 Community Infrastructure Levy Regulations 2010 (as amended), restricts the use of planning obligations for infrastructure that will be funded in whole or in part by CIL, to ensure that there is no duplication between the two types of developer contributions (CIL and planning obligations).

**3.2** In order to clarify what types of infrastructure will in future no longer fall under S106, the Council has published a list of infrastructure types and projects that it intends will be, or may be, wholly or partly funded by CIL. This is known as the Regulation 123 list. It

will be kept up to date to take into account any changes in circumstances and / or infrastructure needs identified in the future.

**3.3** Regulation 122 of the CIL regulations confirms that the planning obligations may only be used if they are necessary to make the development acceptable in planning terms. They must also be directly related to the development; and fairly and reasonably related in scale and kind to the development.

**3.4** The table below sets out a list of the infrastructure projects or types that Croydon intend will, or maybe, wholly or partly funded by CIL and those projects or types that will be funded by Section 106.

**Table 1: Comparing CIL and S106**

Infrastructure funded by CIL	Funded by S106
Provision, improvement, replacement, operation or maintenance of education facilities	(not an exhaustive list)  Affordable housing  Employment and skills training  Standard site / design mitigation  Development specific mitigation  Public Realm  Air Quality
Provision, improvement, replacement, operation or maintenance of health care facilities	
Provision, improvement, replacement, operation or maintenance of those projects listed in the Connected Croydon Delivery Programme dated April 2013 and any projects as may be added to the said Programme after April 2013 as approved by Cabinet <sup>1</sup>	
Provision, improvement, replacement, operation or maintenance of public open space	
Provision, improvement, replacement, operation or maintenance of public sports and leisure	
Provision, improvement, replacement, operation or maintenance of community facilities (as defined by the Croydon Local Plan – Strategic Policies)	

## The Infrastructure Delivery Plan (IDP)

**3.5** In 2010, the Council produced and published for consultation its first draft IDP identifying the Borough’s social, physical and green infrastructure needed to support the growth anticipated over the 20 year lifetime of the Local Plan (formerly Core Strategy). The IDP is organised in alignment with the themes of the Vision for Croydon and the

<sup>1</sup> The Connected Croydon Programme will be funded from a variety of sources. The Connected Croydon Delivery Programme is an appendix to the Regulation 123 list and details the projects or types name, description and location.

Sustainable Community Plan and contains an initial schedule of projects and programmes necessary for the development of the Borough.

**3.6** The IDP continues to be updated both in response to public consultation and to reflect changes to national and local policy and circumstance. A revision of the IDP has been published on the web in December 2016.

**3.7** The IDP provides an up to date Infrastructure Delivery Schedule with details of costs, funding, phasing and prioritisation of the planned infrastructure provision to meet the requirements of the growth outlined in the Local Plan. The document can be viewed at [www.croydon.gov.uk/planningandregeneration/framework/lpevidence/infrastructure-delivery](http://www.croydon.gov.uk/planningandregeneration/framework/lpevidence/infrastructure-delivery).

## Using the IDP Report

**3.8** The IDP identifies the need for and justifies a programme of infrastructure projects required to support the growth objectives under the development plan. It sets out:

- S106 monies can be used in accordance with the planning obligations tests; and
- Other strategies or reports which provide additional evidence as to why infrastructure is required.

**3.9** The IDP Schedule can be used to identify specific projects relating to this identified need, in relation to the location, consequence of the scale and use of proposed development.

## The IDP Schedule

**3.10** The IDP Schedule is a matrix which is an appendix to the IDP, identifying the infrastructure projects needed in order to deliver the growth objectives over the Local Plan period to 2036. It includes the following information for each infrastructure project:

- The lead partner and any other partners / stakeholders involved in the delivery of the project;
- The delivery mechanism / funding source for each project – including where S106 / CIL is expected to contribute to delivery;
- The cost of the project (if known);
- Location;
- The timescale for delivery; and
- The importance to supporting the growth set out in the Local Plan

## 4. What infrastructure will be deemed as standard site/design mitigation and will be sought through Section 106 Agreements.

**4.1** In addition to any CIL payments, the Council will seek to negotiate (within the scope of the revised use of S106), that the developer will mitigate any impact on the environment or local services that arise directly as a result of the development. Affordable housing will also continue to be provided through S106.

**4.2** There may be cases where the development proposed results in a specific need for infrastructure (or access to a service) that is not currently available, and has not been identified for investment through CIL or wider investment programmes. For example, a major junction improvement may be required to ‘unlock’ a site. In such circumstances, the Council would normally expect these aspects to be addressed as part of the proposal at the time planning permission was sought. In which case their delivery will often be secured by a S106 or other mechanisms such as S278 of the Highways Act 1980 (as amended).

**4.3** S106 will also continue to be used for local infrastructure requirements on development sites, such as local access or connection to services. Some of these requirements may be physically off site, but will be secured under S106 where they are clearly linked to the development site and needed to make that particular site acceptable in planning terms.

**4.4** Many developments will be liable for CIL, and enter into a S106 agreement. The CIL payment and Section 106 obligations will cover different infrastructure projects and types, and developments will not be charged for the same items of infrastructure through both obligations and the levy.

**4.5** Planning obligations can be carried out in two ways; either the developer provides the physical measures or makes a financial contribution towards any works to be carried out by the local authority or its partners.

**4.6** Regulation 122 of the CIL regulations confirms that planning obligations may only be used if they are necessary to make the development acceptable in planning terms. They must also be directly related to the development; and fairly and reasonably related in scale and kind to the development.

**4.7** As well as the legal tests referred to in the CIL Regulations restrictions were introduced on the pooling of S106 contributions, so that no more than five developments may contribute to the same infrastructure project. If the Council wants to pool contributions from more than five developments to pay for an infrastructure item, it will have to use CIL.

## **5. Skills, Training and Employment**

**5.1** Croydon Council is committed to ensuring that all Croydon residents are supported to access the range of positive social, economic and environmental benefits derived from inward investment in the Borough.

**5.2** ‘The Croydon Promise – Growth for All’ is the Council’s commitment to residents, investors, developers and businesses that the Council will do all it can to deliver growth, which is inclusive and sustainable – for all. The document makes the commitment to support Croydon residents, young and old, into employment, and raise the skills of the workforce so that they can access the new jobs being created across the borough.

**5.3** There are over 3,000 residents in the borough claiming Jobseeker’s Allowance, 12,000 receiving Employment and Support Allowance, and 13,000 economically inactive working age adults in the borough. Some demographic groups are more likely to be out of work and/or on benefits than others including the over 55s, BAME groups, people with disabilities and women. There are also geographical variations – people are more likely to be out of work and/or on benefits in the north of the borough and in areas

such as New Addington. In addition, over 20% of Croydon residents are in low-paid work, and over 25% of jobs in Croydon are low waged.

**5.4** Croydon Council is committed to working with developers through S106 Planning Obligations to achieve social value outcomes from regeneration to improve the well-being of the area.

This applies to the following types of development in the borough:

- All new residential developments providing 10 residential units or more
- All major commercial developments defined as the provision of the building or buildings where the floor space created by the development is 1,000 sq. m or more or developments carried out on a site with an area of 1 hectare or more.
- Policy SP5.1, SP5.14 and SP5.15 of the Croydon Plan – Strategic Policies supports the provision of skills training and further education through the use of planning obligations

## General Principles

**5.5** Developers will be required to produce an Employment and Skills Plan for the Construction Phase and/or End-use Phase as appropriate, outlining the approach they will take to delivering employment, training and apprenticeship outcomes and engagement with schools and education providers for the development. The Council will provide relevant advice and support to developers to produce their Plan, and to deliver the Plan's objectives.

**5.6** The Employment and Skills Plan should include details of budget, resources, key delivery targets, delivery methodologies, and a performance and impact management framework with the Council. The Employment and Skills Plan must be agreed with the Council's Development Management Service and Skills and Employment Team.

**5.7** It is expected that best endeavours be used to ensure that the targets for local employment are achieved in both construction and end user phases of new qualifying developments. It is expected that the developer will work closely with the Council and other local partners to achieve this target.

## Construction phase

**5.8** The Council will seek to secure a minimum of 34% of the total jobs created by the construction phase to be filled by local residents. All vacancies should be advertised via the Council's job brokerage service, and any other agencies as stipulated by the Council.

**5.9** The developer and/or its contractors and subcontractors, will offer, as a minimum, an average of one work-based training opportunity / apprenticeship for every 10 construction workers over the life time of the construction contract. This will be subject to feasibility. For larger schemes the Council is willing to negotiate a number of apprenticeships/training opportunities appropriate to the size of the scheme. Apprenticeships must be accredited, recognised apprenticeships, delivered by accredited training providers.

**5.10** The Council will seek a financial contribution to cover the Council's costs in the identification, initial pre-employment training and on-going skills development and sustained employment for local people working in construction jobs on the development,

which will be delivered through the Council's Job Brokerage service, and other agencies as required.

**5.11** A standard charge for training will be made of £2,500 per £1 million of capital construction costs. The Council is willing to negotiate a different rate on larger construction schemes, defined as £30 million in the construction contract value.

**5.12** On large schemes there may also be additional requirements negotiated, including dedicated posts at the developer and/ or Council to manage employment and training schemes, specialist training provision or facilities, school or college activities and employment events.

## End-use / General Employment and Skills

**5.13** The Council will seek to secure a minimum of 34% of the total jobs created by the construction phase to be filled by local residents. All vacancies should be advertised via the council's job brokerage service and any other agencies as stipulated by the Council.

**5.14** The Council will seek a financial contribution to cover the Council's costs in the identification, initial pre-employment training and on-going skills development and sustained employment for local people working with end-use businesses, which will be delivered through the Council's Job Brokerage service, and other agencies as required. This will enable the Job Brokerage service to source, train and place local residents into end-user jobs, where appropriate for the development.

**5.15** The standard formula for calculating the contribution is as follows:

Net new floor space (m <sup>2</sup> ) divided by average employment density to give expected number of jobs in new development	Office: 11.6 jobs / m <sup>2</sup> Retail: 17.5 jobs / m <sup>2</sup> Hotel: 2.85 jobs per bed <sup>2</sup>
Multiply by	<b>X</b>
Proportion of Croydon residents expected to be working in Croydon jobs	Minimum of 34% <sup>3</sup>
Multiply by	<b>X</b>
Proportion of Croydon residents with low or no qualifications requiring training to improve employability	31.4% <sup>4</sup>
Multiply by	<b>x</b>
Average cost for job entry	£3,526 <sup>5</sup>

**5.16** Where the end-use occupier of a development is also the developer the Council will seek an agreement with the developer to provide a specified number of apprentice

<sup>2</sup> Homes and Communities Agency Employment Density Guide, Nov 2015

<sup>3</sup> Source: Census 2011, Location of usual residence and place of work

<sup>4</sup> Source: Census 2011

<sup>5</sup> Cost of job entry from best performing programmes, ESF 2007-13 Programme, report by Inclusion and GLA, 2015

or trainee places within the development and to agree a minimum of 34% of end-user jobs that should be filled by local residents. All vacancies should be advertised via the council's job brokerage service and any other agencies as stipulated by the Council.

**5.17** Where the end-use occupier is not known or is not the developer the Council will seek an agreement to ensure that the Developer brokers a meeting between the new occupier and the Council once confirmed, with a requirement for end-users to engage with the council's Employment and Skills Team and Job Brokerage service to identify training and employment opportunities for local residents.

## Business Support

**5.18** In order to support local businesses to benefit from new developments within the borough, the Council will require a commitment from developers to engage local business through the supply chain. This will allow local businesses to compete in a local market and also encourage sustainable business eco-systems.

**5.19** The developer is required to submit to the Council's Development Management Service their Tender Event Schedule detailing the list of work packages being offered to competitive tender including timeframes, value of packages and framework agreements in the supply chain.

**5.20** Local Suppliers are to be provided with information about the development and provided with the opportunity to tender for all appropriate contracts or sub contracts that arise from the development. This will include participating in business support initiatives, supply chain activities and 'Meet the buyer' type of events as required.

**5.21** In order to develop local businesses working responsibly, there is an expectation that developers and their contractors/subcontractors will pledge to the Good Employer Croydon accreditation scheme with the intention of becoming accredited Good Employers.

**5.22** The Council reserves the right to require a financial contribution to deliver and / or for the developer to be required to deliver such activity as outlined above to ensure local suppliers are not adversely affected by developments.

**5.23** The Council will work with developers and their contractors to achieve the procurement of goods and services from companies and organisations based in Croydon and seek to secure 20% minimum of the total value of all contracts locally.

## 6. Carbon Offsetting Guidance

**6.1** The Croydon Local Plan requires residential and non-residential development to achieve carbon targets in line with those set out in the London Plan. The London Plan (Policy 5.2) states that where it is clearly demonstrated that the specific targets cannot be fully achieved on-site, any shortfall may be provided off-site or through cash in lieu contribution to the relevant borough to be ring fenced to secure delivery of carbon dioxide savings elsewhere in the Borough

**6.2** In addition, the London Plan Sustainable Design & Construction (Supplementary Planning Guidance) states that:-

**6.3** Boroughs should develop and publish a price for carbon dioxide based on either:

- a nationally recognised carbon dioxide pricing mechanism; or



- the cost of reducing off-setting carbon dioxide emissions across the borough.

**6.4** Additional guidance on carbon offsetting has been set out as part of the London Plan 2016 Implementation Framework. The Housing Supplementary Planning Guidance (March 2016) highlights that a carbon price of £60/tonne (charged over a 30 year period) was adopted within the Mayor's Housing Standards Viability Assessment

**6.5** Croydon Council will adopt the £60/tonne CO<sub>2</sub> price (calculated over a 30 year period), to calculate any cash in lieu contribution where specific targets cannot be fully achieved on-site. The payment will be calculated based on the number of tonnes CO<sub>2</sub> by which the proposed development will miss the required target reduction. All such contributions will be ring-fenced within a "Community Energy Fund" which will be used to deliver CO<sub>2</sub> reduction projects across the local community in the Borough at the Council's discretion.

## 7. Air Quality

**7.1** Croydon has declared the whole of the borough as an Air Quality Management Area for nitrogen dioxide. The majority of emissions of nitrogen dioxide originate from road vehicles with goods vehicles, buses and taxis accounting for more than half of this.

**7.2** Croydon have developed new and innovative solutions to tackle air pollution to make Croydon a better and healthier place for everyone, see our Air Quality Action Plan at [lovecleanair.org](http://lovecleanair.org)

**7.3** Developments which are likely to cause deterioration in local air quality (especially if this deterioration occurs in an area which already breaches an air quality objective or results in increased levels of particles) will normally require an air quality impact assessment. In addition, developments located in an area of poor air quality, which will expose future occupiers to pollutant concentrations above air quality objective levels also require an assessment.

**7.4** The overall aim of an air quality assessment is to determine whether the development will have an unacceptable impact on air quality or whether the existing air quality environment is unacceptable for the proposed development. If a development is determined to result in a deterioration of air quality, the Council will aim to reduce this impact by securing mitigation or offsetting measures that will allow the development to progress through the use of planning obligations from S106 agreements. Similarly if a development introduced sensitive receptors into an area of poor air quality, the developer will be expected to ensure all measures are taken to secure an acceptable environment for new receptors.

**7.5** S106 agreements can be used to enable developers to provide assistance or support to the local authority to implement actions in pursuit of their Air Quality Action Plans (AQAP), in order to offset or mitigate against air quality impacts.

**7.6** The full range of measures in the AQAP can be downloaded at:  
[www.lovecleanair.org](http://www.lovecleanair.org)

**7.7** In line with Guidance from DEFRA 'Low Emissions Strategies - using the planning system to reduce transport emissions' Croydon are adopting the following formula:

All residential schemes of 10 dwellings and above, and mixed use and commercial schemes of 500m<sup>2</sup> and above should contribute £100 per dwelling and £100 per 500m<sup>2</sup> unit.

## **8. The Pooling of S106 under CIL Regulation 123 explained, including current position**

**8.1** Regulations 122 and 123 of the CIL Regulations (as amended) set out the relationship between S106 and CIL, post the introduction of a charging schedule. The Regulation 123 list sets out the infrastructure CIL will fund. The Infrastructure and obligations that do not appear on the Regulation 123 list can still be sought through S106, subject to regulations 122 and 123

**8.2** Regulation 123 (3) was amended by CIL Regulations 2011 and came into force on 6 April 2011. This amendment changed the previous S106 pooling arrangements. To avoid a breach regarding pooling the S106 will be required to be specific in detail about the clauses / contribution sought and cannot replicate infrastructure projects and types sought on the Regulation 123 list. Advice to applicants/developers on this will be provided by the Council during the pre-application process.

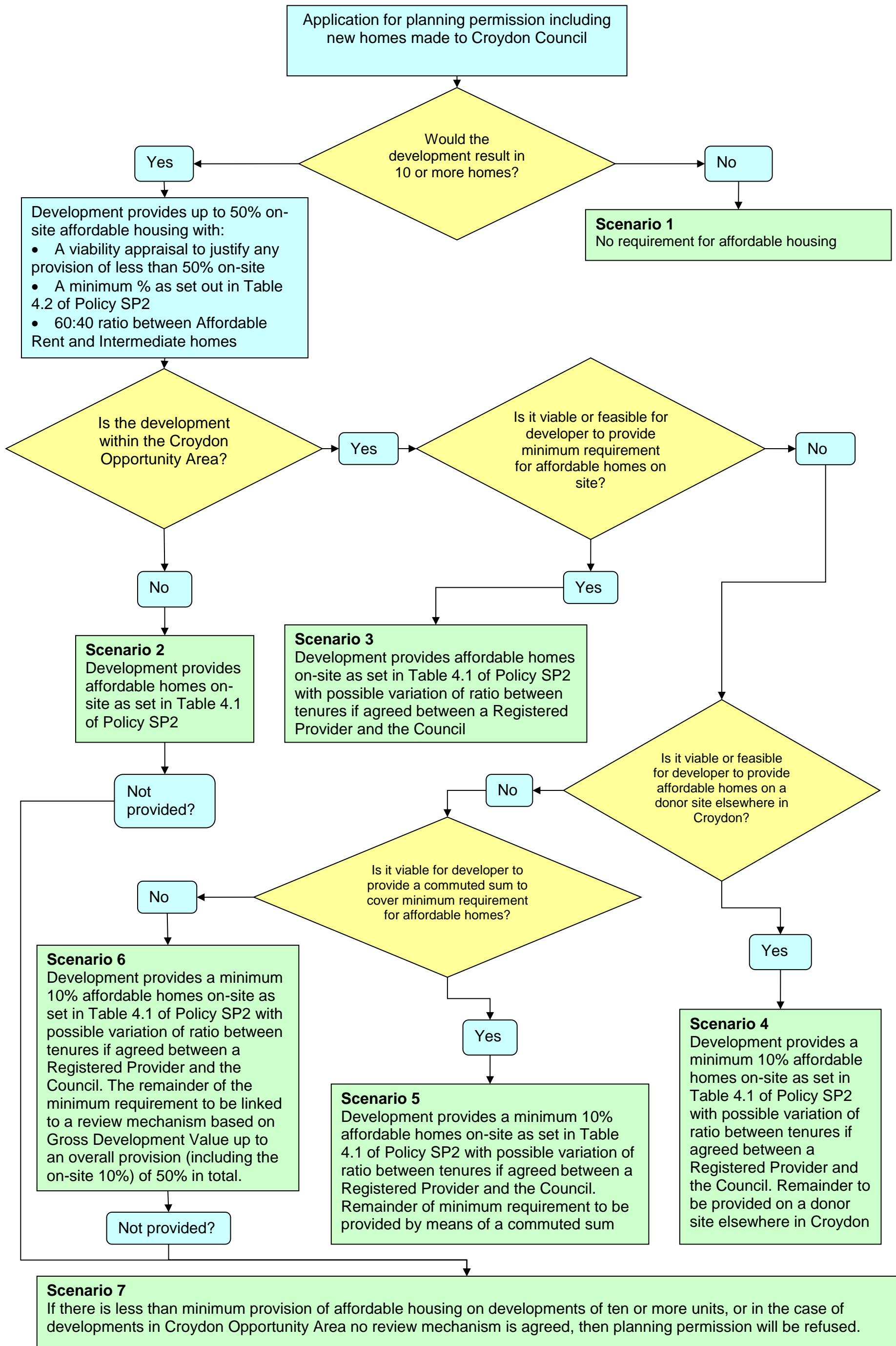
## **9. Guidance on the application of Croydon Local Plan – Strategic Policies – affordable housing policy (include Housing Technical Paper Flowchart)**

**9.1** The Council is committed to maximising the provision of affordable housing in line with Policies 3.8, 3.9, 3.10, 3.11, 3.12, 3.13 and 3.14 of the London Plan and SP2.4 of the Croydon Local Plan: Strategic Policies and the Croydon Local Plan: Strategic Policies: Partial Review, 2017. These policies seek to ensure that the Council achieves mixed, balanced and sustainable communities and to deliver high quality affordable housing for local people in housing need.

**9.2** Affordable Housing requirements and negotiations will also be guided by the Croydon Local Plan: Strategic Policies. Policy SP2.4 of the Croydon Local Plan: Strategic Policies state that the Council will negotiate to achieve up to 50% affordable housing provision on sites with ten or more units.

### **Scenarios of implementing Policy SP2 for on-site provision of affordable housing**

The flowchart on the next page sets out the seven scenarios envisaged by Policy SP2.4 for dealing with the provision of affordable housing in residential developments in Croydon.



## 10. The mechanism for the calculation of affordable housing commuted payments in accordance with Croydon Local Plan: Strategic Policies – affordable housing policy

10.1 Table 2 below sets out how the Council will calculate commuted sums for affordable housing in the specific circumstances listed:

**Table 2: Calculating commuted sums for affordable homes**

<b>The Council will...</b>	<b>Within the Croydon Opportunity Area where a commuted sum or review mechanism is agreed and in exceptional circumstances on developments of ten or more units in any part of the borough where no registered provider can be found to manage on-site affordable units...</b>
Charge a commuted sum based on...	A negotiated value for each square metre not provided on site to be based on the difference in value of affordable homes not provided and the resultant additional private market homes that are built instead
The value of each square metre will be...	Until 1 April 2018 a minimum of £1,831.29 per m <sup>2</sup> of affordable housing not provided on site
Each year...	The minimum value per m <sup>2</sup> of affordable housing not provided on site will change in line with the national All-in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors (as at 1st November of the preceding year).
In the event of Social Housing Relief for the Community Infrastructure Levy charge being granted.	Waive the commuted sum for any additional affordable unit subject to or eligible for Social Housing Relief beyond that agreed at the time of granting planning permission

## Affordable housing review mechanism within the Opportunity Area Planning Framework (OAPF)

**10.2** Where the Council accepts a lower level of affordable housing (following an open-book assessment of the scheme's costs and revenue) the Council will expect a review mechanism to be agreed which will allow for a payment in lieu of affordable housing to be paid to the Council where higher development values are later realised. The review mechanism aims to set out a clear, simple, and certain method for calculating the amount of this payment that is understood and agreed at the outset by both the Council and the applicant.

**10.3** Where the development plan's expectation of a minimum requirement for Affordable Housing is not met for viability reasons, a Review Mechanism (RM) shall be included in the S106. This payment in lieu would supplement the agreed on-site affordable housing provision. The RM would be structured as follows:

- a) The RM will link the payment in lieu to movements in residential sales receipts. This mechanism caps the level of payment in lieu to a maximum sum based on the full amount of affordable housing required under the Council's policy (i.e. equivalent to 50% on-site affordable housing provision).
- b) Reviews of sales values and payments due will occur at agreed trigger points during the development. Generally this will be at a point where sufficient levels of achieved sales values are known.
- c) Any final review will take place prior to all of the units being sold. This will leave a modest number of units (e.g. 10%, but dependent on the size of the scheme) to be assessed on predicted rather than actual values.
- d) The Council will restrict sales of the remaining unsold units until any payment in lieu is received in full.
- e) The parties would agree a Breakeven Residual Land Value at which the scheme generates a residual land value equal to the sites Existing Use Value (EUV) (unless there is an alternative use for the site which would comply with the policies of the development plan and which could be implemented, in which case the residual land value will be compared against the Alternative Use Value of the site);
- f) ). This would take into account any on-site affordable housing provision.

**Table 3: Calculating the payment in lieu payable under a review mechanism**

Calculating the payment in lieu	
At each trigger point, the Applicant would submit to the Council the following information:	
A	Sales values achieved for units sold to date; and
B	Predicted values for the remaining unsold units in each phase, provided by a valuation survey.
C	Breakdown of actual construction costs associated with the development of the site

### Calculating the payment in lieu

The additional payment due at any review shall be calculated using the following formula:

$$(A + B) - C - d - e = F$$

$$a - c - d - e = G$$

$$F - G = Z$$

Where,

A = Sales values achieved for units already sold at the relevant trigger point

B = Predicted values for the remaining percentage of unsold units

C = Actual construction costs associated with the development of the site

c = Original forecast construction costs associated with the development of the site

d = Original value of fees associated with the development

e = Original agreed profit margin for the development

F = Actual Residual Land Value

G = Breakeven Residual Land Value

Z = Development surplus

The 'Development Surplus' would be split with the Council with the proportion to be agreed with the Council on a site by site basis. The total payment by the applicant to the Council will not exceed a maximum agreed sum.

## Viability appraisals and gross development value (GDV) at the point of sale

**10.4** Major developments are likely to include taking account of forecast sales values from respected forecasting houses and should be included in the S106 agreement. This would include a growth model and fix the affordable housing provision or contribution against forecasted sale values.

**10.5** Review mechanism trigger points would also be assessed against the growth model and forecasted sale values, as well as actual construction costs at the time of the review, as opposed to using the sale values at the point of the review. The consequence being that the Council should secure more provision or contribution in a rising, or forecast to rise market.

## Donor Sites

**10.6** Within the Croydon Opportunity Area (COA) when a donor site is being explored, to make good the minimum affordable housing requirement in addition to the policy compliant 10% on-site provision, there will be an increased focus on supporting donor sites as the first opportunity in the sequence of opportunities set out in the policy after on-site provision.

**10.7** Applicants will be required to provide robust and credible evidence they have genuinely explored the acquisition of donor sites in close proximity to the parent site. As part of this process, the Council's Districts and Regeneration Directorate will be informed to consider release of the Council's holdings, or signpost third party opportunities. The focus should ensure the donor site opportunity has been explored fully.

Default position should a Registered Provider (RP) not pursue a donor site

**10.8** Should a RP be unable to deliver a donor site to make good the affordable housing provision for a parent site the S106 will include a clause requiring the developer of the parent site to make all reasonable endeavours to secure a new RP. These reasonable endeavours should be undertaken over a period up to 18 months following the withdrawal of the original RP. The all reasonable endeavours clause will also be supported by a Grampian condition on the parent development site, stating that occupation can only reach a certain agreed level without all reasonable endeavours having been made to secure a RP for the donor site

## 11. Role and function of the Council's Infrastructure Finance Group

**11.1** The Council's Infrastructure Finance Group's role is to determine which infrastructure projects will be funded in whole or in part from planning obligations secured by S106 Agreements and from April 2013 from CIL. The Group would ensure that the money allocated would be in accordance with the terms of the S106 and included in the Council's Infrastructure Delivery Plan / Capital Programme.

## 12. Approach to Section 106 and CIL monitoring and availability / source of information

**12.1** Under the CIL Regulations the Council is allowed to retain 5% of the CIL revenues for the purpose of monitoring and administering CIL in accordance with the CIL regulations. An additional charge on Planning Obligation revenues will also apply for the purpose of monitoring and administration the implementation of planning obligations.

**12.2** In the majority of cases payment will be due on signing of the agreement. In exceptional circumstances the Council may consider payment up to 60 days before commencement of the scheme and the applicant will need to notify the Council of intended commencement. On large payments of £500k or more the Council may negotiate phased payments.

**12.3** Contributions sought from developers will be index linked with a standard clause to this effect included in the S106, in order to maintain the value of the contributions and inflation proof them.

**12.4** The Retail Price Index (RPI) is the most commonly used index of inflation. Financial contributions for off-site works and longer term projects will typically be required to be received by the Council prior to commencement of the development. Infrastructure works and public realm works directly associated with the development are normally required to have been carried out prior to occupation.

**12.5** The use of money collected from both S106 and CIL will be reported via the Croydon Monitoring Report available on the council's website.

### Viability

**12.6** Developers should take potential planning obligations, and any identifiable exceptional site development costs, into account when acquiring land for development.

If, during the identification of Heads of Terms and the planning application determination process, it is claimed that the economic cost of fulfilling certain planning obligations would prevent development from occurring, it is expected that developers will also submit detailed 'open book' information about the scheme's economics to the Council prior to the formal submission of a planning application. Before reviewing the nature of the planning obligations sought, the Council may seek valuation advice from an independent third party. All costs incurred by the Council in validating viability claims will have to be met by the developer

## Review of Section 106 Agreements

**12.7** In the event of stalled developments applicants/developers may wish to come back to the Council seeking to review previous agreements with a view to possible deferred payment of contributions, changes to design and/or flexibility of uses. The Council may consider such a scenario on its merits and in accordance with the viability testing and prevailing legislation.

## Section 106 Planning Obligations, Monitoring and Other Fees

### Background

**12.8** Planning Obligations are always site specific and are negotiated based on the characteristics of an individual site and proposed development. They are used as part of the planning application process to address specific planning issues arising from a development proposal that cannot be adequately dealt with via planning conditions.

**12.9** Developments that are expected to require significant infrastructure which is expected to be delivered via Section 106 agreements (or Section 106 Unilateral Undertakings as the case may be) have become increasingly difficult to monitor and manage given the scale, detail and complexity of likely obligations and the need in some cases for phasing over long timescales. The monitoring and administration of Section 106 Agreements (or Section 106 Unilateral Undertakings as the case may be) for such developments is an abnormal and labour – intensive impact of the development which the Council would not have to bear if the development were not to take place. As a result, the Council seeks a fee to contribute to the costs of monitoring the implementation of the measures in such Agreements (and Unilateral Undertakings).

**12.10** Developers will be required to pay the Council's reasonable legal costs for negotiating, and preparing an agreement or undertaking.

**12.11** In addition to the monitoring fee some major schemes may require the appointment of an Independent Viability Assessment consultant or the provision of independent advice to validate specific aspects of the planning application/agreement/undertaking and this will be secured at the developer's cost.

### Planning Performance Agreements

**12.12** A planning performance agreement ('PPA') can extend to matters beyond the formal application process – such as programming the negotiation of any section 106 agreement and related non-planning consents. For very large or complex schemes the PPA may also provide a basis for any voluntary contributions which the applicant has offered to pay to assist with abnormal costs of processing the application.

**12.13** All S106 Agreements and Unilateral Undertakings are monitored in a transparent manner to ensure that contributions are spent on their intended purpose and that the



associated development contributes to the sustainability of the area and the impact of the development is mitigated.

**12.14** The monitoring fee is a contractual obligation as well as being an obligation sought pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) and other relevant legislation. It is binding on the Owner and its successors and in some cases it can be associated with a development of a large, complex nature and could cover a variety of specific tasks undertaken by the Council officers including officers of the Section 106 Monitoring Team of the Council's Spatial Planning Service.

**12.15** The Council has Section 106 officers that are responsible for monitoring planning legal agreements and undertakings managing the implementation of planning obligations and non-monetary heads of terms. The Council has an established process for recording and monitoring Section 106 Agreements and undertakings including a database with details of these.

**12.16** The process is further governed by the Section 106 Framework Group which meets monthly and includes representation from various Departments such as Legal Services, Finance, Debt Recovery, Spatial Planning and Development Management. This Group deals with a variety of matters including allocation of S106 monies to various projects in accordance with the clauses of each particular agreement/undertaking and advice on specific matters.

**12.17** Payment of financial contributions should normally be on or before implementation of the development. This will enable mitigation and improvement works to commence during construction of the development and, where feasible, be coordinated with the completion of development.

**12.18** For phased developments, the staging of payments may be acceptable. The developer must inform the Council when the relevant stage triggers have been reached. The Council will normally only receive contributions if construction of the development has commenced. Larger infrastructure projects funded through Section 106 contributions may take longer to deliver given the time that may be required to put sufficient additional funding in place, to work up details of projects, undertake consultation, obtain relevant consents and address any other issues that arise.

**12.19** Recovering the cost from the person(s) against whom the obligation is enforceable it is the responsibility of the S106 Monitoring officers to:

- monitor the implementation of planning permissions relating to developments,
- monitor developer's compliance with planning obligations,
- report on the status of S106 Agreements and undertakings
- Undertaking a variety of tasks and facilitating S106 funded projects for subsequent approval by the Council's Infrastructure Finance Group. Projects funded through planning obligations will be selected through strategic objectives, which identify the infrastructure needed within the Borough through public consultation and work undertaken by the individual service areas in the Council.

**12.20** The monitoring of planning obligations (including the monitoring of non-financial obligations) requires the payment of fees in recognition of the Council's tasks of monitoring compliance as set out below

## Section 106 Financial Planning Obligations payable to the Council and/or third parties

**12.21** Normally a fee of £1500 is required for each Financial Planning Obligation.

## Non-financial Planning Obligations

**12.22** £1500 is required per head of term relating to non- financial planning obligation.

## Affordable Housing Planning Obligations

**12.23** One or more of the following contributions will be payable depending on the nature of the application:

- £1500 to cover the provision of Affordable Housing onsite
- £1500 to cover the provision of Affordable Housing off-site
- £1500 to cover the Affordable Housing contribution which is paid in lieu of the provision of Affordable Housing

## The Review Mechanism

**12.24** £1500 is required to cover the Council's costs for time spent on co-ordinating and liaising with the Independent Viability Consultant and liaising with the developer to ascertain if there is deferred affordable housing contribution payable.

## Justification

**12.25** In addition to the monitoring fee some major schemes may require the appointment of a viability consultant or the provision of independent advice to validate specific aspects of the application/agreement/undertaking. The costs of any consultant appointed by the Council will be required from the developer(s).

## Specific Examples of Obligations and Associated Tasks

**12.26** The individual obligation clauses would be specific to each development and agreement/undertaking and related to the scale, form and nature of the development.

**12.27** Examples of general tasks associated with monitoring (in addition to the preparation of the data base) include:

- Undertaking site visit as necessary
- Liaising (including meetings) with the Developer/Owner as necessary
- Dealing with technical issues relating to specific obligations as they arise.

**12.28** Examples of specific clauses and the tasks involved are as follows:

### **The sum of £1,500 for monitoring the restriction on parking permits obligation.**

Currently the restrictions are normally imposed on residential developments of ten units or more. The monitoring includes:

- Keeping records of developments affected by parking restrictions
- Internal consultation between various sections of the Council
- Implementing the parking restrictions.

## **The sum of £1,500 for monitoring the Skills Training and Employment Obligation**

- Setting up of data base recording:
  - a) the site address
  - b) the amount received
  - c) name of the developer
  - d) Whether for construction phase only (applicable if residential development only)
  - e) Whether for construction AND operational phase (applicable if residential and commercial elements in the development)
  - f) date of approval of the Job Brokerage and Training Strategy
- Receiving the Employment Skills Plan
- Checking the plan to ascertain whether it sets out a detailed programme for advertising jobs in the Council's area
- Examining the strategy to ensure that it is robust and sufficiently detailed, offers sufficient value, training opportunities and benefit to the local community having regard to the CIT Construction benchmark.
- Liaising with the developer / agent and requiring amendments to the proposed strategy as required
- Approving the strategy in writing
- Monitoring that the implementation of the strategy is in accordance with the approved written strategy

## **For the car club monitoring, the sum of £250 from small and medium developments and up to £1000 from large developments alongside a Travel Plan**

- Checking to ensure that the Car Club bay is provided, maintained and retained and to ensure that the Car Club operator is accredited with Car Plus UK (or another body as approved by the Council)
- If applicable, checking that membership of a car plus (or equivalent) accredited car club for residents has been paid by the Developer as specified in the S106 agreement

## **The sum of £250 up to £7500**

- Internal meetings with the relevant case officers to assist in monitoring the review of the terms of the Travel Plan
- Monitoring the travel plan to ensure that it is implemented and is operational for the entire duration (which is specified in the S106 agreement).

## **The sum of £1,500 for monitoring the Affordable Housing obligation**

- Maintaining a record of all approved planning applications that contain an affordable housing requirement;
- Monitoring and recording when each such approved planning application starts on site;
- Ensuring that the developer has entered into an agreement to transfer the affordable dwellings to a Registered Provider within the timeframe specified in the Section 106 Agreement; Additionally, ensuring that the developer has subsequently actually transferred the affordable dwellings in compliance with the terms of the Section 106 Agreement
- Ensuring that the Registered Provider has entered into a Nominations Agreement for the Affordable Rented units, as required under the terms of the Section 106 Agreement;

- Monitoring and recording practical completion of the scheme including the Section 106 affordable housing provision;
- Checking that the occupation of any private units on the scheme is in accordance with any trigger points contained within the Section 106 Agreement.
- Ensuring that, where applicable, any commuted sum payments are received in a timely manner.

**12.29** In some cases, more intensive monitoring is required, these include situations where the S106 Agreement includes a Review Mechanism to be undertaken at some point during the course of construction and/or includes cascade provisions (that may lead to a commuted sum or allows some, or all, of the affordable housing provision to be delivered off-site on a donor site).

## Project Management Fees

**12.30** In certain cases, the Council will seek agreement from developers that a percentage of the section 106 contributions paid over to facilitate a given project or project can be applied by the Council to defray costs associated with the management of that project ('project management fees').

**12.31** The recovery of project management fees will usually be sought on major projects, where the Council is unable to resource the implementation of the schemes the S106 funds are intended to pay for from current resources, although there may be instances where the recovery of such fees is appropriate on other projects too. Project management fees are required to cover tasks such as internal/external resource co-ordination, managing the scope, schedule and budget of each project, measuring project performance and creating and managing project documentation, although this list is not exhaustive

**12.32** The precise percentage that the Council is entitled to apply to project management costs will be the subject of negotiation with developers on the facts of each individual case, but will typically be around 15% (20% in exceptional cases) of the S106 contribution paid.

**Section 106 Planning Obligations in Croydon and their Relationship to the Community Infrastructure Levy  
Non-statutory guidance**

**Summary of comments received on the September – October 2016 consultation and the Council’s responses**

**June 2017**

<b>Consultation Response on Behalf of:</b>	<b>Comments</b>	<b>Council’s Response</b>
Natural England	Natural England has no comments to make on the draft Non Statutory Planning Guidance on Section 106 Planning Obligations and Community Infrastructure Levy in Croydon – Partial Review	Noted
Gatwick Airport	The Croydon area is outside of our ‘physical’ 15km safeguarding zone. We therefore, have no comments to make from an aerodrome safeguarding perspective	Noted
TfL	Holding response received but no further response	
TETLOW KING PLANNING Unit 2, Eclipse Office Park, High Street, Staple Hill, Bristol BS16 5EL	<p>1. The Council’s approach to changing its guidance in light of the Government’s affordable housing thresholds is pragmatic, but should also take into account the potential to improve scheme viability and on-site delivery of affordable housing through alternative tenures. As an alternative to a commuted sum it would be worthwhile the Council indicating that Rent to Buy housing could be used as an alternative affordable housing tenure on-sites as this model does not require upfront capital expenditure by housing associations.</p> <p>2.The indication that implementation and monitoring fees will be sought in Section 106 agreements is contrary to the judgement of Oxfordshire County Council and SoS CLG etc. (2015) (CO/4757/2014) in which Mrs Justice Lang concluded that monitoring is part of a LPA’s statutory functions and should not therefore be charged out as fees except in exceptional cases. We are surprised to see the introduction of the fees in this SPD and suggest that this is struck out</p>	<p>1. This is covered by proposed amendments to the Croydon Local Plan: Strategic Policies as part of the Parital Review of that Local Plan.</p> <p>2. On the particular facts of the Oxfordshire case, the administration/monitoring fees did not meet the tests of the Community Infrastructure Regulations, (Reg 122). However, the case does not (for example) preclude bespoke monitoring arrangements for strategic sites. Accordingly, the Council may seek an additional charge for the monitoring/administration of planning obligations. Where the Council does seek to impose monitoring arrangements, then it will apply justifications based on both quantum and Regulation 122. The wording has been amended accordingly.</p>

<p>Sport England</p>	<p>1.A review every 2 or 3 years should be encouraged to pick up any changes in the economic climate, evidence base and monitoring the delivery of the Local Plan.</p> <p>2.The inclusion of ‘sport’ including playing fields as a generic term on the draft Reg 123 of CIL could preclude the use of S106 to secure mitigation when a sports facility or playing field is affected by a planning application and under para 74 of the NPPF the mitigation is needed to make the development acceptable. You should look at ‘exceptions’ to enable mitigation via S106 where appropriate.</p> <p>A number of authorities have looked at a work around including:</p> <p>Westminster City Council lists “sports and leisure facilities” but says that “This Regulation 123 list explicitly excludes the provision of infrastructure that is required to make a development acceptable in planning terms and which meets the legal tests of Regulation 122 of the CIL Regulations. Through the publication of this list the council therefore retains its discretion to negotiate necessary planning conditions and S106 obligations to secure such infrastructure”, and have produced a SPD about this</p> <p>3. Sport England advocates that new developments should contribute to the sporting and recreational needs of the locality made necessary by their development. All new dwellings in Croydon in the local plan period should provide for new or enhance existing sport and recreation facilities to help create opportunities for physical activity whilst having a major positive impact on health and mental wellbeing</p> <p>Concerned that there does not appear to be a robust and up to date evidence base for sport and recreation in Croydon to inform the Infrastructure Delivery Plan (IDP) and / or SPD Development Contributions and / or the Community Infrastructure Levy</p> <p>It is crucial that the Council have an up-to-date and robust evidence base in order to plan for the provision of sport both playing fields and built facilities. Sport England would highly</p>	<p>1. It is not necessary to include a specific review date. A review can take place at any time if a change in circumstances means a review is warranted.</p> <p>2. The provision, improvement, operation and maintenance of public sports facilities is part of the Regulation 123 list meaning that legally the Council cannot require it to be secured through a planning obligation. The Council collects CIL to cover the improvement, operation, maintenance of public sports facilities.</p> <p>3. The Guidance is used to calculate the impact that new development has upon various types of infrastructure. However, as the scope for S106 is becoming increasingly limited by Regulations after the introduction of CIL the inclusion of contributions to include sport may become increasingly difficult to justify. The mitigation of the effects of development will continue to be judged on a case by case basis. The review of the R123 list is not part of the scope of the Non-statutory guidance on planning obligations and their relationship to CIL. However, there are no restrictions on when and how often it can be reviewed.</p>
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	recommend that the Council undertake a playing pitch strategy (PPS) as well as assessing the needs and opportunities for sporting provision. Sport England provides comprehensive guidance on how to undertake both pieces of work.	
London Borough of Waltham Forest	<p>1. Is Clause 5.13 necessary and relevant? It is an exact repeat of Clause 5.8, and specifically refers to securing local jobs created by the construction phase, rather than the creation of end user local jobs.</p> <p>2. Section 12 – Section 106 Monitoring Fees. Has the following case been considered?</p> <p>Oxfordshire County Council v Secretary of State for Communities And Local Government and others [2015] EWHC 186 case: “The High Court has held that the administrative and monitoring costs incurred by a local planning authority (LPA) in ensuring that planning obligations were observed were not capable of being a planning obligation in their own right. It is part of the normal, everyday functions of an LPA to administer, monitor and enforce planning obligations in section 106 agreements. The payment of a monitoring and administration fee listed as a planning obligation in a section 106 agreement could not be recovered. The planning obligation failed the test in regulation 122 of the Community Infrastructure Levy Regulations 2010 (SI 2010/948) as it was not "necessary to make the development acceptable in planning terms"</p>	<p>1. Noted</p> <p>2. The Oxfordshire case has been considered. In the particular facts of the Oxfordshire case, the administration/monitoring fees did not meet the tests of Regulation 122. However, the case does not (for example) preclude bespoke monitoring arrangements for large strategic sites. Accordingly, the Council may seek an additional charge for the monitoring/administration of planning obligations. Where the Council does seek to impose monitoring arrangements, then it will apply justifications based on both quantum and Regulation 122.</p>
Tandridge DC	No comment on this consultation. As a general observation, it would perhaps be beneficial if the SPD deals with all S106 obligations	Noted
Surrey CC	Consider that the document should mention that there might be future circumstances arising where development might generate a critical need for infrastructure in neighbouring authorities e.g. developer funding may be required from Croydon towards infrastructure provision in Surrey, including CIL contributions, especially in relation to transport and education provision	The mitigation of the effects of development will continue to be judged on a case by case basis and addressed via section 106 agreements and in conformity with Regulation 122.
Alessandro De Iaco	Holding response. No further comments received	Noted

<p>Charles King</p> <p>East Coulsdon RA</p>	<p>.</p> <p>We are pleased to see that the revised guide allows for improvements in transport infrastructure both in road for vehicles, cycles and pedestrians and for public transport.</p> <p>We are also pleased that section 106 remains specific to the local area.</p> <p>However we believe that CIL needs to be brought in line with other local authorities in that a fixed percentage of between 15% and 20% should be spent on improvement in the locality of the development that is contributing the CIL. This would bring Croydon’s policy in line with other London Boroughs and with those neighbouring authorities outside that have parish councils.</p>	<p>Noted</p> <p>CIL legislation requires that a meaningful proportion of the Council’s CIL income has to be devolved and spent at the local level. The intended procedures for how the Council will manage and monitor the meaningful proportion has been already agreed</p>
<p>Crystal Palace FC</p>	<p>CPFC recommend that the CIL 123 List should be amended to include the improvement and redevelopment of infrastructure associated with Selhurst Park Stadium due to the exceptional nature of the role of the redevelopment and the need where appropriate for flexibility in seeking contributions</p> <p>With regards to Employment CPFC is fully committed to recruiting local talent but with the flexibility to recruit players and staff on a national and international basis</p> <p>CPFC also refer to paragraphs 5.13 to 5.17 on Local Employment and that CPFC should be exempt due to the “exceptional demands place upon a top professional club”.</p>	<p>The Guidance refers to the Regulation 123 List which is the infrastructure to be funded by CIL. The list includes the “provision, improvement, replacement, operation or maintenance of public sports and leisure as well as the “provision, improvement, replacement, operation or maintenance of community facilities”.</p> <p>The 123 List provides the necessary flexibility for the Council’s Infrastructure Finance Group to allocate funding and the current proposed 123 list is sufficiently broad.</p> <p>It would be difficult to justify any specific requirement for Section 106 contributions for CPFC as it would have to be demonstrated that it was necessary to mitigate the impact of the parent development concerned.</p> <p>It is not considered that CPFC would be significantly affected by these paragraphs which generally aim to require developers to outline the approach developers will take so</p>



		as to deliver local employment and training.
Environment Agency	<p>Support the inclusion of “provision, improvement, replacement, operation or maintenance of public open space</p> <p>Also support for the inclusion of Air Quality contributions but would like additional sentence to 7.4 to ensure new or redevelopment industrial /waste processing sites contact the Environment Agency</p>	Support Welcomed
NHS	NHS Trust support the Councils suggested amendments to the original document.	Support Welcomed
Berkeley Homes	<p>It is positive that Council is continuing to provide further clarification on how it intends to secure and implement the Employment, skills and training benefit that new development can bring to an area.</p> <p>1. When agreeing the percentage of contractors to be sourced locally therefore, it would be useful if this level of availability is taken into account. The most sensible way to do this is to agree a list of relevant and available trades with the developer and then apply any target percentages to these trades only. This can be done via the submission and agreement of a local contractors plan or strategy, which would be secured via the Section 106 Agreement and reviewed at agreed periods</p> <p>2. In terms of construction and end user jobs and the provision of apprenticeships, our experience has shown that it is easier to deliver these services at certain points during the construction process. For example, the number of trades on site significantly increases during the latter stages of development when the internal fit-out of buildings is underway. Conversely, the opportunities for providing on-site training or a high number of</p>	<p>1: The Council is willing to consider plans backed up by research from the developer which demonstrates an inability to use local contractors for job opportunity due to a shortage of relevant skills, and in this context would consider strategies that meet jobs targets by applying targets to specific types of trades. However, if from these plans, it becomes clear that there is a skills gap amongst Croydon residents in particular trades that are likely to produce future jobs in the Croydon economy, the Council may place conditions on the developer to develop this pipeline of skills via training opportunities and work experience.</p> <p>2: The Council will work pragmatically with the developer to understand the pipeline of jobs available and when they are likely to come on-stream. During dialogue with the developer and before the Section 106 is signed the Council would aim to reach a target that the developer feels is achievable</p>

	<p>local jobs are limited in the early stages when specialist site prep and demolition is taking place. Therefore, whilst best endeavours will always be used to achieve the targets set by the Council in relation to these areas, it is important to recognise that it may not always be possible to meet them.</p>	
<p>Comments by QUOD on behalf of CROYDON LIMITED PARTNERSHIP</p>	<p>CLP is committed to working with the Council and stakeholders to maximise local benefits by investing in local employment and training initiatives. This commitment to delivering employment and training is reflected within the Section 106 agreement attached to the 2014 consents for the redevelopment of the Whitgift Centre, which includes the provision of a package of employment and training initiatives. However, it is important that emerging policy and guidance does not negatively impact upon the viability of our client's scheme and consequently prevent the future regeneration of the town centre and the borough as a whole.</p> <p>1. The S106 consultation document states that the Council will seek to provide a minimum of 34% of the total jobs created by the construction phase of a development to local residents. In addition, paragraph 5.9 sets out a requirement for residential developments providing 10 units or more, and major commercial developments providing 1,000sqm or more, to provide one training opportunity/apprenticeship per every 10 construction workers. 12. It is considered that this blanket approach to the provision of training opportunities to be wholly unsuitable for larger schemes, failing to provide the flexibility required to adapt to both site-specific and economic conditions. We therefore request the wording of proposed paragraph 5.9 to be revised in order to ensure suitable flexibility for larger development proposals:</p> <p><i>"The developer and/or its contractors and subcontractors, will offer, as a minimum, an average of one work-based training opportunity/apprenticeship for every 10 construction workers over the lifetime of the construction contract. This will be subject to feasibility. For larger schemes the Council is willing to negotiate a number of apprenticeships/training opportunities appropriate to the size of the scheme"</i></p>	<p>1. The Council is willing to consider plans backed up by research from the developer which demonstrates an inability to use local contractors for job opportunity due to a shortage of relevant skills, and in this context would consider strategies that meet jobs targets by applying targets to specific types of trades. However if from these plans it becomes clear that there is a skills gap amongst Croydon residents in particular trades that are likely to produce future jobs in the Croydon economy, the Council may place conditions on the developer to develop this pipeline of skills via training opportunities and work experience. Each application will be considered on a case by case basis.</p>

	<p>2. Paragraphs 5.10 to 5.12 identify that the Council will seek a financial contribution to cover the Council’s costs in the identification, initial pre-employment training and on-going skills development and sustained employment for local people working in construction jobs on developments, which will be delivered through the Council’s Job Brokerage service, and other agencies as required.</p> <p>A standard charge for training will be made of £2,500 per £1 million of capital construction costs. The Council is willing to negotiate a different rate on larger construction schemes, defined as £30 million in the construction contract value. On large schemes there may also be additional requirements negotiated, including dedicated posts at the developer and/ or Council to manage employment and training schemes, specialist training provision or facilities, school or college activities and employment events.</p> <p>CLP support the recognition that different rates should be negotiated on larger construction schemes. However, we request further confirmation that where additional requirements are required for larger schemes, these are considered on a case by case basis.</p> <p>3. Paragraph 5.14 states that a financial contribution will be required to cover the Council’s costs in the identification, initial pre-employment training and on-going skills development and sustained employment for local people working with end-use businesses.</p> <p>First, as a point of principle, we consider that the minimum requirement of 34% could be overly restrictive. Therefore, flexibility should be added to the guidance document to ensure that larger schemes in particular are dealt with on a case by case basis. This will ensure that such minimum requirements do not prevent developments from coming forward in a timely manner.</p> <p>Secondly, CLP consider that any additional financial contributions sought by the Council to be unwarranted and request that further</p>	<p>2. Paragraph 5.9 has been amended. However the wording around apprenticeships being accredited, recognised apprenticeships, delivered by accredited training providers must be retained.</p> <p>3. Yes, they will be considered on a case by case basis. However, original wording to be retained.</p>
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<p>justification be provided to developers and applicants. The financial implications of such obligations are substantial for a development of this size and would have a significant impact on the overall viability of the scheme and ultimately its successful delivery. This point should not be underestimated.</p> <p>As previously set out, it is imperative that our client's scheme comes forward in order for the wider town centre regeneration benefits to be realised. As such, we request that a more flexible approach to this contribution is adopted which allows for viability to be taken into account, as well as the introduction of a cap on the contributions sought.</p> <p>4.Paragraphs 5.16 – 5.17 set out that where the end-use occupier of a development is known the Council will seek an agreement with the developer to provide a specified number of apprentice or trainees places within the development and to agree a minimum of 34% of end-user jobs that should be filled by local residents. Where the end-use occupier is not known the Council will seek an agreement to ensure that the Developer brokers a meeting between the new occupier and the Council once confirmed, with a requirement for end-users to engage with the council's Employment and Skills Team and Job Brokerage service to identify training and employment opportunities for local residents.</p> <p>Whilst CLP supports the provision of end user jobs to local people in principle, it is unclear how the Council will seek to implement this requirement in practice. Further clarity is therefore sought on how this would be implemented and monitored</p> <p><b>Conclusions</b></p> <p>We respectfully request that you consider these comments carefully in light of the long term strategic aspirations for the delivery of town centre redevelopment in Croydon, and in particular with respect to the overwhelmingly positive benefits that our client's scheme will provide to the local labour market.</p> <p>The Council should be mindful that emerging policy and guidance</p>	<p>4. The Council will amend paragraph 5.16 to the following wording: 'The Council will seek to secure a minimum of 34% of the total jobs created by the construction phase to be filled by local residents. All vacancies should be advertised via the council's job brokerage service and any other agencies as stipulated by the Council. On large schemes. The Council will work with the developer on a case by case basis, however a detailed rationale explaining why 34% of employment cannot come from local residents will be required. If from this rationale it becomes clear that there is a skills gap amongst Croydon residents in particular jobs generated by the development the Council will expect the Skills and Employment Strategy to demonstrate how skills and employment activity can create a pipeline of talent during the construction phase ready to take end-use jobs'.</p> <p>This is guidance and we will deal with applications on a case by case basis.</p> <p>The Council has baselined its financial contribution asks against other London local authorities. However, as previously stated, where additional requirements are required for larger schemes, these applications will be considered on a case by case basis as part of planning application discussions with the developer.</p> <p>This will be implemented and monitored through Croydon</p>
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	<p>does not prejudice the ability of the town centre and the wider area from realising its longstanding policy aspirations.</p>	<p>Work's online systems.</p>
<p>GL Hearn, on behalf of Croydon Plaza Limited c/o Delancey</p>	<p><b>Comments relate to Section 10 - <i>The Mechanism for the Calculation of Affordable Housing Commuted Payments in Accordance with Croydon Local Plan: Strategic Policies - Affordable Housing Policy.</i></b></p> <p>1.Paragraph 10.1 and Table 2</p> <p>The policy requires a negotiated value be based on a square metre rate. However, affordable housing policy is based on a provision of dwellings proportional to the number of units or habitable rooms. The requirement, therefore, must be linked on this basis. We do not consider that it is the intention of the policy to charge a commuted sum where the correct number of units / hab rooms has been provided but a small difference in area remains.</p> <p>It is stated that the above rate is to be based on the difference in value between an affordable and private unit. It should be made clear that this is the difference in 'residual value' as this is the 'cost' to a developer of providing affordable vs. private units.</p> <p>A minimum rate of £1,723.20 psm has been adopted but it is not clear how this has been derived. Furthermore it is stated that each year the minimum value 'per affordable unit' will change. This conflicts with the basis of the rate being on a £psm basis.</p> <p>2.Paragraph 10.3(e) This should be amended so that 'Existing Use Value (EUV)' is replaced with agreed 'Benchmark Land Value', or similar, as the payment in lieu should not be artificially increased if the viability assessment has been based on an agreed AUV or MV approach. Furthermore the Breakeven GDV should be subject to cost inflation as these costs are likely to rise during the same period.</p>	<p>The commuted sum will only be applied if the minimum level of habitable rooms or units is not provided irrespective of the square meterage of affordable housing. By charging for affordable housing on a square metre basis it removes any inequality of charging a fixed amount per affordable unit irrespective of its size. It is also easier to calculate than a per habitable room cost given that habitable rooms vary in size.</p> <p>This has been amended to state that the minimum value of each square metre of affordable housing not provided on site will change.</p> <p>2. Reference to Alternative Use Value being acceptable to determine Benchmark Land Value where there is a realistic policy compliant alternative scheme that can be implemented has been added to paragraph 10.3(e). The Review Mechanism calculation has been amended to take account of actual costs as well as sales values.</p>

	<p>Table 3 In respect of the share of the development surplus this should be set at a 50:50 ratio. A larger proportion in favour of the Council will dis-incentivise a developer to achieve higher sales values who then may apply a reduction in value to avoid the overage but achieve a quick sale and, therefore, lower finance costs.</p> <p>3.Paragraph 10.4 This sets out the requirement for what is effectively an outturn model as part of viability assessments of major developments. It is not defined in this context what is meant by major developments but we assume this to be a multi-phased development that is delivered over a long period, say 10 years or more. This should be made clear.</p> <p>It is stated that additional affordable would be fixed against forecasted sales values but makes no reference to forecasted build costs. In such major developments the costs are likely to increase and, therefore, any growth in values must be set against these rises. Outturn models are sometimes used to assess at conception the viability level that subsequent phases may achieve. They clearly cannot, however, access the particular phase that is being considered which is still subject to the same present day scenario. Furthermore, they must be used sparingly as they are open to considerable sensitivity and variance.</p> <p>This requires that the review mechanism ‘trigger points’ also be based on a growth or outturn approach and not the values at the point of review. Although not clear this seems to suggest that the overage would be calculated on the values forecasted to have been grown, rather than the values actually achieved and the real state of the market. This is likely to result in a number of schemes stalling if the market does meet expectations. Alternatively if this relates to the timing of a review then this is not practical either. A commuted sum can only be provided once sufficient sales receipts have been received. Likewise additional affordable can only be delivered in subsequent phases, the review therefore should not be pre-mature or it will not accurately reflect growth in costs and values at the point at which any surplus can</p>	<p>No change. The exact ratio is subject to discussion and no values are specified in the guidance.</p> <p>3. No change. Major developments will continue to be considered as residential units of 10 or more</p> <p>A reference to actual construction costs has been added to paragraph 10.5 of the revised S106 guidance.</p> <p>Paragraph 10.5 is referring to the future sales values of units as yet unsold at the point of the review being triggered. It does not apply to the sales values of units already sold.</p>
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	<p>practically be provided to the Council. Clarification on this paragraph is, therefore, required.</p> <p>4.Paragraph 12.7 This previously stated that reviews of stalled schemes/s106s 'will' be considered.' 'Will' has been replaced by 'may' suggesting a much reduced willingness to resolve viability issues on stalled schemes. Such a stance is unwelcome; especially as S106BA applications are no longer available to alleviate such issues. We request that this change is reverted.</p> <p>5.Paragraph 12.11 Suggest that the phrase 'reasonable cost' be added to the sentence 'will be secured at the developer's cost' in this paragraph as it cannot be expected that developers pay costs which are not related to prevailing rates for such advice.</p>	<p>No change. These schemes will continue to be considered on a case by case basis</p> <p>No change. The independent valuer is agreed with the developer and the Council does not impose particular consultants on applicants.</p>
<p>Persimmons</p>	<p>Agree with principles of documents but concerns regarding Skills and Training section as while Persimmons look to the local labour market 34% requirement of total jobs may cause significant delays in housing delivery due to potential skills shortages. There needs to be some flexibility with the percentage of local workers</p>	<p>The Council is willing to consider plans backed up by research from the developer which demonstrates an inability to use local contractors for job opportunity due to a shortage of relevant skills, and in this context would consider strategies that meet jobs targets by applying targets to specific types of trades. However if from these plans it becomes clear that there is a skills gap amongst Croydon residents in particular trades that are likely to produce future jobs in the Croydon economy, the Council may place conditions on the developer to develop this pipeline of skills via training opportunities and work experience.</p> <p>Each application will be considered on a case by case basis.</p>

Redrow	<p>1.Skills and Training</p> <p>With regards to the Construction Phase the requirement for 34% of jobs to be local...is excessive. There is no evidence where this figure comes from and many developers have internal contracts with employees which could result in these employees missing out on job opportunities.</p> <p>Para 5.7 should be amended and replace “best” with “reasonable” endeavours to be used to ensure that local targets for employment are achieved.</p> <p>Para 5.16 to 5.17 do not accord with the 3 tests in Reg 122. These should be an option for developers not a requirement.</p> <p>2. Carbon Emissions</p> <p>S106 is not the most appropriate route for securing this due to the pooling restrictions.</p> <p>3. Air Quality</p> <p>The requirement should not be sought for all major developments</p>	<p>1. This figure is baselined from research with other local authority S106 guidance. The Council is willing to consider plans backed up by research from the developer which demonstrates an inability to use local contractors for job opportunity due to a shortage of relevant skills, and in this context would consider strategies that meet jobs targets by applying targets to specific types of trades. However if from these plans it becomes clear that there is a skills gap amongst Croydon residents in particular trades that are likely to produce future jobs in the Croydon economy, the Council may place conditions on the developer to develop this pipeline of skills via training opportunities and work experience. Each application will be considered on a case by case basis.</p> <p>The requirement is for ‘best’, not ‘reasonable’ endeavours.</p> <p>Paragraphs 5.16 and 5.17 have been amended to clarify that paragraph 5.16 applies where the end-user is also the developer and that paragraph 5.17 applies where the end-user is not the developer or is not known to the Council.</p> <p>Paragraphs 5.16 and 5.17 will be considered on a case by case basis and would be agreed with the developer, rather than being a strict requirement.</p> <p>2. Noted but mitigation issues will continue to be considered on a case by case basis</p> <p>3. Noted but mitigation issues will continue to be considered on a case by case basis</p>
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	<p>but only in circumstances where mitigation is required</p> <p>4.Affordable Housing</p> <p>We support the Councils view to negotiate a value but table 2 states that the value of each sq. m will be a value of £1723.20 per sq. m of affordable housing not provided on site and furthermore the minimum will change according to the All In Tender Price Index. This sum should be removed and considered on a site by site basis</p> <p>On Donor sites Para 10.6 states that within the COA a donor site should make good the minimum affordable housing requirement in addition to the policy compliant 10% on site provision. However this would be contrary to CLP1.1 which seeks to increase AH within the COA.</p> <p>The 18 month requirement for the developer to make all reasonable endeavours to find a RP is unreasonable and impact on housing delivery</p> <p>5.Monitoring</p> <p>The requirement for the payment of financial contributions on or before the implementation of development and should be dependent on the contributions. The monitoring fee is quite high and there are appeal decisions which state that Monitoring is part of the Councils statutory functions</p>	<p>4.Noted</p> <p>5. Where the Council does seek to impose monitoring arrangements, then it will apply justifications based on both quantum and Regulation 122. On the particular facts of the Oxfordshire case, the administration/monitoring fees did not meet the tests of Regulation 122. However, the case does not preclude bespoke monitoring arrangements for large strategic sites, for example. Accordingly, the Council may seek an additional charge for the monitoring/administration of planning obligations. Where the Council does seek to impose monitoring arrangements, then it will apply justifications for the fee amount based on both quantum and Regulation 122.</p>
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