

# **Lewisham Planning Obligations Supplementary Planning Document**

## **Draft Planning Obligation Supplementary Planning Document – Consultation Version**

July 2014

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# 1 Introduction

## Background to this Document

- 1.1 The London Borough of Lewisham will be subject to a significant amount of development up to 2026, with around 14,000 new residential units planned for the borough, as well as new employment, retail and leisure provision. This level of development is expected to continue beyond 2026 to support London's growth.
- 1.2 New development plays an important role in the vitality of any locality. Whether it is the provision of new homes, employment or recreational facilities, development is essential to provide for our current and future needs. The planned level of growth within the borough, however, will result in increased pressure on local infrastructure, services and facilities and will also create a need for additional provision within the borough.
- 1.3 The purpose of the Planning Obligations Supplementary Planning Document (SPD) is to provide detailed guidance on the likely type and scale of planning obligations for development proposals in the London Borough of Lewisham to ensure that the impact of development on infrastructure and services can be adequately mitigated. It also seeks to establish a transparent, fair and consistent process for negotiating, securing and monitoring planning obligations.
- 1.4 In order to fund the infrastructure necessary to support development across the borough the Council is planning to adopt a Community Infrastructure Levy (CIL) in accordance with the CIL Regulations (2010) (as amended). The CIL regulations limit the use of planning obligations.
- 1.5 It should be noted from the outset that the SPD does not attempt to specify all of the planning obligations that may be necessary to mitigate the impacts of every development. Other planning obligations may be required that are not set out in this SPD due to site specific or local circumstances. The exact type and range of planning obligations, which may be sought for an individual site, will depend upon the particular circumstances and development proposed and its impacts upon the local environment, local services and facilities and in accordance with the NPPF and the Community Infrastructure Levy Regulations (2010), (as amended).
- 1.6 When adopted this SPD will replace the Council's adopted Planning Obligations SPD (2011). The SPD will be a material planning consideration for use in guiding and determining planning obligations.

## What are Planning Obligations?

- 1.7 Planning obligations (made under Section 106 of the Town and Country Planning Act 1990, as amended), are Legal Agreements between local planning authorities and developers, or unilateral undertakings made by developers, in the context of the grant of planning permission. They can be both financial and non-financial and they are used when there is a requirement to address the impact of a development and the impact itself cannot be dealt with through a planning condition on the permission.

- 1.8 Planning obligations can be used to prescribe the nature of development (e.g. by requiring that a given portion of housing is affordable); or to secure a contribution from a developer to compensate for loss or damage (e.g. enhancements to open space); or to mitigate a development's impact (e.g. through increased or improved public transport provision). The use of planning obligations is an effective tool through which the Council will seek to ensure that growth and development, whether individually or cumulatively, meets the objectives of sustainable development as promoted in local, regional and national policies.
- 1.9 The Community Infrastructure Levy Regulations (Regulation 122) set out that from 6th April 2010 it will be unlawful for a planning obligation to be taken into account when determining a planning application for a development or any part of a development that is capable of being charged CIL if the obligation does not meet the following tests:
- (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.
- 1.10 Planning obligations are local land charges and run with the land. This means that they are intended to be enforceable against the original parties who entered into the agreement or undertaking and in most cases, anyone acquiring an interest in the land after it has been sold or transferred.
- 1.11 Used properly, planning obligations can significantly increase the quality of development. They can secure benefits capable of mitigating the adverse impacts of a development. However, they cannot be used to make a bad application good where, for example, a scheme does not comply with the development plan.

## What is the Community Infrastructure Levy?

### Introduction

- 1.12 The Community Infrastructure Levy (CIL) came into force in April 2010. It allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The money can be used to fund a wide range of local and strategic infrastructure that is needed to support growth and development in the borough. This includes transport facilities, flood defences, schools and other education facilities, medical facilities, sporting and recreational facilities and open spaces.
- 1.13 CIL is intended to provide developers more certainty up front about how much money they will be expected to contribute towards borough infrastructure needs. CIL takes the form of a charge per square metre of floorspace applied to most new developments that involve an increase of 100 square metres or more of gross internal floorspace or that involve the creation of a dwelling even where this is below 100 square meters. The CIL charges are based on the size and type of the new development. Some developments are exempt from paying the levy such as affordable housing, self build and developments of buildings by charities that are used for charitable purposes.
- 1.14 The CIL charges are set out in a formal document called a 'charging schedule' and charges are index linked and inflated over time.

## **Lewisham Community Infrastructure Levy**

- 1.15 The Council's CIL is expected to become effective on the 1st October 2014. The Lewisham CIL will provide funding to help deliver a wide range of infrastructure projects to support new housing and economic growth and benefit local communities. It allows Lewisham to work with infrastructure providers and communities to set priorities for what the funds collected under the levy should be spent on and provides a funding stream so that the delivery of infrastructure projects can be planned more effectively.
- 1.16 The list of projects to be funded by CIL is set out in the Council's Regulation 123 list and the Council will allocate funds to projects to be supported through CIL as part of its capital programme.
- 1.17 Further information on the Lewisham CIL can be found on the Council's website<sup>1</sup>.

## **Mayor of London Community Infrastructure Levy**

- 1.18 In addition to the Lewisham CIL, the Greater London Authority is also a charging authority and the Mayor can charge a CIL to help ensure the delivery of local and sub-regional large scale infrastructure. As of 1 April 2012, the Mayor charges CIL to fund strategic transport which is currently the Crossrail project.
- 1.19 The Mayor's levy is £35 per square metre of new development in Lewisham. There is a nil charge for education and health uses.
- 1.20 The Council is required to collect CIL on behalf of the Mayor and give it priority in calculating the viability of its own CIL and other planning obligations. The Mayor is responsible for spending the Mayoral CIL.
- 1.21 Further information on the Mayoral CIL can be found on the Greater London Authority website.

## **How will the Community Infrastructure Levy and Planning Obligations work together?**

- 1.22 The CIL will largely replace planning obligations as the way in which developments contribute towards providing the new infrastructure necessary to support new development. Once a Local CIL has been adopted or by April 2015 (whichever is the sooner) the Council will not be able to pool more than five separate planning obligations to pay for one item of infrastructure.
- 1.23 When the Lewisham CIL has been adopted the key principle of our approach will be that planning obligations will be used to address site specific impacts of developments such as local access road or public realm improvements near the site. They may also be used in situations where a developer does not meet planning policy requirements to provide infrastructure on the development site. Planning obligations will be negotiated where items sought are clearly linked to the development site and are needed to make that particular development acceptable. CIL on the other hand will be used to fund local and strategic infrastructure required to support growth across the borough.

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<sup>1</sup> <http://www.lewisham.gov.uk/myservices/planning/applications/community-infrastructure-levy/Pages/default.aspx>

- 1.24 CIL payments and planning obligations will be used to fund different infrastructure items and developments will not be charged for the same items of infrastructure through both planning obligations and CIL. To help clarify this we will publish a list of those infrastructure types for which we will not seek to negotiate planning obligations after Lewisham's CIL has been adopted. This is called a Regulation 123 list and it will contain projects which may be funded partly or wholly by CIL. The list will be based upon the infrastructure projects set out in the boroughs infrastructure plan which are required to support growth over the Core Strategy period (2011-2016). It will be kept up to date to take into account any changes in circumstances and/or infrastructure needs identified in future.
- 1.25 Affordable housing falls outside of CIL and will continue to be required through planning obligations.
- 1.26 The CIL regulations allow authorities to offer CIL exceptional circumstances relief subject to specific circumstances. To qualify for the CIL relief the financial cost of complying with the planning obligations must be greater than the CIL charge cost and meeting the cost of CIL and the planning obligations would have to be proven to make the development economically unviable. The Council has decided not to introduce a CIL Exceptional Relief Policy at the current time but the impact of the introduction of the CIL and the potential benefits of introducing such a policy will be kept under review.

## 2 Legislative and Policy Context

### Statutory Framework

- 2.1 The legislative basis for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990 (as amended), which provides local authorities with the opportunity to enter into Section 106 agreements to secure planning obligations in connection with the development and use of land and for applicants / land owners to give unilateral undertakings when making a planning application.
- 2.2 Further statutory provisions are set out in Regulations 122 and 123 of the Community Infrastructure Regulations 2010 (as amended) (“CIL Regulations”).
- 2.3 The CIL Regulations place into Law for the first time, the Government’s Policy tests on the use of planning obligations. As of 6 April 2010 it became unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following tests:
- Necessary to make the development acceptable in planning terms
  - Directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development
- 2.4 The above requirement seeks to clearly delineate the different roles that both CIL and planning obligations have when used together, to secure the delivery of social and physical improvements and infrastructure required of and to support new development.

### The National Planning Policy Framework (NPPF)

- 2.5 At the national level the National Planning Policy Framework (2012) (NPPF) sets out the Government’s economic, environmental and social planning policies for England. Paragraphs 203 to 206 of the NPPF, deal with the use of planning conditions and planning obligations. The NPPF reiterates the three tests governing the use of planning obligations as set out in the CIL Regulations and upholds the long standing principal that planning conditions are preferable to planning obligations. The NPPF also requires local planning authorities to ensure that policies on planning obligations take account of changes in market conditions over time and, wherever appropriate, are sufficiently flexible to prevent planned development being stalled.

### The London Plan (July 2011)

- 2.6 The London Plan (July 2011) provides the strategic context for planning obligations in London and together with the Council’s Adopted Core Strategy (June 2011), is the primary consideration in determining planning applications.
- 2.7 London Plan Policy 8.1 outlines that in enabling development, the Mayor of London will work with boroughs and other key stakeholders across sectors to ensure the effective development and implementation of the Community Infrastructure Levy.

- 2.8 Policy 8.2 specifically deals with planning obligations and sets out that the Mayor of London will provide guidance on the preparation of frameworks for negotiating obligations in DPDs and the aspiration that there is a voluntary system of pooling contributions for the provision of facilities related to proposed developments. The policy also sets out that development proposals should address strategic as well as local priorities through planning obligations and that affordable housing and the funding of Crossrail and other public transport improvements should be given the highest priority. Climate change, learning and skills, health facilities and services, childcare provision and the provision of small shops should also be given priority.
- 2.9 Policy 8.3 (Community Infrastructure Levy) sets out that the Mayor of London will work with Government and other stakeholders to ensure effective development and implementation of CIL and will prepare guidance for boroughs setting out a clear framework for its application. The focus of this is to ensure that the necessary infrastructure to deliver the policies of the plan, such as Crossrail, can be delivered.

## **The Consultation Draft Further Alterations to the London Plan**

- 2.10 The Mayor of London published a consultation draft further alterations to the London Plan in January 2014. The proposed amendments to Policy 8.2 (Planning Obligations) include the inclusion of air quality and social infrastructure as matters which should be given priority in the consideration of planning obligations.

## **Mayor of London's Powers**

- 2.11 It should also be noted that the Mayor has the discretion to determine planning applications of strategic significance. This includes consideration of any planning obligations relating to those strategic applications the Mayor decides as Planning Authority. On strategic applications that the Mayor decides, boroughs are statutory consultees and conversely, for those strategic applications that boroughs decide, the Mayor is a statutory consultee.

## **Lewisham Sustainable Community Strategy**

- 2.12 The Sustainable Community Strategy (2008 – 2020) focuses on key challenges to reduce inequality and social exclusion within Lewisham's communities and between Lewisham and the rest of the country. It sets out objectives under the following themes:

- Ambitious and achieving – where people are inspired and supported to fulfil their potential
- Safer – where people feel safe and live free from crime, antisocial behaviour and abuse
- Empowered and responsible – where people are actively involved in their local area and contribute to supportive communities
- Clean, green and liveable – where people live in high quality housing and can care for and enjoy their environment



- Healthy, active and enjoyable – where people can actively participate in maintaining and improving their health and well-being
  - Dynamic and prosperous – where people are part of vibrant communities and town centres, well connected to London and beyond
- 2.13 All of the Council's activities and policies are guided by, and should be consistent with, the objectives and priorities set out in the Lewisham Community Strategy.

## Local Development Framework

- 2.14 Lewisham Council's Local Plan currently comprises the Core Strategy (adopted June 2011), Site Allocations (adopted June 2013) and the Lewisham Town Centre Local Plan (adopted February 2014). The Council are also developing two further documents to complete the Local Plan. The Development Management Local Plan (DMLP) is due to be adopted in late 2014, while the Catford Town Centre Local Plan is awaiting submission to the inspectorate.
- 2.15 The Core Strategy sets out the spatial planning framework for the long term development of the borough over the next 15 years. It is a strategic document that provides the broad strategy for the scale and distribution of development and the provision of supporting infrastructure.
- 2.16 The Development Management Policies, Site Allocations and Lewisham and Catford Town Centre Local Plans, are aimed at achieving development that delivers the vision and objectives set out in the Core Strategy to bring forward sustainable development.
- 2.17 Core Strategy Policy 21 sets out the following in relation to planning obligations:
- "The need to provide infrastructure, services and/or facilities to address the impact of new development will be considered by the local planning authority from the outset of the planning application process.
  - The Council will seek planning obligations in accordance with Circular 05/05 to ensure effective implementation of the Core Strategy.
  - The Council will prepare a Planning Obligations Supplementary Planning Document to provide further guidance on the likely type, scale and priority of planning obligations and the methodology for calculating formula based obligations, where it is appropriate to do so."
- 2.18 A number of DMLP policies refer to the use and application of planning obligations in relation to issues such as town centres, wheelchair housing, air quality management and community facilities. The town centre local plans contain details of planning obligation priorities for the key development sites and each town centre.

## Infrastructure Planning

- 2.19 The Council has produced an Infrastructure Delivery Plan (IDP) to assess the requirements for a range of physical, social and green infrastructure that may be needed over the plan period of 15 years to 2025/26. The IDP looks at the current and planned supply and the likely demand for such infrastructure if the forecast for population growth is achieved. The use of planning obligations will assist in the delivery of that infrastructure.

## 3 Topic Areas

### 3.1 Affordable Housing

#### Introduction

- 3.1.1 The provision of housing is a key priority and pressure for the borough. The Council is seeking to create socially mixed communities with a greater choice of housing, in order to meet the needs of Lewisham's diverse community. The provision of affordable housing to meet the existing and future housing needs of residents who cannot afford market housing is particularly important in Lewisham, given the high levels of deprivation, the lower than average household incomes and the high market housing prices experienced in the borough.
- 3.1.2 This appendix provides guidance on securing affordable housing as an integral part of development in Lewisham.

#### Definition

- 3.1.3 The main types of affordable housing promoted by the Council can be found within the method section. For the purposes of this document, the definition of 'affordable housing' as contained in Annex 2 of the National Planning Policy Framework (NPPF) will apply:

*"Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.*

- *Social rented housing is owned by local authorities and Private Registered Providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.*
- *Affordable rented housing is let by local authorities or Private Registered Providers of social housing to households who are eligible for social rented housing. Affordable rent is subject to rent controls that require no more than 80% of the local market rent (including service charges, where applicable).*
- *Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can be shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.*

*Homes that do not meet the above definitions such as low cost market housing may not be considered as affordable housing for planning purposes".*

- 3.1.4 Definitions, consistent with the NPPF, are also provided in regional and local policy.
- ⇒ Policy 3.10 and paragraph 3.61 of the London Plan
  - ⇒ Appendix 6 of the Core Strategy
  - ⇒ Appendix 5 of the Development Management Local Plan (DMLP).

## Policy Pointers

- 3.1.5 For a summary of the national, regional and local planning policy context, please see Appendix 1.

## Justification

- 3.1.6 When dealing with affordable housing it is important to recognise from the outset the unique nature of the borough in terms of its population, deprivation, housing stock, incomes, house prices and housing affordability. An overview of each of these characteristics is provided below, using data taken from:
- ⇒ 2011 Census
  - ⇒ 2012 ONS Mid Year Population Estimate
  - ⇒ ONS 2011 Neighbourhood Statistics
  - ⇒ 2012 Ethnic Group Projections
  - ⇒ 2010 Index of Multiple Deprivation
  - ⇒ 2012 GLA Population Projections
  - ⇒ 2012 GLA Ward Profiles
  - ⇒ 2012 Land Registry Data
  - ⇒ 2012 NOMIS Official Labour Market Statistics
  - ⇒ 2013 London Labour Market Indicators
  - ⇒ 2014 Lewisham Affordable Rent Study

- 3.1.7 **Population** In 2011 Lewisham had 275,900 residents, representing an 11% increase since 2001. This level of growth reflects London's growth as a whole and is greater than previously anticipated. The borough's population is projected to grow by 23% to 339,776 residents by 2041. Lewisham has a younger population than London as a whole with approximately 20% of residents aged 0-14, 70% aged 15-64 and 10% aged 65 and over in 2012. Lewisham also has a highly diverse and vibrant community both ethnically and culturally. In 2012 48.5% of residents were of black and ethnic origin and this will rise to 57.7% by 2041.

- 3.1.8 **Deprivation** Some of the borough's most successful communities are also some of its most deprived. In 2010 Lewisham was ranked as the 31st most deprived local authority in England. 38% of Lewisham's Lower Super Output Areas (LSOAs) were in the 20% most deprived. There are a range of indicators that point towards Lewisham having high levels of deprivation. In 2011 life expectancy at birth for males (78 years) and females (83 years) were slightly lower in Lewisham than England (79.2 and 83). Conversely, in 2012 childhood obesity levels (11.2% of 4-5 year olds and 24.4% of 10-11 year olds) in Lewisham were higher than England (9.4% and 19%). Deprivation relating to crime is widespread, with 60% of the LSOAs within the 20% most deprived in 2010. In 2013 Lewisham's unemployment rate was 9.9% and the rate of claimants for Job Seekers Allowance exceeds the London average. In particular there is a disproportionate impact of unemployment on young people (16 – 24 years), with some wards experiencing 22.6% compared to London's 6.9% in 2012.
- 3.1.9 **Housing stock** Lewisham's existing housing stock consisted of 116,091 households in 2011, of which 26% were single people living on their own. Purpose built flats are most common (35.7%) followed by terraced properties (28.2%). 43.6% are owner occupied or in shared ownership, 31.1% are social rented and 24.4% are private rented compared to London (56.5%, 26.2% and 15.5%). Private renting has almost doubled from 13.1% in 2001 to 24.3% in 2011. There is also significantly more housing in the lower Council Tax bands A-C and significantly less in the higher bands.
- 3.1.10 **Incomes** In 2012 the average gross earnings by residence in Lewisham was £594 per week. Lewisham's gross average annual pay, at £26,000, was lower than London's average of £30,000. Importantly, a quarter of Lewisham's residents earn £15,349 or lower.
- 3.1.11 **House prices** Despite being lower than London as a whole, house prices in Lewisham have recovered well since the recession and have once again reached the peak seen in 2008. By August 2013, average house prices rose to £296,559 and the house price index increased to 400. Average house prices also vary across the borough, ranging from £194,236 in the south to £415,757 in the north.
- 3.1.12 **Housing affordability** The average house price to income ratio is 7.91, making it difficult for local residents to buy a home in the borough. Barriers to housing are apparent. In 2010 89.2% of the LSOAs (encompassing areas within every ward) fell within the 20% most deprived and 19.9% of the LSOAs fell within the 10% most deprived. With average house private rents of £415 per week, renting takes up a significant proportion of residents' incomes. The monthly average rental value in 2014 varies from £927 for a 1 bed flat to £1,995 for a 4 bed house and values differ between postcodes. If 33% of residents' gross incomes were used to pay for rents, the percentage of residents who would be able to afford 80% market rent varies from 48% for a 1 bed flat to 12% for a 4 bed house. Conversely, for families consisting of 4 children in a 4 bed house that are reliant upon benefits, rents at 80% of market rent level would comprise 73% of their gross income.
- 3.1.13 To summarise, population growth coupled with lower than average earnings and an under-supply in both market and affordable housing has led to high housing costs beyond the reach of many residents. Furthermore, the benefits of inward investment do not always reach existing residents and often private housing developments are not accessible to local residents in housing need. The Lewisham Affordable Rent Study emphasised that affordability will be an increasing concern for larger households including those in work and those who are affected by the benefit cap. Consequently there is a need to ensure that Lewisham contributes to the overall London Plan affordable housing targets, but by doing so in a manner that responds

to the significant and high level of need for affordable housing in the borough, especially social rented units and affordable family homes. This section provides local level guidance on the provision of affordable housing that is tailored towards addressing this local level need.

- 3.1.14 The guidance in this section also takes into account the established and robust evidence base that already exists. At the regional level the London Strategic Housing Market Assessment (SHMA) (2013) identified a net requirement for around 49,000 new homes per year in London, of which 48% is needed as market housing, 20% as intermediate housing and 32% as social/affordable rented housing. In terms of unit sizes, 34% is needed as 1 bed units, 18% as 2 bed units, 26% as 3 bed units and 22% as 4 bed units. The Homes for London: London Housing Strategy 2014 and the Mayor's Housing Covenant 2015-18 Programme seek a mix of 60 rented homes and 40% intermediate. For the affordable rented units that are supported by the Mayor of London, half of the units should be lower capped rents of no more than 50% of local market rents inclusive of service charges and targeted at those most in need. Half should be discounted rents of no more than 80% of the market rent, prioritised for working households.
- 3.1.15 At the sub-regional level the South East London SHMA (2010), prepared on behalf of the London Boroughs of Southwark, Lewisham, Greenwich, Bexley and Bromley, identified a net requirement for 23,100 additional dwellings over the next five years, with a high requirement for 4+ bedrooms and the need for 71% to be provided as social rented housing. The initial findings for the 2014 South East London SHMA show that housing prices and population growth in Lewisham have increased the most compared to the other South East London Boroughs. To meet newly arising and backlog need, approximately 1,144 affordable housing units will be needed in Lewisham each year, half of which should be provided as intermediate housing. Whilst a full mix of unit sizes will be needed, the largest demand will be for 2 bed intermediate units and family sized 3 bed social/affordable rented units. However, to address the current levels of under-occupation and over-crowding, largest demand will be for 2 bed intermediate units and 1 bed social/affordable rented units.
- 3.1.16 At the local level the Lewisham Housing Market Assessment (2009) identified a net requirement of 6,775 dwellings over a five year period, with approximately 80% required as affordable housing. The Lewisham Affordable Housing Viability Study (2009) concluded that an affordable housing target of 50% is justified, based on medium term projections of a recovery in the local housing market.
- 3.1.17 The Lewisham Annual Monitoring Report 2012-2013 identified that 564 net new affordable units were completed in 2012-13 and that they were mostly concentrated in the north of the borough. They provide a mix of unit sizes and types with 27% 1 bed units, 48% 2 bed units, 25% 3 or more bed units, 96% new build units and 89% flats. However, the affordable housing completions form only 31% of the total completed housing and fall short of the 50% target. The social/affordable rent to intermediate ratio of 57:43 also falls short of the target ratio of 70:30.
- 3.1.18 The Lewisham Affordable Rent Study (2014) found that rent values vary across different postcodes and that target rent levels currently equate to 50% or less of the market rent. Only 25% of the postcodes fall within the desired affordability threshold (i.e. no more than 33% of gross income spent on housing) for 2 bed units at 80% market rent, whilst for 3 bed units 65% market rent is needed to meet affordability threshold and 50% for 4 bed units. Affordability will be an increasing concern for larger households including those in work and those affected by the benefit cap. In particular, there will be a significant reduction in residual income for unemployed families with three or more children, if they move from target rent to affordable rent at 80% of market rent.

- 3.1.19 The evidence identified above, when considered alongside the unique context of the borough, strongly emphasizes the need for affordable housing in the borough. The Council will be looking at development schemes to ensure that the affordable housing proposals do not exacerbate the inability of local residents in housing need to be able to access new homes.
- 3.1.20 Affordable housing also sits within a regional and local policy framework, namely the National Planning Policy Framework, London Plan policies 3.9-3.13, London Housing Strategy, Funding Prospectus: Mayors Housing Covenant, Core Strategy Policy 1, DM Policy 7 in the Development Management Local Plan and the Lewisham Housing Strategy. A number of overarching principles arise from this policy framework, including:
1. Helping to significantly boost the supply of high quality affordable housing and contribute to an average of 13,200 net new affordable homes per year in London. The FALP is proposing to increase this to 17,000.
  2. Providing affordable housing to meet the objectively assessed current and future needs for the area, as identified in the SHMA, having regard to local incomes, land and house prices, population trends and the strategic and local needs of different groups within the local community.
  3. Providing affordable housing where the site is capable of providing 10 or more homes, with a preference for providing affordable units on site.
  4. Seeking the maximum provision of affordable housing on a case by case basis, taking into account individual site circumstances. The starting point should be 50% affordable homes that will in turn contribute to an overall strategic target of 50% across the borough.
  5. Providing the right mix of housing to underpin successful and vibrant neighbourhoods, with a mixed and balanced tenure and a wide choice of housing options. In areas with high existing concentrations of social rented housing, introduce a more balanced social mix by providing a higher percentage of intermediate housing.
  6. Providing a mixed tenure with 70% social/affordable rented units and 30% intermediate units, thereby helping people on low or middle incomes to move into home ownership.
  7. Giving priority to affordable family housing, with a target of 42% of the units provided as family dwellings (3 or more bedrooms). Delivering family sized affordable homes, as well as increasing the supply of small affordable homes will help to tackle overcrowding and enable people to downsize.
  8. Providing affordable units that take account of viability and are subject to a financial viability assessment. A balance needs to be demonstrated between providing affordable housing that is genuinely affordable to local residents in housing need whilst ensuring schemes are viable and can be delivered.
  9. Ensuring affordable housing is effectively managed in a cost efficient way and that units remain at an affordable price for future eligible households.
- 3.1.21 The guidance in this section builds upon these overarching principles. The Council will expect development schemes to incorporate affordable housing in a manner that is compatible with the overarching principles listed above.

## Development types from which obligations will be sought

### General

- 3.1.22 In accordance with the London Plan, the Council will implement the affordable housing requirements set out in this SPD on sites of 10 units or more.
- 3.1.23 In order to prevent the underdevelopment of sites, the affordable housing requirement will be sought on sites that are capable of yielding the 10 unit threshold, whether or not the 10 unit threshold has been triggered. Where the Council considers that a site has been artificially subdivided in order to avoid the application of the affordable housing policy, the Council will investigate the ownership of each site to determine whether the ultimate holding company or owners are the same. Where possible, the Council will apply the affordable housing policy across the entire site.
- 3.1.24 Where there is an increase in the number of residential units on a site at a later date, then the affordable housing policy will be applicable if the increase in the number of units takes the total to 10 or more units and the guidance within this document will be applicable to all affordable dwellings.
- 3.1.25 In the event that planning permission is granted for a mixed-use scheme, and a subsequent application seeks to vary a use from a non-residential element to residential use, this will trigger a reassessment of the requirement for affordable housing to be provided on the site.

### Specialist housing

- 3.1.26 The London Plan requires that specialist housing for people with specific housing needs, including sheltered housing for the elderly, should be provided for, in line with local needs. The Council's Local Plan also supports proposals for special needs housing to meet the needs of specific groups across all tenures and income groups.

### Specialist housing for older people

- 3.1.27 Proposals for sheltered housing and extra care homes are subject to other residential policies. This means that the affordable housing policies will be applied to schemes that fall over the threshold. Where the Council receives a planning application for a market sheltered housing scheme or extra care scheme the Council will confirm whether or not there is a need for affordable accommodation of this type. If there is, the required amount of affordable housing will be sought as sheltered or extra care accommodation on-site. If there is no identified need for affordable housing of this type, the applicant will be required to provide general needs or other forms of affordable supported housing on site, through re-design exercises if necessary.

### Student housing

- 3.1.28 Genuine student housing will not be required to provide a proportion as affordable housing. In accordance with the London Plan (paragraph 3.53) the Council will secure student housing through the planning agreement or a condition to be robustly secured for students in perpetuity, otherwise it will be subject to the requirements of the affordable housing policy. Proposed future changes to student housing provision will be subject to the same requirements.

## Hotels

- 3.1.29 The Lewisham Development Management Local Plan states that *“Proposals for hotels will need to demonstrate that a hotel operator will be identified and secured prior to the commencement of the development.”* The Council consider that genuine hotel development is not required to provide additional affordable housing, whilst speculative development that is not considered as deliverable as a hotel by the Council may be subject to affordable housing.

## Method for delivering affordable obligations

### Affordable housing targets

- 3.1.30 The London Plan (2011), the Mayor’s Housing Supplementary Planning Guidance (2012) and the Lewisham Core Strategy (2011) state a strategic affordable housing target of 50%. That target is supported by the Council’s Local Housing Market Assessment and Affordable Housing Viability Assessment. In order to achieve the 50% strategic target the Council will use this as a starting point for negotiations subject to any site specific issues including financial viability.
- 3.1.31 The proportion of affordable housing will be calculated on the total number of units provided and rounded to the nearest whole number (with 0.5 being rounded up). However if the scheme proposes to provide a high proportion of affordable family units on site (defined as units with three or more bedrooms), the affordable housing requirement can be measured using habitable rooms, in accordance with the Mayor’s Housing SPG (2012).
- 3.1.32 Ultimately the proportion of affordable housing will be determined by the Council:
- On a site by site basis;
  - On identified evidence of local need; and,
  - Taking into consideration the financial viability of the development.
- 3.1.33 Where the quantum or type of affordable housing for delivery requires negotiation due to the influence of the three factors identified above, the Council will expect such negotiations to be undertaken early in the pre-application planning process, in particular in relation to the potential receipt of grant funding (from the Government, the Mayor of London, or other sources). Where discussions would be assisted by the inclusion of a Registered Provider, applicants should speak to the Council, who have a good relationship with many local Registered Providers and may therefore be able to assist in identifying a suitable partner. Further advice on Registered Providers can be found later in this section.
- 3.1.34 The Council understands that financial viability can affect the ability of a development to deliver affordable housing to meet policy targets. Guidance regarding Financial Viability Appraisal is available in Section 4.

### Securing affordable housing

- 3.1.35 Planning obligations and affordable housing will be secured through a Legal Agreement under Section 106 of the Town and Country Planning Act 1990. Applicants are advised to agree heads of terms for a Section 106 Agreement with the Council. The following details will usually be referred to within the Legal Agreement:



- Number, location, size and tenure of the affordable units;
  - Standards which the affordable housing will meet;
  - Availability of units in perpetuity; and
  - Completion timing and availability of affordable units in relation to market units
- 3.1.36 Whenever possible any Registered Provider associated with the delivery of the affordable units will be expected to be party to the Section 106 Agreement.
- 3.1.37 Applicants are required to submit a 'Planning Obligations Statement' with their planning application. The Planning Obligations Statement should include the timing of the expected delivery of the affordable housing units, the mix of affordable housing tenures, how the affordable housing will be delivered and managed and the levels of affordable rent.

### **Dwelling size and mix**

- 3.1.38 Providing housing of appropriate sizes to meet the needs of the borough is important in creating better and healthier places. The borough's needs will not be served through the provision of a large number of units designed to cater for single people or couples, as this will result in an under supply of much needed family housing. Conversely, the provision of predominantly family housing would make it more difficult for young and single people to stay in the borough and for those impacted by Welfare Reform to down size.
- 3.1.39 The dwelling size and mix should link directly to the London Housing Strategy, the Lewisham Core Strategy, the Strategic Housing Market Assessment and the Lewisham Housing Strategy.
- 3.1.40 Studio units are not suitable for affordable housing as they do not meet the borough's needs for this type of housing. Because of this, developments that provide solely studio units will not be accepted as affordable housing provision. However, studio units do generate a requirement for affordable housing, just like any other size of unit if they are part of a development of 10 or more residential units.
- 3.1.41 The Council recognises that different sites may pose different design challenges in terms of providing larger family accommodation. However, even in blocks of flats the Council considers that good quality family housing can be provided particularly at ground floor and 1st floor level with access to private gardens, balconies, terraces or other communal amenity space. In accordance with Core Strategy, the Council will ensure that 42% of the affordable housing provided within developments have three bedrooms or more. The need for family accommodation in Lewisham is greatest within the social rented sector and therefore the Council will ensure that 16% of any intermediate housing provided has three or more bedrooms and the remainder (to meet the 42% overall) should be provided within the social rented accommodation.
- 3.1.42 Some proposed developments may have too few affordable housing units to allow for a mix of unit sizes. In these circumstances, the size of the affordable housing units required should have one more unit than the majority of the units in the development. For example, if the majority of units have two bedrooms then the affordable housing units should have three bedrooms.

## **Tenure mix**

- 3.1.43 A key characteristic of a mixed and balanced community is the variety of housing particularly in terms of tenure and price, and a mix of different households such as families with children, single person households and older people.
- 3.1.44 As a starting point for negotiations, social/affordable rented units will be the main tenure required and will account for up to 70% of the affordable housing provision with the remaining 30% provided through intermediate tenures. These targets are considered appropriate as they:
- Conform to the needs identified in the Strategic Housing Market Assessment;
  - Respond to the greatest amount of need (rented housing) whilst still enabling balanced and sustainable developments; and
  - Reflect the historic and current policy position in the Council's Local Plan which has been shown to be viable and deliverable since it was adopted.
- 3.1.45 In areas where there is a high concentration of social/affordable rented housing, for instance in the south of the borough, the Council may, at its absolute discretion, accept a slightly higher percentage of intermediate housing than the borough wide target of 30%. The Council will advise applicants if such a departure from policy is appropriate and it will be at the Council's absolute discretion.
- 3.1.46 Ultimately, the Council will determine tenure mix:
- On a site by site basis.
  - By the area of the borough in which the site is located; and
  - By evidence of need in the housing market assessment.
- 3.1.47 On some schemes, it may be impractical to split the affordable housing into social/affordable and intermediate tenures and it may be more practical to provide the affordable housing as a single tenure. On such sites, the Council will require that all of the affordable housing is provided as social/affordable rented housing to address the significant need for this type of housing in the borough.

## **Affordable rent**

- 3.1.48 DM Policy 7 provides guidance on affordable rented housing in the Development Management Local Plan. Evidence has shown that affordable rent levels that are set at 80% of market rent will be unaffordable for many local residents in need of, and eligible for, affordable housing. In reality individual schemes usually contain homes at a range of affordable rent levels, including some at or around the Council's target rent level. Hence, DM Policy 7 and its justification text does not prescribe rigid rent levels but instead seeks that they be set on a case by case basis, taking into account:
- maximising affordable housing output whilst complying with other Core Strategy policies
  - meeting the full objectively assessed affordable housing needs
  - ensuring provision remains affordable for future eligible households
  - the location within the borough, the area's tenure mix and site characteristics.
- 3.1.49 Development schemes that provide affordable rent will be supported by the Council where they:

- comply with Core Strategy Policy 1 and DM Policy 7 of the Development Management Local Plan
  - create a balance between maximising affordable housing delivery whilst meeting the full range of housing needs. This includes giving first priority to people on the Common Housing Register and providing homes that they can genuinely afford (with no more than 33% of household income spent on housing costs)
  - can demonstrate that ownership of affordable rented homes will be transferred on completion to an approved Registered Provider or other Council approved body.
- 3.1.50 The Lewisham Affordable Rent Study (2014)<sup>2</sup> looked at local market rents across the borough, average incomes and benefit levels of different sized families and the ability of local residents in housing need to meet affordable rents up to 80% of the market value. It found that there are issues regarding the affordability of larger properties in the borough, especially for those people who are affected by the benefits cap as only people in employment are able to claim Housing Benefit to support higher affordable rent levels. It also found a disproportionate impact on larger unemployed families, given the benefit cap of £500 per week regardless of family size. It recommends that affordable rent levels be tailored to meet the needs of local residents in housing need including ensuring that larger unemployed families have some affordable housing options. Specifically, the study identified the appropriate levels of affordable rent in Lewisham that can be considered as affordable to local eligible people and recommended the following range of affordable rent levels:
- 1 bed units should be provided at 80% of the market rent or local housing allowance (LHA)
  - 2 bed units should be provided at 70-80% of the market rent or LHA
  - 3 bed units should be provided at 65% of the market rent or LHA to cater for larger working families. Furthermore, a proportion of the 3 bed units should be provided at 50% of the market rent (capped rent) in order to cater for families in most housing need
  - 4 bed units should be provided at 50% of the market rent (capped rent).
- 3.1.51 The Council's website will be regularly updated to show current estimates of market rent, target rent levels and the LHA.
- 3.1.52 The Council agrees that without constraining the ability of development schemes to provide affordable housing, rent levels should reflect the range of rent levels listed above. Furthermore, these rent levels should be applied across the borough, without differentiating between different postcodes, as market value will vary on a site by site basis with pockets of high value in most areas.
- 3.1.53 The Council will use this range of rent levels as the starting point in individual scheme negotiations and development schemes should strive to comply with the rent levels identified above. The exact mix of rent levels should be determined as part of an independent financial viability assessment (with the costs borne by the applicant). If site circumstances dictate that a development scheme should deviate away from these rent levels, reasons as to why such a mix of rents is not possible and/or viable should be provided as part of the planning application.

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<sup>2</sup> <http://www.lewisham.gov.uk/myservices/planning/policy/LDF/evidence-base/Pages/housing.aspx>

- 3.1.54 The rent levels assessed as appropriate in the financial viability assessment will be secured in the Legal Agreements signed as part of the planning permission and the Council will seek to ensure that the rent levels determined at the time of planning approval are retained at those levels on occupation.
- 3.1.55 In some circumstances rents will need to be at levels that enable movement for decant households or downsizers, therefore rent levels should always be agreed with a Registered Provider and the Council at the earliest opportunity (preferably at pre-application stage) and in accordance with any other housing strategy or policies.

### Affordability thresholds for intermediate housing

- 3.1.56 The London Plan sets income limits for intermediate housing. These are based on average household incomes and average house prices across the whole of London. The Council has undertaken a SHMA and HMA and considers that it is appropriate to provide income thresholds that reflect local circumstances. The SHMA has been updated in 2014 and these figures incorporate its findings.
- 3.1.57 The maximum income levels that would allow households to qualify for intermediate housing are detailed in row 2 in Table A.1 below. These are upper thresholds.
- 3.1.58 Intermediate accommodation should be affordable for rent or purchase by households where the average total gross household annual income does not exceed £36,795 in respect of all 1 bed dwellings, £42,663 in respect of all 2 bed dwellings, £59,810 in respect of all 3 bed or larger dwellings (i.e. row 4 in Table 3.1.1).

**Table 3.1.1 – Household Income Thresholds**

	1 bed	2 bed	3 bed or larger
1. Cost of private housing in lowest quartile <sup>3</sup>	180,480	237,047	357,074
2. Annual household income required to purchase private housing <sup>4</sup>	51,565	67,727	102,021
3. Annual household income range for affordable rental housing <sup>5</sup>	Up to 22,026	Up to 22,026	Up to 22,026
4. Annual household income range mid-point for intermediate housing (mid point of 2 and 3).	36,795	42,663	59,810

- 3.1.59 These figures will be increased (or decreased) annually in accordance with changes in income levels and house prices in the borough.
- 3.1.60 Affordability for shared ownership units should be established according to current HCA guidance. Total housing costs (including mortgage, rent and service charges) should not exceed 40% of net household income. Net household income is assumed to be 74% of gross household income.

<sup>3</sup> SELHP Housing Market Bulletin Table 5d – Lower Quartile prices in South East London (and Lambeth) by ward, housing type and size, October 2013

<sup>4</sup> Assumes 3.5 x gross income multiplier (in line with HCA calculator).

<sup>5</sup> SHMA 2014

## **Key worker**

- 3.1.61 A key worker is someone with a job in an essential public service. Key workers are usually considered to be national health staff, teachers, police, social workers, occupational therapists, educational psychologists, planners and military personnel. These workers are needed to provide key services to the public whether in the public or the private sector.
- 3.1.62 Key worker housing is usually provided as intermediate housing, however the definition of intermediate housing relates primarily to affordability and not to the employment status of the individual members of a household. Key workers may be eligible for either social housing or intermediate housing depending on their household income and circumstances. An appropriate amount of affordable housing should be made accessible to key workers to ensure that they are able to live and work within the borough.
- 3.1.63 In some cases the Council may seek to secure a specific percentage of key worker housing within the overall tenure mix of the affordable housing units. The Council will use the Government definition of 'key worker' unless there are specific shortages of key workers within the borough which the Council would make publicly known via its website.

## **Wheelchair housing**

- 3.1.64 The Council will expect a minimum of 10% of all housing including the affordable housing to be capable of easy adaptation to the South East London Housing Partnership Wheelchair Homes Design Guidelines (October 2011) or any successor version of this document.
- 3.1.65 For further details regarding the provision of wheelchair housing see Section 3.2.

## **Completion and Availability of Affordable Units**

- 3.1.66 The Council expects to see the affordable housing delivered as quickly as possible. On development sites the Council will therefore seek to secure the completion and transfer of the affordable housing units prior to the first sale or occupation of dwellings to be sold on the open market or rented privately. The market dwellings to be occupied in advance of completed affordable housing being transferred to an RP will be a maximum of 50% of the units. For phased development this will be 50% of the units per phase.

## **Service and management charges**

- 3.1.67 Affordability of service charges is important on all affordable tenures and some may be ineligible for housing benefit. The Mayor of London's Supplementary Planning Guidance sets out that 'housing is affordable in that rents are no greater than target rents as set by Government for local authority and housing association and co-operative tenants. Service Charges should not be so great as to make a tenancy unaffordable for a household with an income of less than £16,900 on the basis of rents and service charges not exceeding 30% of net household income.' The new Affordable Rent tenure, as introduced in the 2011-15 GLA Investment period includes service charges in the total rent figure as a percentage of the market rent.

- 3.1.68 This may not be achievable on all schemes, however, where it is not achievable, charges should be kept to a minimum and discussed in detail with the Council.
- 3.1.69 The imposition of high maintenance costs and high services charges could affect the overall affordability of affordable units. Therefore the developer should aim to ensure that the services and management charges of the affordable units are affordable and to keep costs down where possible, without compromising high quality design.
- 3.1.70 The RP partner will be able to provide advice on acceptable levels of service charge and whether there is scope to reduce charges through design. Consideration can also be given to the services the charge will cover and whether it is appropriate for some of the services to be made available to occupiers of the market housing only.
- 3.1.71 If service charges exceed the affordable amount for tenants in social rented housing, the developer should reduce them to affordable levels through the provision of an endowment to subsidise charges on an on-going basis. The Council may consider other methods of reducing service charges, at its own discretion.

### **Public subsidy**

- 3.1.72 Only affordable housing providers that are accredited by the Homes and Communities Agency (HCA) and GLA are able to apply for public subsidy. The Council's role is to inform the GLA whether it supports an application for public subsidy based on it meeting strategic priorities.
- 3.1.73 The Council will support the use of Social Housing Grant to maximise the provision of affordable housing in the borough. The Council will use the GLA Development Control Toolkit (or another suitable appraisal model) to determine whether a scheme requires grant and to demonstrate 'additionality'. If grant funding is required although not secured from the GLA, the Council may consider the inclusion of a Cascade Mechanism on either the level or the tenure mix of affordable housing required, to ensure the overall viability of the scheme. Cascade Mechanisms will only be used in exceptional circumstances and only where the need for grant is supported by a financial viability appraisal.
- 3.1.74 On occasion the Council might not support grant funding to schemes. The Council will only support schemes that meet the current and future GLA and Council's standards for residential development standards.
- 3.1.75 As the Council cannot guarantee that RPs will be able to secure grant funding on schemes coming forward for development, this should be taken into consideration in viability appraisals at the early stages of the planning application process. Thus the onus is on the developer to ensure that a scheme is economically viable without the need for securing grant funding. Grant funding, if available, will be used to provide additional affordable housing, that cannot be provided through development value alone.

### **Selecting and working with Registered Providers**

- 3.1.76 The Council has established good relationships and working arrangements with a number of Registered Providers (known as 'Preferred RPs') that operate effectively in partnership with the Council to provide affordable housing that meets local housing need. The Council encourage developers to meet their affordable housing obligations by forming partnerships with the Council's Preferred RPs following discussions with the Council. Early dialogue between applicants, the Council and any potential RP can help to ensure that the RP is acceptable to all parties.

- 3.1.77 Early involvement of an RP can also help to provide clarity on the prospects for grant funding as programmes vary from partner to partner according to their agreement with the GLA. The Council will not support grant funding for schemes if applicants choose an RP that is not one of the Council's preferred partners and has not been discussed with the Council.
- 3.1.78 If Registered Providers (RPs) come forward as the 'lead' applicants for the development of schemes, RPs will be treated in the same way as other applicants in relation to the quality of the scheme required, meeting the relevant policies and any necessary planning obligations.

### **Perpetuity of provision and affordability**

- 3.1.79 The Council requires affordable housing delivered through planning obligations to be kept available for initial and subsequent occupiers. In practice, this means that the affordable housing will be required to be retained as affordable in perpetuity.
- 3.1.80 In order to ensure that the affordable housing is retained as affordable in perpetuity, applicants will be required to grant a freehold or long lease of the units to an RP. A long lease is defined for this purpose as having a minimum of 125 years.
- 3.1.81 The only exception to this requirement is shared ownership units where the owner has 'staircased' to 100% of the property value. In these cases, the Council will ensure the provision of new affordable housing by requiring the RP to ring-fence the proceeds of any staircasing for use within the borough or the South East London sub region (i.e. The London Boroughs of Bexley, Bromley, Greenwich, Lewisham and Southwark).

### **Nominations for Affordable Housing**

- 3.1.82 The Council will require nomination rights to all housing secured through Planning Obligations. A standard form of nomination agreement is available from the Council on request and the applicant will be responsible for ensuring that any Registered Provider acquiring the completed affordable housing units enter into an agreement with the Council. The standard form shall be amended as necessary to comply with any requirements of the South East London Regional Housing Strategy (for further details go to [www.selondonhousing.org](http://www.selondonhousing.org)).
- 3.1.83 The applicant will be required in the Section 106 agreement to ensure that an RP enters into a nomination agreement with the Council, in the form prescribed above. The Council will require that any agreement it enters into will conform with the requirements of its choice-based lettings scheme.

### **Other Priorities**

- 3.1.84 In very special circumstances, the Council may review levels of affordable housing and/or the tenure mix of the affordable housing. These special circumstances include occasions when achieving other Council priorities are considered to outweigh the full quantum of affordable housing or the 70/30 tenure split of social rent to intermediate. There may be circumstances where a scheme delivers exceptional community benefits over and above the standard planning obligations required. In these exceptional circumstances, the Council may (at its own discretion) review the levels of affordable housing required on the site if it is satisfactorily demonstrated

that there is a need for such facilities. A financial appraisal will also be required to demonstrate the required levels of affordable housing can not be provided.

- 3.1.85 Applicants are strongly encouraged to discuss such proposals with the Council at an early stage. To inform these discussions the Council will require evidence that demonstrates the need for such facilities and that their provision does not have a significant adverse impact on the financial viability of the development.

### **Financial Review Mechanisms**

- 3.1.86 Major sites that are delivered through a series of phases over a period of several years may be able to make a greater contributions to the borough's affordable housing requirements as market values increase over time. The borough will therefore seek to secure delivery of these sites by negotiating flexible Section 106 agreements that will require the applicant to review the economic viability of their developments periodically. On outline schemes to be delivered over a number of phases, it is likely that the Council will require the applicant to update their financial appraisal upon the submission of each successive reserved matters application. If sales values have increased to an extent that the quantum of affordable housing can increase above the agreed minimum contribution, additional units will be provided in that phase.

### **Overage and 'Clawback' Mechanisms**

- 3.1.87 The Council may also secure an 'overage clause' within the associated Section 106 agreement in circumstances where the full provision of affordable housing in line with the relevant policy is not possible due to financial viability.
- 3.1.88 The overage clause will require the applicant to make additional payments to the Council to represent any uplift in value between the date of the financial appraisal and the date of the completion of the development or the disposal of the completed development.
- 3.1.89 The maximum sum sought by the Council will be the cash equivalent to the percentage of affordable housing not provided as part of the development raised in line with inflation. Any payment due under an overage clause will be made to the Council in order to provide additional affordable housing within the borough.

### **Development of Affordable Housing by developers and non-Registered Providers**

- 3.1.90 The Council's preference is for affordable housing to be owned and managed by Registered Providers. However, it recognises that some applicants are investment partners of the GLA, and the Council may consider the provision of affordable housing by such bodies. The Council would expect any housing not developed by an RP to be managed by an RP on the Council's preferred list, or another RP agreed in consultation with the Council.
- 3.1.91 The Council generally discourages the provision of shared equity housing by applicants who are not investment partners or the inclusion as affordable housing of any shared equity schemes not funded by the GLA.



## Off-site Provision

- 3.1.92 The Council's preference is for affordable housing to be provided on-site. Off-site provision misses the opportunity for creating mixed and balanced communities and will only be considered in exceptional circumstances where the Council is satisfied that the preferred unit mix and tenure of affordable housing could not be provided on-site.
- 3.1.93 If off-site provision of affordable housing is acceptable to the Council, the applicant would be required to identify suitable sites within the borough area. 'Suitable sites' are those sites that are:
- located in areas where there is not a pre-existing high level of social rented housing;
  - within the same geographical area as the principal site; and
  - either owned by the developer or under some form of option to purchase, so that the Council can be assured that the site is available for development.
- 3.1.94 The Council would require the applicant to demonstrate either that the other site has planning permission; or they could submit an application for the off-site affordable at the same time as the main site. The provision of affordable housing off-site should not result in being economically advantageous for the developer. In line with the London Plan, applicants should demonstrate that they could provide a greater contribution towards affordable housing off-site and/or benefit the community more than what could have been provided on-site. For example, the provision of family sized units off-site that could not otherwise have being provided on site.
- 3.1.95 The Council will ultimately determine whether provision of affordable housing units off-site is the most appropriate solution, on a site-by-site basis.
- 3.1.96 Off-site provision may be acceptable if it would enable affordable housing provision that is more appropriate to identified needs to be met, and where the project is deliverable prior to the on-site market development being completed. In cases where it is appropriate for a developer to provide units on an alternative site, the Council will expect to see the required level of affordable housing across all sites concerned. This will usually result in a higher percentage of affordable housing provision on the alternative site. The Council will expect the affordable housing to be delivered prior to the occupation of the private housing. This will be secured through an appropriate clause in the Legal Agreement.

## Hierarchy of affordable delivery

- 3.1.97 For all types of affordable housing it is preferable to the Council for developers to, wherever possible, make direct provision without the need for financial contributions to the Council. In the first instance this provision should be on-site and integrated in to the development. Where the Council deem that it is not possible to appropriately deliver affordable housing requirements on-site, the developer will be required to provide the necessary provision off-site. In exceptional circumstances and entirely at the discretion of the Council, a financial contribution may be considered appropriate as a payment in lieu. This matter is detailed further in the following paragraphs.

## Payments in lieu

- 3.1.98 Payments in lieu of on-site affordable housing provision may be considered in exceptional circumstances and at the Council's absolute discretion. Payments may be considered if there is a concentration of a particular size and type of units on the proposed site, for instance:
- if there is a high concentration of 1 and 2 bed units on-site and there is a need to provide more family sized units; or,
  - to mix tenures to ensure that the Council are creating balanced and mixed communities.
- 3.1.99 In order for the Council to accept a commuted sum payment, they need to be certain that the developer subsidy towards affordable housing could fund the required proportion, type and tenure of affordable housing units required elsewhere in Lewisham. It will also need to include the cost to the Council of acquiring a suitable site on which to build the affordable housing and making the land capable of hosting development. This may mean that the cost per unit of a commuted sum is higher than the on-site cost per unit would be for the developer.
- 3.1.100 The Council will normally use the GLA Development Control Toolkit as a basis in calculating the commuted sum payments and to assess the economic feasibility of sites to provide affordable housing. The principle concern with using this method for the calculation of commuted sum payments is that in some circumstances, it does not produce enough money to deliver the same target and mix of affordable units off-site. Therefore, the Council may make adjustments to the calculation to account for local and site specific circumstances.
- 3.1.101 When the Council deem it necessary it may seek independent financial viability advice to inform it's decision regarding the suitability of payments in lieu. The Council requires applicants to agree to meet the cost of an independent valuer to critically analyse the proposal to ensure it accurately represents the ability of the scheme to provide affordable housing off-site. If the applicant is unwilling to meet the Council's costs in procuring such advice, the Council may be unable to determine whether the affordable housing provision is appropriate and may refuse the application.
- 3.1.102 The calculation of a payment in lieu must include the following essential components:
- The cost of acquiring a suitable site in the same area as the application site;
  - PLUS the cost of building suitability sized affordable housing units;
  - LESS the price an RSL may pay for the completed units.
- 3.1.103 The Council will require payments in lieu to be made on commencement or prior to first occupation.

## 3.2 Wheelchair Housing

### Background and justification

- 3.2.1 Many Londoners require accessible housing to lead independent and dignified lives. Lifetime Homes are suitable for most occupiers but are not a substitute for purpose-designed wheelchair standard housing. Many wheelchair users will require purpose-designed wheelchair housing and will find a lifetime standard home inadequate for their space requirements.
- 3.2.2 Wheelchair housing is designed to specifically meet the diverse and changing needs of wheelchair users and the multiplicity of impairments that some wheelchair users experience. Greater spatial demands and increased flexibility and specification in a property designed to wheelchair housing standards aims to ensure that not only does a wheelchair user have access to every facility inside and outside of the dwelling, but also has choice on how best to approach (and sometimes adjust) that facility to suit their particular needs.
- 3.2.3 The Council will expect a minimum of 10% of all housing, including the affordable housing, to be adapted or easily adaptable to the South East London Housing Partnership Wheelchair Homes Design Guidelines (October 2011) or any successor version of this document. A copy of the South East London Housing Partnership Wheelchair Homes Design Guidelines (SELHP Guidelines) can be found on the Council's website ([www.lewisham.gov.uk](http://www.lewisham.gov.uk)).
- 3.2.4 The Council will secure the timely provision, and retention in perpetuity, of wheelchair units (both affordable and private) provided as part of a development through a planning obligation (or condition where appropriate). This will include fit out requirements for affordable units and details of the developer's marketing responsibilities for both affordable and private units. Where wheelchair units are not provided (or cannot be provided to the required standard) the Council will seek a financial contribution towards provision of wheelchair housing elsewhere in the borough.

### Policy pointers

- 3.3.1 For a summary of the national, regional and local planning policy context, please see Appendix 1.

### Types of obligation and when they are required

- 3.2.5 The Council will secure the timely provision, and retention in perpetuity, of wheelchair units (both affordable and private) provided as part of a development through planning obligations. This will include the fit out requirements for affordable units and details of the developer's marketing responsibilities for both affordable and private units.

## Required form of obligations

- 3.2.6 Provision of wheelchair housing units within the development
- 3.2.7 The Council will expect a minimum of 10% of all housing, including the affordable housing, to be adapted or easily adaptable to the South East London Housing Partnership Wheelchair Homes Design Guidelines (October 2011) or any successor version of this document.
- 3.2.8 The 10% requirement will be calculated based on the total number of units within the development rounded to the nearest whole number (with 0.5 being rounded up) and must be provided in equal proportions across each tenure type within the development, unless otherwise agreed with the Council.
- 3.2.9 The wheelchair units provided as part of any development must be designed to meet all of the requirements set out in the SELHP Guidelines (including communal access doors and corridors and on-site parking) for them to be considered acceptable as wheelchair units. Any communal areas of the development including but not limited to any open space, leisure facilities and refuse storage must also be fully accessible for wheelchair users.
- 3.2.10 The Council requires a mix of sizes of wheelchair units across tenures and where possible wheelchair units should be located on the ground floor or where this is not possible below 3rd floor level. It is important to consider the distribution, location, number and size of wheelchair units at the beginning of the design process in consultation with the Council who can advise further on current wheelchair housing needs in terms of unit sizes.
- 3.2.11 The Council requires that all of the social rented or affordable rented wheelchair units provided as part of a development are fully fitted out for wheelchair occupiers, unless otherwise agreed by the Council. In relation to the intermediate and private wheelchair units, where the first occupants are likely to be unknown, the home should be designed to be easily adaptable for future occupation by a wheelchair user
- 3.2.12 'Easily adaptable' for the purposes of this SPD means that the home is designed from the outset with suitable accessibility, storage capacity, refuse storage, approach space to facilities and furniture, and circulation as defined by the SELHP Wheelchair Homes Design Guidelines, that enables later minor alterations to be easily undertaken to suit individual needs. Easily adaptable units should not require structural alterations (such as removing walls or widening doorways) or alterations to services to make it suitable for wheelchair users, but it might require minor alterations such as installing grab rails, replacing a bath with a shower or changing the kitchen bench and cabinets.
- 3.2.13 The Council requires that all wheelchair units are provided with on site car parking unless otherwise agreed by the Council. No additional cost should be charged by the developer for the affordable wheelchair housing parking provision.
- 3.2.14 The provision of both the affordable and private wheelchair housing units (including the number, mix, location, fit-out and associated parking spaces) will be secured through planning obligations.

## **Marketing of units**

- 3.2.15 Developments that include shared ownership and/or private wheelchair units will be required to market wheelchair units for a minimum period of 6 months before any of the homes, if still unsold, are released onto the open market.
- 3.2.16 Shared ownership wheelchair units should be marketed in accordance with the 'SELHP Guidelines for developing & marketing wheelchair accessible shared ownership properties' document (available from the SELHP website). Private wheelchair units should be advertised on specialist websites/publications catering for people with disabilities.
- 3.2.17 In the case of larger developments the Council may secure the submission of a 'Wheelchair Housing Marketing Plan' through planning obligations to ensure that every effort is made to target people with disabilities. The Council may also require the submission of monitoring information such as the number of wheelchair units sold to wheelchair users.

## **Payment for provision of off-site wheelchair units**

- 3.2.18 In exceptional circumstances, where site constraints such as topography prevent the SELHP Guidelines from being met, the Council will require detailed justification setting out why the guidelines cannot be met. Where wheelchair units cannot be provided on-site the Council will seek a financial contribution towards the provision of or fit-out of wheelchair housing elsewhere in the borough.
- 3.2.19 Any shortfall in the required provision of on-site wheelchair housing will be charged at £25,000 per unit. The level of payment is based on the average cost of adapting properties in Lewisham over the past 5 years. These changes include installing accessible kitchens, bathrooms, doors and providing level access and ramps.
- 3.2.20 The Council will work with Lewisham residents who have a disability and their current home is in need of adaption to provide the off-site provision. This will help more disabled people to stay in their homes and provide accessible units to those who can not move into new units.

## 3.3 Local Labour and Business

### Background and justification

- 3.3.2 As London's economy grows the number of jobs and careers available to Lewisham's citizens will increase. The London Plan, developed by the Greater London Authority, predicts a minimum of 249,000 more jobs between now and 2016 for east and south-east London.
- 3.3.3 Many of these jobs will require specific skills. Lewisham's citizens should feel equipped to compete for the best jobs and fulfil their aspirations. Everyone, regardless of their background or experience, will be able to develop their skills through lifelong learning and access these opportunities. New skills can be learnt in a variety of situations, whether it be caring for a relative, starting an adult education course or training to advance or change a career.
- 3.3.4 The GLA Local Enterprise Panel identified, in the Jobs & Growth Plan for London, April 2013, that one of its four priorities is 'skills and employment' - to ensure Londoners have the skills to compete for and sustain London's jobs.
- 3.3.5 Some 30,000 adults in Lewisham require help with basic literacy and numeracy. With access to the right training, development opportunities and support, all our citizens can benefit from London's dynamism and transform their prospects.
- 3.3.6 High levels of unemployment, low incomes and deprivation persist in the borough because of certain barriers to employment that people experience, most notably the lack of skills that are required in the jobs market. Reducing deprivation is an essential part of developing socially sustainable communities, especially in growing and intensifying communities.
- 3.3.7 Improving the skills of the local population is important in promoting a vibrant labour market and local economy that provides jobs for local people and a full range of goods and services for residents and visitors.
- 3.3.8 The Council has the Local Labour and Business Scheme, which has objectives around securing and raising awareness of opportunities in employment, training and business within the borough. This is a coordinated scheme working with developers, contractors, suppliers and service providers which makes available bespoke support and guidance. This is designed to ensure that local people and businesses are best positioned to take advantage of new employment, training and business opportunities through the development and regeneration taking place in the borough and in the wider Thames Gateway and London areas.
- 3.3.9 The Lewisham Local Labour and Business Scheme also provides the opportunity for local small and medium sized enterprises (SMEs) to obtain support in the form of workshops, Lewisham business procurement directory, 1:1 business growth advice, prequalification questionnaire completion and tender submissions assistance. The Local Labour and Business Co-ordinator promotes Lewisham businesses by brokering opportunities and intelligence regarding Lewisham businesses to developers.
- 3.3.10 The use of local labour and businesses can also limit the environmental impact of new development as it will reduce the need for commuting to work and training locations and will require materials being transported shorter distances.

- 3.3.11 As previously described, Lewisham contains some of the most deprived locations in the country, where there is high unemployment. The addition of further population from new development has the potential to exacerbate the rate of unemployment as competition for a limited number of local jobs rises.
- 3.3.12 For the reasons above, financial support for the Local Labour and Business Scheme is vital in mitigating the impact of new development. Most development will have an impact and therefore obligations will be required.

## Policy pointers

- 3.3.13 For a summary of the national, regional and local planning policy context, please see Appendix 1.

### Key Document - Lewisham Business Growth Strategy

The Business Growth Strategy sets out how the Council and partners will work together to maximise business growth in the borough in the next ten years (2013 to 2023). The vision of the strategy is that in ten year's time Lewisham will be one of the fastest growing parts of the London economy.

Three aims have been developed to underpin this vision. These aims have been developed through an examination of the Lewisham economy and by considering how its unique mix of characteristics can be exploited to harness the potential that already exists in the borough to boost economic growth.

**Aim 1:** To boost Lewisham's contribution to the London economy by enhancing the ability of new and existing business to thrive and grow.

**Aim 2:** To accelerate the expansion of the Lewisham economy by capitalising on major physical regeneration in the borough to create the right environment for business growth

**Aim 3:** To diversify and expand the Lewisham economy by inspiring, nurturing and promoting the creativity and entrepreneurship of Lewisham residents.

## Types of obligation and when they are required

- 3.3.14 The Council will use planning obligations to secure financial contributions towards the training, support and recruitment of local people.
- 3.3.15 The Council will also use planning obligations to secure the commitment of developers, contractors and end users to use local labour by providing apprenticeships, graduate placements/jobs, work experience, work placements, advertising jobs locally and seeking to recruit Lewisham residents into job vacancies.
- 3.3.16 The Council will use planning obligations to secure the commitment of developers, contractors and end users to upskill their local workforce with specific focus on Lewisham residents.
- 3.3.17 The Council will use the planning obligations to secure the commitment of developers to engaging with local businesses to ensure that they are best positioned to access contract opportunities through development, regeneration and other end users routes.

## Required form of obligations

### Financial contribution

- 3.3.18 Financial contributions will support both capital and revenue costs of a range of services provided by the Local Labour and Business Scheme for residents and small and medium sized businesses in the borough.
- 3.3.19 The contribution sought reflects the current training and operation costs of running the programme to the end of the Local Plan period (2025). Based on the Council's experience and forecasting, it is estimated that the combined cost of operating the programme is approximately £1,000,000 per year.
- 3.3.20 The approach to the contribution sought seeks to split the contribution between residential and commercial development. This is because both the local residential population and the local economy stand to gain from the Local Labour and Business Scheme. Residential development will therefore be expected to contribute to half of the annual £1,000,000 required to operate the Local Labour and Business Scheme, with commercial development contributing to the remaining half.
- 3.3.21 The approach seeks an equal amount for each job and dwelling proposed. The contribution for each dwelling and job generated by commercial development is therefore derived by dividing the amount required to operate the scheme by the total number of jobs and dwellings that will be created within the borough to 2025. Based upon the estimated number of new dwellings (1,385) to be created annually as required by the London Plan (draft FALP 2014) and the number of new jobs required annually (500) as estimated by the Lewisham Business Growth Strategy, each new job and dwelling will require a contribution of £530 towards employment training.

**Table 3.3.1 – Total Contribution Required per Dwelling/Job**

	No. planned annually to 2025	Total cost of running employment training schemes annually	Total cost per dwelling/job
Dwellings	1,385	£735,000	£530
Jobs	500	£265,000	£530
Total	1,835	£1,000,000	£530

- 3.3.22 In order to estimate the number of jobs that will be generated from employment floorspace, the Council will use the employment densities identified in the HCA Employment Densities Guide (2nd ed.) or subsequent guidance.

e.g. High Street Retail = 1 job per 19sqm.  
190sqm of new High Street Retail development = 10 jobs  
Cost per job = £530  
Cost for 10 jobs = £5,300



## Non financial obligations

3.3.23 The Council will secure both financial and non-financial obligations as required. Non-financial obligations could include:

- A Local Labour and Business Strategy
- Monitoring on a monthly basis

3.3.24 A Local Labour and Business Strategy will be required to:

- Support local people into work by providing employment opportunity linked training. It is envisaged that the employment opportunities will not only be construction related eg trades, construction professionals, administration, security, catering etc but will also be secured through the wide range of end users eg leisure, facilities management, warehouse operative etc. A commitment from developers, contractors and end users to use reasonable endeavours to obtain 50% of the on site workforce from residents within the borough;
- Advertise job opportunities locally 7 days prior to general advertisement
- Raise awareness of the vast, varied and rewarding career opportunities available in the construction industry and other sectors to local young people in full time education and leading from apprenticeships;
- Detail participation in community events eg job fairs, youth engagement, careers fairs, engagement with groups supporting residents furthest away from the job market
- Provide support for local businesses to access developer, contractor and supply chain subcontract and supplier contract opportunities through workshops and events;
- Commit to including suitable local businesses in all project related procurement processes;
- Commit the developer/contractor to use reasonable endeavours to place 50% (in terms of value) of the available supply and service contracts with businesses from the borough;
- Detail job opportunity linked training places and associated costs (e.g. licenses, PPE, certification etc).
- Provide construction phasing information and labour forecasting data to the Council, to maximise the job matching process.
- Provide a named contact who is responsible for the delivery of the Local Labour and Business Strategy.
- Make a commitment to include anticipated achievements, on the project, in the following areas (all targets are related to local residents and businesses, where 'local' refers to the location of permanent operation of business or location of resident's home being within the London Borough of Lewisham):
  - a) New apprenticeship places
  - b) Continued apprenticeship places (safeguarded)
  - c) Finished apprenticeships
  - d) Graduates
  - e) Community Involvement Activities

- f) 16+ Work Experience
- g) 14-16 Work Experience
- h) Jobs Advertised through the Local Labour and Business Scheme
- i) Job Starts
- j) Accredited training places
- k) Businesses completing prequalification process
- l) Businesses receiving project related invitations to tender
- m) Value of contracts secured by local business

3.3.25 Monitoring will expected to be undertaken in accordance with the requirements as detailed on the Council's website and using the monitoring form, available at the website link below:

<http://www.lewisham.gov.uk/mayorandcouncil/counciljobs/employmentadvice/default/Pages/Local-Labour-and-Business-Scheme.aspx>

## 3.4 Employment floorspace

### Background and justification

- 3.4.1 The borough of Lewisham has seen a reduction in the amount of employment land in recent times. The table below shows how the amount of commercial space in the borough has shrunk over the past decade at a faster rate than for both London and London East.

Percentage Change in Commercial Space 2002-2012			
	Lewisham	London	London East
All	-16.33	-2.98	1.65
Industrial	-30.2	-17.31	-19.68
Retail	-5.79	3.72	7.42
Office	7.35	4.2	21.03
Source : Local Futures 2013			

- 3.4.2 Once employment land is redeveloped for alternative uses it is unlikely it will ever revert back to an employment generating use.
- 3.4.3 The Council has a range of planning policies to protect existing employment floorspace, require positive redevelopment of employment floorspace where possible and encourage new floorspace to be brought forward. Additionally, the Business Growth Strategy<sup>6</sup> sets out how the Council and partners will work together to maximise business growth in the borough in the next ten years, 2013 to 2023.
- 3.4.4 The vision of the strategy is that in ten year's time Lewisham will be one of the fastest growing parts of the London economy, backed up by three aims, as follows:
- Aim 1: To boost Lewisham's contribution to the London economy by enhancing the ability of new and existing business to thrive and grow.
  - Aim 2: To accelerate the expansion of the Lewisham economy by capitalising on major physical regeneration in the borough to create the right environment for business growth.
  - Aim 3: To diversify and expand the Lewisham economy by inspiring, nurturing and promoting the creativity and entrepreneurship of Lewisham residents
- 3.4.5 Most development will have the opportunity to bring forward employment floorspace, while many schemes will have a policy requirement to deliver it. In these circumstances the Council will seek to ensure that the provision is of a sufficient quality, accessibility and affordability that makes certain it has the highest possible chance of being deliverable and becoming sustainable and resilient employment floorspace. Obligations may be sought from all developments.

<sup>6</sup><http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/strategies/Documents/LewishamBusinessGrowthStrategy2013-2023.pdf>

- 3.4.6 This section sets out examples of those matters that will, when appropriate, need to be mitigated through a planning obligation in order to ensure high quality deliverable employment floorspace is provided. This may include both permanent matters as well as temporary measures, such as incentives to encourage initial momentum in occupation.
- 3.4.7 In order to maintain a diverse and sustainable local economy it is important for a range of commercial property to be available to support the small and medium-sized enterprises (SME) sector and accordingly the Council will work with developers to encourage the provision of flexible and affordable office floorspace in office development and small and affordable shop units in major retail developments.
- 3.4.8 In some cases, local regeneration and improvement projects may include enhancement of employment floorspace in conjunction with many other improvements, such as town centre improvements, transport improvements and/or public realm enhancements. This is particularly likely in the Council's Regeneration and Growth Area, or where a development is located in one of the town centres identified in the Core Strategy as a Major, District, or Local Town Centre. A financial contribution towards such over-arching projects may mitigate against multiple impacts. In such circumstances reference should be made to other relevant sections of this SPD regarding these matters, including the specific guidance in section 4 regarding improvement projects in areas of high growth.

## **Policy pointers**

- 3.4.9 For a summary of the national, regional and local planning policy context, please see Appendix 1.

## **Types of obligations and when they are required**

### **Delivering sustainable new floorspace**

- 3.4.10 In order for the Council to ensure that deliverable, sustainable and resilient floorspace is provided in the right locations, applicants proposing new employment floorspace will, when appropriate, be required to provide details for approval regarding a number of matters, including:
- The level of fit out of commercial units. Micro business should not have to meet the costs of fitting out small units. Small units should be fitted out or if left as shell and core the costs of fitting out should be met by the developer.
  - Market research that provides evidence of demand for the type of premises being delivered.
  - Evidence that consideration has been given to workspace models such as co-working space, incubators and accelerators, which can support growth in new and micro businesses.
  - Affordable rent (in perpetuity or as a temporary incentive)
  - Commercial rates
  - Service / additional charges
  - Provision of business incubator space and/or co-working space
  - Size of floorspace

- Flexibility of floorspace
- Length and terms of lease. Terms that provide flexibility for small businesses are preferable. Include details of break clauses and notice periods
- Provision of high speed broadband

The Council may use a Legal Agreement to manage the proposed use of employment floorspace, including appropriate rent levels and to control the size, location and nature of the occupant.

### **Loss of existing floorspace**

- 3.4.11 The Council will resist the loss of employment floorspace in accordance with the policy framework in place. However, in exceptional circumstances and entirely at the Council's discretion, it may find certain occasions where the loss of employment floorspace is acceptable.
- 3.4.12 Where this is the case, the Council will seek a financial contribution as detailed in the following section.

### **Required form of obligations**

- 3.4.13 New employment floorspace (as required by policy), taking account of the matters outlined above, should be delivered on-site whenever possible and only off-site when the Council deem it necessary. The proposed approach, detail and delivery of such provision (whether on-site or off-site) will need to be approved by the Council.
- 3.4.14 Where the Council deem that direct provision by the developer is not achievable a financial contribution may be necessary. A financial contribution may also be necessary if there has been a loss of employment floorspace under the circumstances described in paragraph I.1.10.
- 3.4.15 In order to estimate the number of jobs that have been lost or failed to be generated from missed opportunities for employment floorspace, the Council will use the employment densities identified in the HCA Employment Densities Guide (2nd ed.) or subsequent guidance.
- 3.4.16 The cost of a job has been calculated as the equivalent of the cost of supporting a trainee for one year, in order to provide an opportunity to secure long term employment, which is £10,000.
- e.g. High Street Retail = 1 job per 19sqm.  
 190sqm of new High Street Retail development = 10 jobs  
 Annual cost for a trainee = £10,000  
 Cost for 10 jobs = £100,000
- 3.4.17 The Council will use this funding to bring forward flexible and affordable business space.

## 3.5 Transport

### Background and justification

- 3.5.1 Securing an accessible, effective and appropriately sized public transport system is integral to the creation of sustainable and cohesive communities and plays an important role in enhancing quality of life for all residents and combating social exclusion for disadvantaged individuals and groups.
- 3.5.2 Most forms of development will result in increased pressure on existing transport infrastructure across the Borough and will therefore be required to minimise, eliminate or mitigate against the impacts of the development. This includes improvements in the quality, capacity and safety of the road network as a result of residential and commercial vehicle movements; improvements to cater for increased walking and cycling trips, and enhancements to public transport, such as bus and rail services and supporting infrastructure.
- 3.5.3 Obligations will be sought from all impact generating development to provide for appropriate infrastructure to cater for proposed increases in the residential population and demand generated through increased employment opportunities.
- 3.5.4 Funding for strategic transport enhancements that are required as a result of incremental growth will normally be provided by the Council using CIL funding.
- 3.5.5 Where developments are required to deliver infrastructure matters needed to make developments acceptable in planning terms, these matters may be secured through planning obligations. Other transport matters may be dealt with through planning conditions and S278 transport agreements.
- 3.5.6 This section sets out examples of those matters that may be required to be mitigated through planning obligations, including transport assessments and travel plans, site delivery infrastructure, local network impacts, parking and car sharing.
- 3.5.7 In some cases, regeneration projects may include enhancement of the local transport network in conjunction with other improvements, including to the economic development and/or public realm in the locality. This is particularly likely in the Council's Regeneration and Growth Area, or where a development is located in one of the town centres identified in the Core Strategy as a Major, District, or Local Town Centre. A financial contribution towards such over-arching projects may mitigate against multiple impacts. In such circumstances reference should be made to other relevant sections of this SPD regarding economic and public realm matters and the specific guidance in section 4 regarding regeneration.

### Policy pointers

- 3.5.8 For a summary of the national, regional and local planning policy context, please see Appendix 1.

## Types of obligation and when they are required

- 3.5.9 The following are types of obligation that may be required to mitigate against the impact of a development. This is not an exhaustive list, but a guide for developers to the types of transport matters that should be considered.

### Plans

- 3.5.10 On the most part, travel plans, servicing and delivery plans, temporary traffic management plans and other transport related plans should be submitted up front in the application process in line with the Council's Local Information Requirements<sup>7</sup> In exceptional circumstances and in particular for very large schemes, it may be necessary to secure on-going matters, including monitoring and review mechanisms as a planning obligation.

### Site delivery infrastructure and specific network impacts

- 3.5.11 A proposed development may require specific works in order to make the scheme acceptable in planning terms. Necessary infrastructure may be secured on site, regarding access to the site or off site in the locality of the development.
- 3.5.12 On-site matters and those regarding access to the site could include the movement of bus stops, trees and street furniture, kerbing matters, road crossings and minor junction works. The delivery of these works should be secured through the most appropriate course, be it a S106 obligation or through a S278 agreement.
- 3.5.13 Improvements to the strategic transport network required as a result of development will normally be provided by the Council using CIL and other funding. However, there may be occasions where a development may be required to fund other transport infrastructure where:
- 3.5.14 the development will have an impact on the local transport network that requires mitigation.
- 3.5.15 In these circumstances, there may be the need for local changes and improvements, such as (but not exclusively) enhancements to local highway and freight capacity and quality, the public transport infrastructure, cycling and walking routes and vehicle management matters (inc. parking controls and management and car and cycling clubs).
- 3.5.16 a specific transport improvement is necessary to make a proposed development acceptable.
- 3.5.17 The Council consider that this is most likely for large developments that require enhancement of the transport network in order to ensure the acceptability and effective delivery of the proposals for the site. For example, the provision of transport infrastructure that will improve the development's PTAL to a point which will make the proposed quantum of residential development acceptable. For the majority of developments the Council consider that on-site and local improvements will normally be sufficient to mitigate impacts.

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<sup>7</sup> <http://www.lewisham.gov.uk/myservices/planning/applications/Pages/Validation-requirements.aspx>

## Required form of obligations

- 3.5.18 The level of contributions for this topic cannot be determined through use of a standard formula as the level of any contribution needs to reflect the particular characteristics of the proposed development and the local context.
- 3.5.19 It is preferable to the Council for developers to directly provide necessary improvements and mitigation without the need for financial contributions to the Council. This should be delivered on-site whenever possible and only off-site when necessary. The proposed approach, detail and delivery of such mitigation (whether on-site or off-site) will need to be approved by the Council. Where direct provision by the developer is not achievable a financial contribution may be necessary. This should be based on the cost to the Council to undertake the necessary works or to charge a third party with delivering the works. The level of cost should be evidenced by the developer and then submitted for agreement with the Council in advance.
- 3.5.20 Applicants should note that Transport for London may require contributions over and above those sought by the Council in order to address the impacts of the development. TfL operates a pre-application process and for further details please see [www.tfl.gov.uk](http://www.tfl.gov.uk).



## 3.6 Public Realm

### Background and justification

- 3.6.1 Public realm is considered to be those sections of an urban area (whether publicly or privately owned) located between, surrounding and within buildings that are publicly accessible, including streets, squares, forecourts and open spaces. The public realm is an important aspect of any development and ensures that the development is integrated into and enhances the existing character and use of the area.
- 3.6.2 All residential and commercial development is required by policy to contribute towards good design (in particular through Core Strategy Policy 15), which extends to the consideration of the public realm. Most forms of development will place the surrounding public realm under increased strain and will therefore be required to minimise, eliminate or mitigate against the negative impacts of the development. Such mitigation may be required to cover aspects such as quality and durability, access and connectivity, community safety and other matters integral to its use. Contributions to public realm may also add towards refurbishment or new provision of civic space and other projects aimed at improving the quality for users of these areas. Applicants will be encouraged to engage artists and urban designers at an early stage.
- 3.6.3 Planning obligations for public realm improvements may be sought from any development that is required to mitigate its impact and will be sought from qualifying residential and commercial development proposals within major and district town centres and employment locations (as shown on the Local Plan Policies Map), those developments impacting on key public transport locations and those developments that generate high visitor numbers.
- 3.6.4 Any public realm contributions will be separate and additional to CIL. They will be required to address the localised impacts of a development and not for those strategic infrastructure matters listed in the Council's Regulation 123 list. Most green open space infrastructure will be dealt with by CIL.
- 3.6.5 In some cases, regeneration projects may include enhancement of the public realm in conjunction with other improvements, including to the economic development and/or transport sustainability of the locality. This is particularly likely in the Council's Regeneration and Growth Area, or where a development is located in one of the town centres identified in the Core Strategy as a Major, District, or Local Town Centre. A financial contribution towards such over-arching projects may mitigate against multiple impacts. In such circumstances reference should be made to other relevant sections of this SPD regarding economic and transport matters and the specific guidance in section 4 regarding regeneration.

### Policy pointers

- 3.6.6 For a summary of the national, regional and local planning policy context, please see Appendix 1.

## Types of obligation and when they are required

### Providing high quality public realm

- 3.6.7 Provision of new or improved public realm may be required on site, in accessing the site or in the locality of the development and will be expected to be delivered to the highest quality level.
- 3.6.8 Public realm environments should be delivered to a high standard of design and using high quality materials. The Council has a number of documents that offer guidance on delivering high quality public realm, including the Streetscape Guide<sup>8</sup>, the North Lewisham Links<sup>9</sup> strategy and the River Corridor Improvement Plan SPD<sup>10</sup>. The Council will also seek independent design advice when it is deemed necessary to ensure the delivery of high quality public realm. It may be necessary for the applicant to fund the independent advice required to enable the Council to assess the acceptability of proposals. Applicants should seek advice from the Council at an early stage as to the appropriate design guidelines to be followed, dependent on the public realm works proposed.

### Public art

- 3.6.9 The provision of public art and artistic features should form an integral part of any Major Development in prominent locations and/or making a significant impact on it's physical environment.
- 3.6.10 The provision of public art should be in accordance with the Council's latest cultural strategy and should be discussed with the Council (including the Council's Officer responsible for public art) at an early stage, i.e. at concept stage rather than approval stage. The Council will insist that any public art is developed through a transparent process that should involve community engagement and consultation at an early stage in the process, where appropriate.
- 3.6.11 The use of local artists will be encouraged, where it is appropriate to do so and the integration of successful existing or newly planned public hard and green open spaces will be supported.
- 3.6.12 Where necessary, the Council will use planning obligations to secure the delivery of a public art proposal. Applicants may be required to submit a public art plan for approval detailing matters including engagement and consultation, form and design, funding, delivery, on-going management and maintenance.

### Access and connectivity

- 3.6.13 New developments should be connected with the surrounding environment and provide easy access to the most sustainable forms of movement, including cycling and walking. Developments may need to link in to and maintain existing publicly accessible routes on to and off of the site, through the site and in the surrounding

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<sup>8</sup> <http://www.lewisham.gov.uk/myservices/transport/roads-and-pavements/Pages/Lewisham-Streetscape-Guide.aspx>

<sup>9</sup> <http://www.lewisham.gov.uk/inmyarea/regeneration/deptford/north-lewisham-links/Pages/default.aspx>

<sup>10</sup> <http://www.lewisham.gov.uk/myservices/planning/policy/LDF/SPDs/Pages/River-corridor-improvement-plan.aspx>

locality and ensure that new links and/or routes are provided as necessary. Reference should again be made when appropriate to the North Lewisham Links strategy and the River Corridor Improvement Plan SPD for further guidance on this matter.

- 3.6.14 The Council will use planning to ensure that hard open spaces and routes are publicly accessible and will remain so in perpetuity (whether publicly or privately owned) and will resist the inclusion of gates that can be closed and locked.
- 3.6.15 Applicants may be required to submit public realm and public access management plans to support their proposed approach. Such plans will be required to detail matters including public access route funding, delivery, management and maintenance and providing a clear purpose of the function of each route.
- 3.6.16 Further obligations may be necessary to secure rights of way and to ensure they are provided or upgraded to a suitable quality and maintained as such over time.

### **Community safety**

- 3.6.17 Developments must provide a safe environment for the local community and visitors. The primary means of addressing community safety will be good design. In some circumstances there may be specific safety concerns arising from a scheme requiring further mitigatory measures to be taken to tackle safety risks either on-site or in the locality of the development. In particular, development that generates high visitor numbers may generate public safety concerns that require additional mitigation.
- 3.6.18 Measures to improve community and visitor safety in the vicinity of developments that may be required could include: improved lighting; CCTV camera installation, enhancements to the Council's CCTV system capacity, linkages and monitoring arrangements; and design measures including actions to improve lines of sight and over looking.

### **Impact on surrounding public realm**

- 3.6.19 The introduction of most forms of new development will place an extra strain on public realm in the locality of the development. In particular large scale development in town centre or employment centre locations or developments that generate a high number of visitors can have a significant impact on the local public realm. In these circumstances there may be the need for mitigation in the form of an off-site project or financial contribution to the Council to provide local improvements, ensuring that the public realm can accommodate the increased strain. Such mitigation may include enhancement of the public realm in the shape of public conveniences and benches, space accessibility, management, function and maintenance improvements and waste management schemes.

### **Required form of obligations**

- 3.6.20 The level of contributions for this topic cannot be determined through use of a standard formula as the level of any contribution needs to reflect the particular characteristics of the proposed development and the local context.
- 3.6.21 For all the types of obligation detailed in this section, it is preferable to the Council for developers to, wherever possible, directly provide necessary improvements and mitigation without the need for financial contributions to the Council. The Council

acknowledge that this may not be possible when it comes to offsite locations, particularly civic spaces. Should the developer intend to undertake direct provision, the proposed approach, detail and delivery of works will need to be approved by the Council and may be secured through a S106 agreement. Where a financial contribution is necessary, this should be based on the cost to the Council to undertake the necessary works or to charge a third party with delivering the works. The level of cost should be evidenced by the developer and then submitted for agreement with the Council.

- 3.6.22 Where a financial contribution may be appropriate to support wider regeneration projects, the quantum of contribution will be agreed between the developer and the Council based on the cost of works required and the amount of development expected to support the project. Where possible the Council will justify the amount of contribution required with reference to a local plan or strategy.
- 3.6.23 Applicants should note that Transport for London may require contributions over and above those sought by the Council in order to address the impacts of the development. TfL operates a pre-application process and for further details please see [www.tfl.gov.uk](http://www.tfl.gov.uk).

## 3.7 Childrens Play Space

### Background and justification

- 3.7.1 The provision of facilities for children and young people is important in facilitating opportunities for play and physical activity and the development of movement and social skills.
- 3.7.2 London Plan Policy 3.6 and Core Strategy Policy 12 require that residential and mixed use development make provision for children's play and informal recreation space. The London Plan states that the amount of provision should be proportionally based on the number of children expected to occupy the development and an assessment of future needs. Summarily, the Mayor concludes that new development that creates a child yield is expected to provide 10m<sup>2</sup> of play and recreation space for every child.
- 3.7.3 The Lewisham Leisure and Open Space Study (2010) details the existing ratio of children's play space to the child population in the borough. Currently there is 1.51m<sup>2</sup> of play space per child in Lewisham, equating to 8.49m<sup>2</sup> less than the figure recommended by the Mayor of London. Planning obligations will not be used to fix existing deficiencies in provision, rather this information is provided to emphasise the importance of delivering an acceptable level of play space alongside new development. The Council will expect all new Major Development to provide children's play space provision in line with London Plan Policy 3.6.

### Policy pointers

- 3.7.4 For a summary of the national, regional and local planning policy context, please see Appendix 1.

### Required form of obligations

- 3.7.5 It is preferable to the Council for developers to, wherever possible, directly provide well designed children's play space on-site in accordance with the policy requirements. Where the Council deem that there are exceptional circumstances and it is not possible for a development to meet children's play space requirements on-site, a financial contribution will be necessary.
- 3.7.6 The financial contribution will be based on the policy requirement (10m<sup>2</sup> per child) minus any space delivered on-site. The undelivered play space will then be multiplied by £300 per sqm, which represents the estimated cost for the Council to deliver off-site children's play space on behalf of the developer. This rate is based on evidence of the costs to provide actual recent play space schemes in Lewisham and is a pro-rata cost of 1000sqm split into one third play, one third grass and one third safety measures, plus 20% for additional design, surveys, project management, fees and delivery.
- 3.7.7 For both on-site and off-site provision of children's play space, the Council will require commitment from the developer to meeting the maintenance costs in perpetuity to an agreed standard. This will be required whether the play space is to be transferred to the Council or retained by the developer.

3.7.8 Any children's play space contributions will be separate and additional to CIL. Whilst children's play space is often located in open spaces, it will not be considered to be covered by any CIL payment.

## 3.8 Carbon offsetting

### Background and justification

- 3.8.1 Tackling climate change is a key policy at all levels of government. Local Planning Authorities are expected to help deliver considerable reductions in CO2 emissions from new buildings. As a result and in line with the London Plan, Lewisham Council require all major applications to deliver a 35% reduction in carbon dioxide emissions compared to the 2013 Building Regulations. This requirement is set out in Policy 5.2 of the London Plan 2011.
- 3.8.2 Major applications are those for 10 dwellings or more, or applications for over 1,000 sqm of floorspace.
- 3.8.3 The policy will also be applied to any minor material amendment applications (made under s73 of the Town and Country Planning Act 1990) which may impact on the CO2 emissions of previously granted major permissions.
- 3.8.4 Where the policy can be met on-site, there is no need for a S106 agreement in relation to carbon reduction. However, if the circumstances as described further in this section occur and require a financial contribution to be made in lieu of on-site delivery, a 'carbon offset' payment will be secured using a S106 agreement.
- 3.8.5 Any money collected through the Carbon Offset fund will contribute towards the cost of reducing carbon emissions across Lewisham. The emphasis will be on using this funding to link in with existing schemes so as to minimise any administration costs and to reduce the overall cost of carbon. The cost of carbon has been tested alongside other Lewisham Council policy requirements and has been found to sit within the required financial viability cost parameters.
- 3.8.6 The domestic sector forms the single biggest element of the carbon footprint of Lewisham, so linking in with existing schemes to deliver more measures is one possibility. Works to reduce the carbon emissions within the public sector – eg schools – are also another mechanism.
- 3.8.7 Further guidance on the Carbon Offset fund is available in the Council's guide at the following web address:

<http://www.lewisham.gov.uk/myservices/planning/applications/Documents/CostofCarbonAdviceforApplicantsUpdatedFeb2014.pdf>

### Policy pointers

- 3.8.8 For a summary of the national, regional and local planning policy context, please see Appendix 1.

## Required form of obligations

- 3.8.9 The 40% reduction in CO2 emissions should be met on-site whenever possible. In very limited circumstances off-site mitigation measures may be accepted, however this will only be permissible if it is clearly demonstrated by an applicant that it is not possible to meet the reduction target on site. Applications are liable to be refused if the 40% reduction is not met on site, and if evidence is not provided as to why the reduction cannot be met on site.
- 3.8.10 In these circumstances applicants should provide off-site provision within Lewisham themselves whenever possible, or as a last resort agree to pay into Lewisham's Carbon Offset fund. Where applicants are proposing to provide the off-site provision themselves they will have to provide evidence that they have identified a project or projects which will deliver the required level of residual carbon emissions reductions and have all the necessary agreements in place to deliver the project.
- 3.8.11 Lewisham will charge £104 per year for every tonne of carbon required to be offset to meet the target figure.
- 3.8.12 The amount is calculated on the basis of the annual difference in tonnes between the predicted carbon emissions of the development and the target carbon emissions. The figure should be multiplied by £104 to come to the amount to be paid per year, and then multiplied by the assumed 30 year lifespan of the offset measures.
- 3.8.13 The calculation is therefore as follows:  
(Target carbon emissions to meet a 40% reduction onsite – Projected onsite contribution to carbon reductions) x 104 x 30 = £offset contribution
- 3.8.14 A worked example to illustrate the above calculation:  
Development A has annual CO2 emissions of 100 tonnes. To meet the policy requirement the developer needs to reduce this by 40 tonnes, however the developer is only able to reduce carbon emissions by 30 tonnes onsite, which means 10 tonnes is required to be offset:  
$$((40 - 30) \times 104) \times 30 = \text{£}31,200$$
- 3.8.15 The local list validation requirements for energy assessments require applicants to set out the carbon emissions for a baseline building and what they are proposing to deliver on site. If applicants cannot meet this target on site they should be setting this out, with information on what element of the costs they are proposing to meet through a payment into the offset fund. We expect applicants to address any areas where they aren't policy compliant and explain their rationale for the non-compliance.



## 3.9 Environmental Protection

### Background and justification

- 3.9.1 Improving air quality is of importance in maintaining the health and well-being of the residents, workers and visitors to the borough. The Council monitors the air quality in the borough as part of the London Air Quality Network and uses its Air Quality Action Plan to implement measures to improve the local air quality.
- 3.9.2 In accordance with London Plan Policy 7.14 and Core Strategy Policy 9, all developments are required to ensure that they are 'air quality neutral' as a minimum. The London Plan also states that measures to attain this standard should be provided on-site whenever possible and only when this is not the case consider off-site provision or the use of planning obligations. The Council will therefore seek planning obligations from any development that is required to mitigate its impact.
- 3.9.3 Applicants will be required to provide an Air Quality Impact Assessment alongside their application in accordance with the Council's Local Information Requirements.

### Policy pointers

- 3.9.4 For a summary of the national, regional and local planning policy context, please see Appendix 1.

### Required form of obligations

- 3.9.5 The level of contributions for this topic cannot be determined through use of a standard formula as the level of any contribution needs to reflect the particular characteristics of the proposed development and the local context.
- 3.9.6 Developments will be required to mitigate their impact upon local air quality on-site wherever possible. Where the Council deem that this is not possible, the Council may consider it acceptable for the applicant to deliver equivalent mitigation measures off-site. In appropriate circumstances, the Council may consider a financial contribution where it can be demonstrated that mitigation is best provided through a Council funded scheme. The applicant should therefore liaise with the Council's Environmental Protection Team at an early stage to establish whether such a funded scheme is proposed and to provide justification for this approach.
- 3.9.7 The Council are a member of the London Air Quality Network and undertake air quality monitoring using the associated monitoring network, which also provides the necessary independent validation of the data. Large developments will normally be required to undertake air quality monitoring and are therefore advised to liaise with the Council to establish the best approach. This may be through developer direct provision or through a financial contribution to support monitoring through the Council's monitoring network.

3.9.8 During the demolition and construction of a scheme, there is a risk of a range of negative environmental impacts within the locality of the development (including dust, noise, emissions, land contamination). In such circumstances, there will be a need to monitor and mitigate against impacts and the applicant should look to undertake the monitoring and mitigation themselves. In addition to this the Council may need to implement monitoring using it's own resources and in these circumstances a financial contribution may be required. At all times, applicants should comply with the recommendations in the Council's 'Good Practice Guide, Control of pollution and noise from demolition and construction sites' as the primary means of minimising impacts from demolition and construction.

## 3.10 Flood and Water Management

### Background and justification

- 3.10.1 For the purposes of this document the definition of 'flood risk reduction' and 'water management' infrastructure include measures that:
- minimise the risk of flooding, both fluvial and surface water flooding, including flood warning systems and flood adaptation measures;
  - facilitate sustainable drainage;
  - minimise water use and secure water supply;
  - maintain or enhance water quality.
- 3.10.2 The Council seeks to reduce flood risk through the appropriate location, design and construction of development and the sustainable management of surface water run-off. Where it is decided that development should be permitted for social or economic reasons, then appropriate flood protection and mitigation measures, including measures to restore the floodplains or provide adequate compensatory storage, will be required to mitigate the impact of development. At sites suspected of being at unacceptable risk from flooding but for which adequate flood risk information is unavailable, developers may be required to carry out at their own expense detailed technical investigations to evaluate the extent of the risk.
- 3.10.3 Funding for strategic flood management infrastructure that is required as a result of incremental growth will normally be provided by the Council using CIL funding.
- 3.10.4 Where developments are required to deliver infrastructure matters needed to make developments acceptable in planning terms, these matters may be secured through a S106 Legal Agreement. Other water management and flooding matters may be dealt with through planning conditions.

### Policy pointers

- 3.10.5 For a summary of the national, regional and local planning policy context, please see Appendix 1.

### Types of obligation and when they are required

- 3.10.6 The following are types of obligation that may be required to mitigate against the impact of a development. This is not an exhaustive list, but a guide for developers to the types of flood risk and water management matters that should be considered.

## Plans

- 3.10.7 Plans relating to flood risk assessment and water management (e.g. landscaping scheme, living roof detail, etc.) will be required to be submitted up front in the application process in line with the Council's Local Information Requirements<sup>11</sup> In exceptional circumstances and in particular for very large schemes, it may be necessary to secure on-going matters, including monitoring and review mechanisms as a planning obligation.

## Site specific and localised water management and flood risk reduction

- 3.10.8 The provision of strategic flood management infrastructure required as a result of development will normally be provided by the Council using CIL funding. However, developers cannot call on public resources to provide local and site-specific flood defences for their proposed development where they are not already programmed for the protection of the existing built environment.
- 3.10.9 There may be occasions where an applicant may be required to deliver specific flood risk reduction measures, including long term maintenance, where the development will have an impact on the local flood risk that requires mitigation, either on-site or in the environs of the development.

## Required form of obligations

- 3.10.10 The level of contributions for this topic cannot be determined through use of a standard formula as the level of any contribution needs to reflect the particular characteristics of the proposed development and the local context.
- 3.10.11 It is preferable to the Council for developers to directly provide necessary improvements and mitigation without the need for financial contributions to the Council. This should be delivered on-site whenever possible and only off-site when necessary. The proposed approach, detail and delivery of such mitigation (whether on-site or off-site) will need to be approved by the Council. Where direct provision by the developer is not achievable a financial contribution may be necessary. This should be based on the cost to the Council to undertake the necessary works or to charge a third party with delivering the works. The level of cost should be evidenced by the developer and then submitted for agreement with the Council in advance.

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<sup>11</sup> <http://www.lewisham.gov.uk/myservices/planning/applications/Pages/Validation-requirements.aspx>

## 3.11 Biodiversity

### Background and justification

- 3.11.1 For the purposes of this document, the definition of 'biodiversity' infrastructure includes all private natural greenspace, links between public open spaces, living roofs and spaces within public open space that have a specific ecology or biodiversity role, sites of importance for nature conservation (SINCs).
- 3.11.2 In a densely populated urban area such as Lewisham, promoting and encouraging habitats for biodiversity is very important, both for wildlife itself and in promoting quality of life for those who live and work in the borough. Most forms of new development will result in additional pressure on Lewisham's limited supply of biodiversity resources and will therefore be required to minimise, eliminate or mitigate against the impacts of the development. This includes enhancing urban wildlife through planting principles such as 'right tree, right place', habitat creation and wildlife areas and the integration of features such as living roofs and walls.
- 3.11.3 Obligations will be sought from all impact generating development to provide for appropriate biodiversity infrastructure to cater for proposed increases in the residential and/or employment population.
- 3.11.4 Funding for strategic biodiversity works that are required as a result of incremental growth will normally be provided by the Council using CIL funding.
- 3.11.5 Where developments are required to deliver biodiversity matters needed to make the development acceptable in planning terms, these matters may be secured through planning obligations. Other biodiversity matters may be dealt with through planning conditions.
- 3.11.6 This section sets out examples of those matters that may be required to be mitigated through planning obligations, including the provision of biodiversity plans and the protection, and enhancement and creation of new networks of natural habitats, maximising opportunities to incorporate biodiversity within development and safeguard protected species from the adverse impact of development.

### Policy pointers

- 3.11.7 For a summary of the national, regional and local planning policy context, please see Appendix 1.

### Types of obligation and when they are required

- 3.11.8 The following are types of obligation that may be required to mitigate against the impact of a development. This is not an exhaustive list, but a guide for developers to the types of transport matters that should be considered.

## **Plans**

- 3.11.9 On the most part, travel plans, servicing and delivery plans, temporary traffic management plans and other transport related plans should be submitted up front in the application process in line with the Council's Local Information Requirements. In exceptional circumstances and in particular for very large schemes, it may be necessary to secure on-going matters, including monitoring and review mechanisms as a planning obligation.

## **Site specific and localised biodiversity**

- 3.11.10 A proposed development may require specific works in order to make the scheme acceptable in planning terms. Planning obligations may be used to secure:
- reinstatement of existing habitat features,
  - protection and enhancement of existing features,
  - creation of new features,
  - new habitat creation schemes,
  - monitoring or survey work to confirm that relevant environmental measures have been implemented successfully as part of a scheme.

## **Required form of obligations**

- 3.11.11 The level of contributions for this topic cannot be determined through use of a standard formula as the level of any contribution needs to reflect the particular characteristics of the proposed development and the local context.
- 3.11.12 It is preferable to the Council for developers to directly provide necessary improvements and mitigation without the need for financial contributions to the Council. This should be delivered on-site whenever possible and only off-site when necessary. The proposed approach, detail and delivery of such mitigation (whether on-site or off-site) will need to be approved by the Council. Where direct provision by the developer is not achievable a financial contribution may be necessary. This should be based on the cost to the Council to undertake the necessary works or to charge a third party with delivering the works. The level of cost should be evidenced by the developer and then submitted for agreement with the Council in advance.

# 4 General Principles for Securing Planning Obligations

## Overview of Lewisham's Approach to Planning Obligations

- 4.1 Lewisham's approach to securing planning obligations is set within the framework of national legislation and guidance; regional and local strategy and guidance; and any other material considerations relevant in each particular case. When a planning application is considered, planning obligations will only be sought where they are material to a planning decision, mitigate against a particular impact and comply with the CIL Regulations (2010) (as amended).
- 4.2 The Council will not seek planning obligations unrelated to a proposal or grant of planning permission for unacceptable development. Similarly, unrelated or unnecessary planning obligations offered by an applicant are not a means to secure planning permission for unacceptable development. Planning obligations are unlikely to overcome fundamental objections and will only be sought to address issues that prevent permission being granted for generally acceptable proposals. Planning permission will not be granted for unacceptable development.
- 4.3 Where there is a choice between imposing conditions and entering into a planning obligation, the imposition of a condition is preferable. The Council will therefore consider if an issue can be satisfactorily addressed through a condition before negotiating planning obligations. Planning obligations will be the preferred method of ensuring the provision of complex arrangements, such as affordable housing, local labour and financial obligations.

## Drafting of Legal Agreements

- 4.4 In most cases, Section 106 agreements will be drafted by the Council's Legal Services Team, or by solicitors acting on the Council's behalf. The applicant will be required to pay the Council's reasonable legal and professional costs incurred in the preparation and completion of the agreement and/or, where appropriate, in the negotiation of any related third party agreements.
- 4.5 The Council has prepared a model Section 106 agreement which is available on the Council's website. Additionally the Council is seeking to provide template sections of Unilateral Undertakings. These are intended to assist applicants in understanding how the arrangements will work in detail (particularly for complex issues such as affordable housing) and will help with the timely consideration of planning applications.

## Timing of Payments

- 4.6 It is important that planning obligations take effect in time to meet the additional demands from developments as they arise. There are two main ways in which the Council receives financial obligations: either upon completion of the Legal Agreement, or via specified 'triggers'. Each case will need to be reasonably considered on its merits and in relation to the administrative costs to monitor and administer the agreement.
- 4.7 Generally the Council will always seek to receive the payment of contributions upon either signing of the Legal Agreement or commencement of development in order that projects to mitigate the impact of a development can be delivered in tandem with the construction of the development.
- 4.8 In exceptional cases, particularly very large phased developments, the Council may, where appropriate, agree specific triggers for when the payments are to be made such as commencement of the above ground works or prior to completion of a specified phase of the development.

## Unilateral Undertakings

- 4.9 Unilateral undertakings are Legal Agreements which bind only one party, usually the applicant, to undertake planning obligations. A unilateral undertaking can sometimes be used as an alternative to a negotiated Section 106 agreement as part of the process of determining a planning application. Instead of negotiating planning obligations between the Council and the applicant, the applicant may submit their proposals for planning obligations without consultation. The undertaking is usually submitted alongside the planning application, or with planning appeal submissions.
- 4.10 The Council would like to encourage the use of unilateral undertakings, particularly in the following circumstances:
- Small developments; and
  - Developments that only require financial obligations.
- 4.11 Draft unilateral undertaking template sections will be made available on the Council's website to assist applicants.

## Indexation of Financial Obligations

- 4.12 Financial obligations will be index linked (on an upwards basis only) in order to maintain the value of the obligation, from the date of the committee resolution to grant planning permission until the date that the full payment is received.
- 4.13 In most cases the Retail Price Index (RPI) will be used for non-capital financial contributions (e.g. employment and training contributions) and the Building Cost Information Service (BCIS) index will be used for financial contributions towards a specific building or facility as it relates more closely to the cost of delivering a scheme (e.g. monies secured to build or extend a school).
- 4.14 All financial obligation indexation will be rounded up to the nearest pound.



## Interest on Late Payments

- 4.15 It is the developers responsibility to ensure that any financial contributions or in-kind obligations are paid or addressed by the required trigger point. Failure to make any payment due will incur a penalty rate of interest at 4% above the Bank of England Base Rate from the date any payment was due until the day it is received. Such a penalty rate will be above and beyond any indexation that is applied to the sum.
- 4.16 All interest charges will be rounded up to the nearest pound.

## On-Site vs Off-Site Provision

- 4.17 The issue of whether the required measures or facilities are to be provided on or off-site will be considered by the Council on a case by case basis, although the Council's policies and good planning practice require that provision should normally be made on site for measures required to support a particular development.
- 4.18 In cases where it is neither practicable nor appropriate to provide the measures on-site, the Council will require a financial contribution towards providing the measures off-site. Where a financial contribution is considered acceptable in lieu of on-site provision, the financial contribution will include the cost of designing and implementing the measures and the Council's project management costs.

## Outline Applications

- 4.19 Planning obligations are determined for all outline planning applications, and where details are not available at the time of submission (such as the exact number of units) agreement to the formula for Standard Charges will be set out within the Section 106 agreement. Outline applications are generally only suitable in certain circumstances, and the Council would seek to ensure that applicants submit a full rather than an outline application.

## Use of Financial Viability Appraisals

- 4.20 The Council recognises that there may be circumstances where a developer may consider that it is not feasible for the proposed development to meet all the requirements set out in local, regional and national planning policies and still be economically viable. This is not intended to include developers who acquire sites without planning permission at unrealistically high prices and then seek reductions in affordable housing or other requirements. Viability concerns may arise genuinely, for example where site remediation costs are exceptionally high.
- 4.21 The Council will usually require detailed financial appraisal utilising a recognised cash flow model such as Argus Developer, although in some cases the GLA Toolkit may be accepted by the Council. The appraisal will need to be submitted to the Council as part of the application (or at pre-application stage) and both a hard copy and an electronic copy should be provided.
- 4.22 Analysis should be based on land values as set by the application of planning policy in determining the permissible scope of development rather than the price actually paid for the land. For this reason valuations should usually be undertaken on a residual basis where the value of land is an output of the process. Arguably no allowance should be made for the original cost of purchasing the land or for payments that are contracted to be made to the landowner or third party under an

existing option, conditional land sale agreement, profit share (overage) or clawback arrangement. If it is suggested that the viability of the development is compromised as a result of an allowance for these items then it will be at the discretion of the Council as to what extent, if any, obligations are amended in recognition of them.

4.23 The general requirements for open book appraisals are:

- Identify and justify (with comparable evidence where appropriate) all development value and cost variables;
- Specify any 'exceptional' cost items with supporting evidence in writing from reputable cost consultants;
- Adhere to the standard conventions in terms of appraisal calculations not least regarding developer's profit;
- Specify all assumptions made concerning the provision of affordable housing and planning obligations;
- Provide Red Book, or other appropriate valuations to support Existing Use Values where they arise; and
- Identify in cash flow terms the effect of deferred contributions.

4.24 The Council expects all financial viability appraisals to be provided with both 'no grant' and 'with grant' scenario's in relation to affordable housing provision and different tenure mixes, where the Council considers that it may be appropriate.

4.25 In cases where a dispute relates to the viability of a proposal, and in any case, where the Council considers it appropriate, a 'verification' of the applicant's financial viability appraisal will be carried out by an independent assessor. The applicant will be required to provide any financial information to support the viability appraisal to the Council and/or independent assessor on a strictly confidential basis. In such cases the assessor will be commissioned by the Council and the costs are to be met by the applicant. The independent financial assessor's report shall be provided to the Council.

4.26 In order to address any issues of economic uncertainty which may arise over the lifetime of the proposal the Council will give consideration to put in place provisions for re-appraising the viability of schemes prior to implementation and/or prior to 100% occupation. These are also known as 'contingent obligations' and may also be known as 'overage'. These will obligate the applicant to resubmit a financial appraisal and if the margins of viability/profitability have increased since determination, further obligations may be payable. If the situation has not improved, the approved obligations will stand. This allows for development to be carried out when it may otherwise not be viable to do so or to do so would be at increased levels of risk. It may also serve to encourage development sooner rather than later.

4.27 Proven impact on viability will be a material consideration in the assessment of a planning application and failure to comply with this SPD will be considered on a case-by-case basis in accordance with the relevant government guidance. However, it should be noted that where development proposals are unable to satisfactorily mitigate their impacts the Council will refuse planning permission.

## **Dispute Resolution**

- 4.28 Where appropriate, Section 106 agreements contain dispute resolution clauses which set out how disagreements between the parties to the agreement will be resolved. In the event of any dispute arising between the parties in respect of the agreement it will be referred to an independent expert. The expert will have at least ten years relevant experience. The role of the independent expert is to facilitate or contribute to the negotiation process. It is the responsibility however, of the parties involved to agree on the outcome of the planning obligation negotiations. The final determination of the planning application remains with the Council.

## **Monitoring of Planning Obligations**

- 4.29 The Council has a defined officer responsible for monitoring and managing planning obligations and the details of agreed planning obligations are held on an electronic database in order to track compliance as the development proceeds. The Council will liaise with developers (and applicants) and use other means of monitoring including site inspections, to ensure that planning obligations are completed by the agreed date or trigger. Large developments are also required to submit an annual update report until the development is complete outlining progress on the development to date.
- 4.30 The Council will report the results of monitoring and compliance with Section 106 agreements annually, including the total value of financial contributions received and spent.

## **Wider Regeneration/Improvement Projects**

- 4.31 In some cases, wider regeneration or improvement projects across the borough may include enhancement of a number of factors, such as the public realm, economic health and transport accessibility of the locality. This is particularly likely in the Council's Regeneration and Growth Area or where a development is located in one of the town centres identified in the Core Strategy as a Major, District, or local Town Centre. In such cases, a financial contribution towards such overarching projects may be secured by the Council to mitigate against multiple impacts. Any financial contributions secured will be based on negotiations across the individual topic areas in this SPD and any other site specific issues.

## **100% or Mostly Affordable Housing Schemes**

- 4.32 The Council acknowledges that schemes that incorporate affordable housing provide an important social benefit and that its provision can in some instances impact upon the financial viability of a development. Despite this, affordable housing like other forms of residential development, does have an impact on social infrastructure and surrounding services. Mitigating the impacts of all types of development is critical to establishing sustainable and balanced communities.

- 4.33 Census studies are able to demonstrate that occupation levels per unit of floorspace in affordable housing are often greater than other forms of accommodation. For that reason the basis for negotiations with applicants on these schemes will be similar to all other schemes, however the Council does understand that the comparative profitability of affordable housing schemes is lower and to some extent affordable housing schemes are already providing a community benefit.
- 4.34 Striking a balance between facilitating the provision of affordable housing whilst providing an appropriate level of social infrastructure and supporting services is required to achieve truly sustainable communities and meet the Council's strategic aims.

# 5 Procedure for Securing Planning Obligations

- 5.1 The Council's objective is to make the handling of planning obligations more efficient, speed up decision-making and provide clear guidance to applicants seeking planning permission. The Council, working closely with applicants and other stakeholders, will seek to ensure a high standard of service and that applications subject to planning obligations are determined within the Department of Communities and Local Government (DCLG) target periods for decisions where possible.
- 5.2 The Council expects the extent of planning obligations to be determined at pre-application stage (based on the information in this SPD and discussions with Council Officers and other relevant agencies) and explicit reference to the proposed planning obligation types and quantum's to be submitted as supporting information with any planning application, recognising that the scope of proposed obligations may occasionally change in response to comments made by organisations and individuals during consultation on the planning application.
- 5.3 In cases where issues of financial viability arise, negotiations will be undertaken by the Planning Officer and assisted where appropriate by officers representing the various Council service areas.
- 5.4 Where the Planning Officer is minded to recommend an application for approval, the agreed 'Heads of Terms' outlining the planning obligations required will be reported to Councillors along with all other material considerations as part of the planning committee report. The Planning Officers recommendation for approval will usually set out the grant of planning permission subject to any appropriate conditions and the signing of a Section 106 agreement.
- 5.5 All finalised Section 106 agreements (or unilateral undertakings) will be placed on the Statutory Planning Register and Local Land Charges Register.
- 5.6 Table 5.1 below summarises the process by which planning obligations are negotiated and secured in the borough.

**Table 5.1 Process for negotiating and securing planning obligations**

<b>PRE-APPLICATION STAGE</b>	
Prior to initiating pre-application discussions with the Council	Applicant needs to consider the relevant policies, legislation and all material considerations in relation to their development proposal including the information in this SPD.
Pre-application discussions	Applicant provides initial proposals for discussion with the Case Officer. Applicants should provide their own initial assessment of the impact of the development and suggest any likely required planning obligations (both in-kind and financial)
	<p>Case Officer will provide advice, without prejudice, on:</p> <p>Their initial assessment of the impacts of the proposal and whether it is acceptable</p> <p>Indicative planning obligation heads of terms likely to be required to mitigate likely impacts, and the nature and scale of the obligations</p> <p>The information that will be required to be submitted in order to make the application valid, including whether or not a financial viability assessment is required</p>
Prior to submitting a planning application	<p>Case Officer and Applicant discuss and agree the Heads of Terms for the development.</p> <p>Applicants should prepare their planning application for submission, in accordance with the Council's Local List including a CIL Form and Planning Obligations Statement summarising the Heads of Terms.</p>
<b>PLANNING APPLICATION STAGE</b>	
Planning application submission	<p>Once an application is submitted it will be checked by the Case Officer to ensure that it contains all of the necessary information, and if so, it will be validated. The Case Officer may contact the applicant (or their agent) to discuss the likely timescales to prepare the draft agreement if this has not been discussed at pre-application stage.</p> <p>Council's solicitor will begin drafting the agreement if this has not already started at pre application stage.</p>
Consultation and Assessment of the application	<p>Consultation on the planning application will be carried out in line with the Council's Statement of Community Involvement. The public can comment on any aspect of a scheme including planning obligations and the case officer will consider any representations made on the application in the context of the submitted 'Planning Obligations Statement' (Heads of Terms).</p> <p>Case Officer assesses the application and the possible planning obligations resulting from the heads of terms, application documents, internal and external consultation, giving consideration to material considerations including this SPD and a financial viability assessment (where applicable).</p>

Officers Recommendation	<p>If the impacts cannot be mitigated by obligations (and/or conditions) at an appropriate level, the application is recommended for refusal.</p> <p>If the Case Officer considers the proposal to be acceptable and agreement has been reached with the Applicant on the necessary planning obligations, the Officer will draft a report including a recommendation to grant planning permission subject to completion of a Section 106 agreement by the statutory end date or within 1 month of the committee meeting, whichever is sooner.</p>
Decision	<p>The Council's planning committee considers the application including the planning obligations heads of terms. The decision to grant planning permission would normally be a decision in principle subject to the completion of a Section 106 agreement within a specified period of time within the statutory timeframe. The Council aims to have the Section 106 agreement draft ready prior to the planning committee.</p>
<b>POST DECISION RESOLUTION</b>	
Following the decision to grant planning permission	<p>Legal Services and the Case Officer, in liaison with the applicant's solicitors or other representatives, will issue a final draft for approval (Engrossments) and signature by all parties.</p>
Completion of Legal Agreement	<p>On completion and signing of the Section 106 agreement, planning permission will be formally issued.</p> <p>The completed agreement will be registered as a Local Land Charge against the land and a copy placed on the Local Land Charges Register and Planning Register.</p> <p>A copy of the agreement will be scanned and available to view on the Council's website.</p>
If the applicant is aggrieved by the decision of the Council	<p>Applicant's may appeal to the Secretary of State, unless the Secretary of State agrees to an extension of time the applicant should give notice of appeal within 6 months of the decision.</p>
Modification of obligations	<p>The terms of a planning obligation may not be modified or discharged except by Legal Agreement between the Council and the applicant, or, after 5 years there is a right of appeal to the Secretary of State.</p>
<b>MONITORING</b>	
	<p>Details of agreed planning obligations are held on an electronic database in order to track compliance. and ensure that the obligations are met.</p> <p>Section 106 Officers monitor agreements to ensure that payments and obligations are received and completed in accordance with the agreement and that payments received by the Council are spent on appropriate projects within the required timeframes.</p> <p>Copies of the Councils Section 106 agreements are available on line via the Council's website.</p> <p>Applicants are required to submit annual update reports summarising the number of units completed and other key milestones.</p>

## 6 Review and Monitoring

6.1 The Council will assess the performance of Planning Obligations, as part of its LDF Annual Monitoring Report, however, it is also appropriate to ensure the effectiveness of this SPD is monitored and reported on. The Council has therefore established the following set of monitoring requirements in respect of this SPD:

- The level of contributions being achieved and compliance with the requirements of this SPD;
- Monitoring time taken for decisions where a planning obligation has been agreed as part of the application; and
- Monitoring of delivery (i.e. the completion of obligations including those to be undertaken by delivery agents other than the developer).

6.2 To take into account significant changes in circumstances that would affect the appropriateness of the requirements in this SPD, the document will be reviewed periodically. The review will take account of:

- The changing needs for facilities and services;
- The adoption of emerging LDF documents;
- Further alterations or reviews of the London Plan (2011);
- Changes to Central Government Guidance;
- Indexation of contributions; and
- Changes to CIL that impact on how planning obligations can be used and secured.



# 7 Professional, Legal and Monitoring Fees

- 7.1 The Council incurs substantial costs in assessing the requirement for planning obligations in relation to individual planning applications. This includes reviewing financial viability assessments and the negotiation and the drafting of individual Section 106 agreements. These are over and above the normal costs of dealing with planning applications, for which applicants already pay a fee. Following completion of a Section 106 agreement, the applicant or the Council may find it necessary to modify an agreement. The Council incurs further costs in negotiating and drafting variations to the agreement.
- 7.2 The Council maintains a database of all current agreements and monitors compliance against set targets and triggers. This includes maintaining contact with developers before and during construction, site inspections, legal advice and in the collection and accounting for financial contributions. In certain instances, agreements allow for the subsequent submission of detailed proposals for the provision or payment for infrastructure. These necessitate further technical and legal advice, negotiations and approvals.
- 7.3 For the purposes of this SPD the Council will secure professional, legal and monitoring fees. Applicants are expected to fully reimburse the Council's legal, professional and monitoring costs associated with drafting, checking and monitoring Section 106 agreements and checking and monitoring unilateral undertakings.

## Professional Fees

- 7.4 For all applications where the Council expects that significant professional time or the use of external consultants will be necessary, fees will be charged. Applicants will normally be given an estimate of the expected cost of professional fees, particularly in cases where external consultants are used.
- 7.5 In the event that external consultants are required, such as in the case of providing independent expert advice on financial viability assessments submitted as part of an application to the Council, quotes will be provided to the applicant and payment will be required on signing of the agreement.
- 7.6 The Council's full professional fees will also have to be paid in the event of the agreement or undertaking not being completed where planning permission is refused or where the developer does not proceed with the development or proposal.

## Legal Fees

- 7.7 Applicant's will be expected to meet all legal costs associated with the drafting, negotiating, checking and agreeing a Section 106 agreement or checking and agreeing a unilateral undertaking.
- 7.8 The Council will require an undertaking from the solicitor acting on behalf of the applicant to pay the Council's reasonable legal and professional costs associated with the preparation of the Section 106 agreement or approving a unilateral undertaking at the beginning of the process. Where a solicitor or other professional advisor is not acting on behalf of the applicant, the Council may ask for the deposit of a reasonable sum having regard to the likely complexity of the matter.

- 7.9 The Council's solicitor will charge applicants for work undertaken at an hourly rate. The Council will, where requested, provide applicants with an estimate of the costs at the outset of a new case.
- 7.10 The legal fees (or balance of legal fees where a payment on account of costs has been made) will be payable at the time of completing the Section 106 agreement or unilateral undertaking. The Council's full legal fees will also have to be paid in the event of the agreement or undertaking not being completed where planning permission is refused or where the developer does not proceed with the development or proposal.

## Monitoring Fees

- 7.11 The cost of administration and the monitoring of planning obligations once entered into will be financed through monitoring fees applied to individual Section 106 agreements and unilateral undertakings. The total monitoring charge will vary depending on the number and complexity of the clauses in the Section 106 agreement or undertaking and will be based on the Council's reasonable assessment of the likely time required to monitor the Section 106 agreement or undertaking.
- 7.12 The total value of any planning obligation will exclude the monitoring fees set out in this section. The monitoring fees are additional and will be added to the final cost. The basis for the monitoring fees charged are set out below and will be reviewed and updated annually to reflect inflation and increases in the costs incurred by the Council.

**Table 7.1 – Monitoring Charges\***

7.13 Number of affordable housing units	7.14 1-10 Units	7.15 £250 per unit
	7.16 11-30 Units	7.17 £3,000
	7.18 31-60 Units	7.19 £6,000
	7.20 61-150 Units	7.21 £10,000
	7.22 151-300 Units	7.23 £15,000
	7.24 301+ Units	7.25 £25,000
7.26 Type I clause	7.27 Non-financial clauses that involve the approval of a standard document and financial clauses for small payments with a single trigger and spend project.	7.28 £500
7.29 Type II clause	7.30 Financial clauses involving large payments, multiple trigger points, and/or multiple spend projects, approval of a non-standard document or complex non-financial clause.	7.31 £750
7.32 Type III clause	7.33 Non standard complex clauses.	7.34 Case by case

\* Subject to a total minimum fee of £500 per Section 106 agreement or unilateral undertaking.

- 7.35 If an agreement is exceptionally complicated and difficult to monitor (e.g. possibly in the case of large strategic applications or phased developments over long periods of time) the Council may seek a monitoring fee over and above the standard 'Type 1' and 'Type II' clauses. Similarly, the Council will also apply a discount to the standard monitoring fee where 'economies of scale' would streamline monitoring requirements and reduce the monitoring time required.
- 7.36 Planning obligations will be monitored to ensure that they are undertaken or paid at the agreed trigger points. The spending of received contributions will also be closely monitored to ensure that they are spent by the Council or other agencies on what was agreed and within the required time period set out in the agreement. Where contributions have not been spent by the Council within the required time period, they will be returned.
- 7.37 The details of agreed planning obligations will be held on an electronic database in order to track compliance as the development proceeds. The Council will liaise with applicants and use other means of monitoring including site inspections, to ensure that applicants discharge their obligations at the agreed date or trigger. Where financial obligations are due to the Council these become payable on the date or at the trigger point specified in the agreement. In the event that payments are not received by the due date, a late penalty payment will be applied at 4% above the base rate and the Council may take formal action to secure compliance with obligations through civil recovery procedures.
- 7.38 The Council will report the results of monitoring and compliance with Section 106 agreements and unilateral undertakings annually. The report will provide details of the Section 106 agreements entered into, unilateral undertakings made to the Council, payments received, and the completion of schemes funded or part funded by Section 106 contributions.
- 7.39 The monitoring payment, like legal and professional costs, will be required on signing of the agreement, however, in the event that the agreement or undertaking is not completed where planning permission is refused or where the developer does not proceed with the development or proposal, monitoring fees will not be required.

## **Variations of Planning Obligations**

- 7.40 Where a Section 106 agreement contains the requirement to review or submit later detailed proposals for facilities or services, or where the applicant is seeking to modify the Section 106 agreement, the same arrangements will apply for professional and legal fees as applied to the original Section 106 agreement and further monitoring costs may also be incurred.

## 8 Glossary

### **Affordable Housing**

Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

### **Affordable Rent**

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable rent is subject to rent controls that require no more than 80% of the local market rent (including service charges, where applicable).

### **Cascade Mechanism**

A cascade is a mechanism that enables the form and/or quantum of affordable housing to be varied if a certain event happens. Cascades respond to rises or decreases in the site development costs and incomes that may render certain levels of provision financially either viable or unviable.

### **Common Housing Register**

The common housing register is a list of people who have applied for housing in Lewisham.

### **Community Infrastructure Levy (CIL)**

A levy that local authorities can choose to charge on new developments in their area. Part 11 of the Planning Act 2008 sets out the legislative framework and regulations introduced it in April 2010. It has since been amended by further regulations in 2011, 2012 and 2014. The money secured by the local authority is to be spent upon local and strategic infrastructure which may include roads and other transport needs, parks, schools, sports centres, emergency services and community facilities.

### **Conditions / Planning Conditions**

Planning permission is usually subject to certain conditions. These conditions need to be met in order for development to be allowed to proceed. They will generally deal with less complex issues than those dealt with by way of Planning Obligations (e.g. time limits for implementation, the submission and approval of further details, restrictions on the use). What can and cannot be the subject of planning conditions is the subject of extensive legal and government policy tests.

### **Development Plan Document (DPD)**

A Local Plan that has been drawn up by the local planning authority in consultation with the community, has been subject to independent testing and has the weight of development plan status. The terminology 'Development Plan Document' has been replaced with 'Local Plan' for new documents, but remains for pre-existing documents (i.e. Lewisham Core Strategy DPD, 2011).

## **Habitable Room**

A room within a dwelling, the main purpose of which is for sleeping, living or dining. It is any room with a window that could be used to sleep in, regardless of what it is actually used for. This excludes toilets, bathrooms, landings, halls and lobbies, and also excludes kitchens with an overall floor area of less than 13m<sup>2</sup>. This excludes rooms which cannot function for the purposes for which they are intended by reason of an inadequate size, height, shape or daylight.

## **Heads of Terms**

A document setting out the particular items of a Section 106 agreement (including in-kind works, financial contributions and any restrictions on the land that may be relevant) as agreed in principle between the Council and applicant.

## **Homes and Communities Agency**

A statutory public body whose role is to fund and regulate Registered Providers in England.

## **Housing Association**

Independent societies, bodies of trustees or companies established for the purpose of providing low-cost social housing for people in housing need on a non-profit-making basis. Any trading surplus is used to maintain existing homes and to help finance new ones. They are now the United Kingdom's major providers of new homes for rent, while many also run shared ownership schemes to help people who cannot afford to buy their own homes outright.

## **Intermediate Housing**

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can be shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

## **Key Worker Housing**

Housing that is reserved or allocated for people who are given priority by virtue of their employment to ensure that employees are retained in essential public services. This includes those who work in health, education, police and emergency services.

## **Lifetime Homes**

Lifetime Homes are ordinary homes incorporating [16 Design Criteria](#) that can be universally applied to new homes to add to the comfort and convenience of the home and support the changing needs of individuals and families at different stages of life.

## **Local Development Framework (LDF)**

The Local Development Framework is a portfolio, or a 'folder', of Local Development Documents which will provide the local planning authority's policies for meeting the community's economic, environmental and social aims for the future of their area where this affects the development and use of land.

## **Local Plan**

A Local Development Document that has been drawn up by the local planning authority in consultation with the community, has been subject to independent testing and has the weight of development plan status.

## **Major Development**

Any residential or mixed use development creating 10 or more dwellings, if that is not known, where the site area is 0.5 hectares or more. For other types of development, a major site is one where the floorspace to be built is 1, 000 square metres or more, or the site area is 1 hectare or more.

## **Material Consideration**

A legal term describing a matter or subject which is relevant (material) for a local authority to consider when using its powers under planning law.

## **Planning Obligation**

Planning obligations secured through Section 106 agreements or unilateral undertakings are Legal Agreements in the context of the grant of planning permission. Planning obligations are intended to make development acceptable which would otherwise be unacceptable in planning terms.

## **Public Transport Accessibility Level (PTAL)**

Provides a methodology for assessing the relative ease of access of a location to the public transport network. PTAL 1 is 'very poor' with PTAL 6 being 'excellent'.

## **Registered Provider**

Registered Provider (RP) is the technical name for social landlords that are registered with the Tenant Services Authority. Most are housing associations, but there are also trusts, co-operatives and companies.

## **Social Rented (Social Housing)**

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

## **Standard charges**

Standard charges are a set of general formulae that are used to estimate the amount of contributions that are likely to be sought for a particular type of development, based on a local planning authority's policies and evidence of the common impacts of development. These will then be enforced through a planning obligation.

## **Supplementary Planning Document (SPD)**

Documents which add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

## **Transport for London (TfL)**

A statutory body appointed by the Mayor of London for the purpose of providing public transport within London and for delivering an integrated and sustainable transport strategy for London.

## **Unilateral Undertakings**

Instead of agreeing obligations through the standard process of negotiation and Agreement between the council and developer, developers may prepare the terms of a planning obligation on their own, without prior discussion with the council. These will then be submitted to the council. If the terms are acceptable the fact that the document has not been negotiated should not in itself be seen as a bar to the grant of permission. Where a Unilateral Undertaking does not meet the Council's objective's, planning permission should be refused.

**Vicinity**

In this document means nearby and within the surrounding area so as to ensure a geographical relationship between the planning obligation and the development.

**Wheelchair Accessible Housing**

This refers to homes built to meet the standards set out in the South East London Housing Partnership Wheelchair Housing Design Guidelines (August 2011).

*Note: References made to any existing organisation, body or guidance will apply to successor arrangements as changes may occur over time.*

**Abbreviations**

CIL – Community Infrastructure Levy

DCLG - Department for Communities and Local Government

DMLP – Development Management Plan

DPD - Development Plan Document

LDF - Local Development Framework

S106 - Section 106

SCI - Statement of Community Involvement

SPD - Supplementary Planning Document

TfL – Transport for London



# Appendix 1

Appendix 1 – Policy pointers

Topics	Core Strategy (June 2011)	Development Management Local Plan	London Plan (July 2011)	National and Other Regional	Other Relevant Guidance
<p><b>Affordable Housing</b></p>	<p><b>Core Strategy Policy 1:</b> Housing provision, mix and affordability</p>	<p><b>DM Policy 7:</b> Affordable rented housing</p>	<p><b>Policy 3.2</b> Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes.  <b>Policy 3.8</b> Housing Choice  <b>Policy 3.9</b> Mixed and Balanced Communities  <b>Policy 3.10</b> Definition of affordable housing  <b>Policy 3.11</b> Affordable housing targets  <b>Policy 3.12</b> Negotiating affordable housing on individual private residential and mixed-use schemes  <b>Policy 3.13</b> Affordable housing thresholds  <b>Policy 8.2</b> Planning Obligations</p>	<p><b>NPPF</b> – Paragraphs 47-55  Funding Prospectus: Mayor’s Housing Covenant 2015-18 Programme (2013)  London Housing Strategy (2010)  Draft London Housing Strategy (2013)  Draft Further Alterations to the London Plan (FALP) (2014)  Revised Early Minor Alterations (REMA) to the London Plan (2013)  Mayor of London’s Housing Supplementary Planning Guidance (2012)</p>	<p>Lewisham Housing Strategy (2009-2014)  Affordable Housing Viability Study (2009)  Lewisham Housing Conversions Study (2012)  Lewisham Housing Market Assessment 2007-2008 (2009)  Lewisham Housing Strategy  South East London Strategic Housing Market Assessment 2009</p>

Topics	Core Strategy (June 2011)	Development Management Local Plan	London Plan (July 2011)	National and Other Regional	Other Relevant Guidance
<b>Wheelchair Housing</b>	<b>Core Strategy Policy 1:</b> Housing provision, mix and affordability	<b>DM Policy 7:</b> Affordable rented housing	<b>Policy 3.8</b> Housing Choice <b>Policy 8.2</b> Planning Obligations	<b>NPPF</b> – Paragraphs 50  Mayor of London’s Housing Supplementary Planning Guidance (2012)  Homes for London The London Housing Strategy: Draft for London Assembly (2014)  Funding Prospectus: Mayor’s Housing Covenant 2015-18 Programme (2013)	Lewisham Housing Strategy: Homes for the future: raising aspirations, creating choice and meeting need (2009-2014)  South East London Housing Partnership Wheelchair Homes Design Guidelines (2012)
<b>Local Labour and Business</b>	<b>Policy 3</b> Strategic Industrial Locations and Local Employment Locations <b>Policy 4</b> Mixed Use Employment Locations <b>Policy 5</b> Other employment locations	<b>Policy 4</b> Conversions of office space <b>Policy 9</b> Mixed use employment locations <b>Policy 10</b> Local employment locations <b>Policy 11</b> Other Employment Locations <b>Policy 13</b> Location of Main Town Centre Uses	<b>Policy 4.1</b> Developing London’s Economy <b>Policy 4.2</b> Offices <b>Policy 4.3</b> Mixed Use Development and Offices <b>Policy 4.4</b> Managing Industrial Land and Premises <b>Policy 4.7</b> Retail and Town Centre Development <b>Policy 4.8</b> Supporting a Successful and Diverse Retail Sector <b>Policy 4.10</b> New and Emerging Economic Sectors <b>Policy 4.11</b> Encouraging a Connected Economy <b>Policy 4.12</b> Improving Opportunity for All	<b>NPPF</b> – Paragraphs 18-21	Lewisham Employment Land Study (2009)  Shaping our future: Lewisham’s Sustainable Community Strategy 2008-2020  Lewisham Employment Study 2008  Lewisham Local Cultural Strategy  Lewisham Economic Development Business Plan 2004  Retail Capacity Study (2009)

Topics	Core Strategy (June 2011)	Development Management Local Plan	London Plan (July 2011)	National and Other Regional	Other Relevant Guidance
			<p><b>Policy 8.2</b> Planning Obligations</p>		<p>Pubs in Lewisham evidence base study (2013)</p> <p>Hot Food Take-away shops: and evidence base study (2013)</p>
<p><b>Employment Floorspace</b></p>	<p><b>Policy 3</b> Strategic Industrial Locations and Local Employment Locations  <b>Policy 4</b> Mixed Use Employment Locations  <b>Policy 5</b> Other employment locations  <b>Policy 6</b> Retail hierarchy and location of retail development</p>	<p><b>Policy 4</b> Conversions of office space  <b>Policy 9</b> Mixed use employment locations  <b>Policy 10</b> Local employment locations  <b>Policy 11</b> Other Employment Locations  <b>Policy 13</b> Location of Main Town Centre Uses  <b>Policy 14</b> District Centres Shopping Frontages  <b>Policy 15</b> Neighbourhood Local Centres  <b>Policy 16</b> Local Shopping Parades and Corner Shops</p>	<p><b>Policy 4.1</b> Developing London's Economy  <b>Policy 4.2</b> Offices  <b>Policy 4.3</b> Mixed Use Development and Offices  <b>Policy 4.4</b> Managing Industrial Land and Premises  <b>Policy 4.7</b> Retail and Town Centre Development  <b>Policy 4.8</b> Supporting a Successful and Diverse Retail Sector  <b>Policy 4.10</b> New and Emerging Economic Sectors  <b>Policy 4.11</b> Encouraging a Connected Economy  <b>Policy 4.12</b> Improving Opportunity for All  <b>Policy 8.2</b> Planning Obligations</p>	<p><b>NPPF</b> – Paragraphs 18-21</p>	<p>Lewisham Employment Land Study (2009)</p> <p>Shaping our future: Lewisham's Sustainable Community Strategy 2008-2020</p> <p>Lewisham Employment Study 2008</p> <p>Lewisham Local Cultural Strategy</p> <p>Lewisham Economic Development Business Plan 2004</p> <p>Retail Capacity Study (2009)</p> <p>Pubs in Lewisham evidence base study (2013)</p> <p>Hot Food Take-away shops: and evidence base study (2013)</p>

Topics	Core Strategy (June 2011)	Development Management Local Plan	London Plan (July 2011)	National and Other Regional	Other Relevant Guidance
<b>Transport</b>	<b>Policy 14 – Sustainable Movement and Transport</b>	<b>Policy 21</b> Mini cabs and taxi offices <b>Policy 29</b> Car Parking	<b>Policy 6.1</b> Strategic approach <b>Policy 6.3</b> Assessing effects of development on transport capacity <b>Policy 6.5</b> Funding Crossrail and other strategically important infrastructure (CIL prob not relevant)  <b>Policy 6.7</b> Better streets and surface transport <b>Policy 6.9</b> Cycling <b>Policy 6.10</b> Walking <b>Policy 6.11</b> Smoothing Traffic Flow and Tackling Congestion <b>Policy 6.12</b> Road Network Capacity <b>Policy 6.13</b> Parking <b>Policy 8.2</b> Planning Obligations	<b>NPPF – Paragraphs 29-41</b>	The Infrastructure Delivery Plan (2011)  Deptford and New Cross Transport Infrastructure Study (2007)  North Lewisham Links Strategy (2007)  Deptford and New Cross Masterplan (2007)  Lewisham Town Centre Transport Study (2010)  Lewisham Town Centre Transport Study Report Addendum (2012)  Lewisham Borough Wide Transport Study (2010)  Lewisham Local Implementation Plan (2011)
<b>Public Realm</b>	<b>Policy 12</b> Open Space and Environmental Assets <b>Policy 15</b> High Quality Design for Lewisham	<b>Policy 19</b> Shopfronts, Signs and Hoardings <b>Policy 25</b> Landscaping and Trees <b>Policy 27</b> Lighting <b>Policy 30</b> Urban Design and Local	<b>Policy 6.9 –</b> Cycling <b>Policy 6.10 –</b> Walking <b>Policy 7.3 –</b> Designing out Crime <b>Policy 7.4 –</b> Local Character <b>Policy 7.5 –</b> Public Realm <b>Policy 7.6 –</b> Architecture	<b>NPPF – Paragraphs 35, 57 and 58</b>	Lewisham’s Control of pollution and noise from demolition sites Code of practice (2008)  Lewisham Noise Mapping Study (2012)

Topics	Core Strategy (June 2011)	Development Management Local Plan	London Plan (July 2011)	National and Other Regional	Other Relevant Guidance
		Character <b>Policy 35</b> Public Realm and Street Furniture	<b>Policy 7.18</b> – Protecting Local Open Space and Addressing Local Deficiency <b>Policy 7.19</b> – Biodiversity and Access to Nature <b>Policy 7.21</b> – Trees and Woodland <b>Policy 8.2</b> Planning Obligations		Lewisham Air Quality Action Plan (2008)  London Borough of Lewisham Streetscape Guide  Lewisham Borough Wide Character Study (2010)  North Lewisham Links Strategy (2007)  Deptford and New Cross Masterplan (2007)
<b>Childrens Play Space</b>	<b>Policy 12</b> Open Space and Environmental Assets <b>Policy 15</b> High Quality Design for Lewisham	<b>Policy 19</b> Shopfronts, Signs and Hoardings <b>Policy 25</b> Landscaping and Trees <b>Policy 27</b> Lighting <b>Policy 30</b> Urban Design and Local Character <b>Policy 35</b> Public Realm and Street Furniture	<b>Policy 3.6</b> Children and young people’s play and informal recreation facilities <b>Policy 8.2</b> Planning Obligations	Recreation Mayor of London Supplementary Planning Guidance (2012)	Children & Young People’s Plan 2012-2015
<b>Carbon Offsetting</b>	<b>Policy 7</b> Climate Change and Adapting to the Effects <b>Policy 8</b> Sustainable Design and Construction	<b>DM Policy 22</b> Sustainable Design and Construction	<b>Policy 5.2</b> Minimising Carbon Dioxide Emissions <b>Policy 5.3</b> Sustainable Design and Construction <b>Policy 5.4</b> Retrofitting <b>Policy 8.2</b> Planning Obligations	<b>NPPF</b> – Paragraphs 94 - 98	Lewisham Renewables Evidence Base Study (2010)  Lewisham Town Centre Local Plan Low Carbon and Decentralised Energy Strategy Recommendations

Topics	Core Strategy (June 2011)	Development Management Local Plan	London Plan (July 2011)	National and Other Regional	Other Relevant Guidance
<b>Environmental Protection</b>	<b>Policy 9</b> Air Quality	<b>Policy 23</b> Air Quality <b>Policy 26</b> Noise and Vibration <b>Policy 28</b> Contaminated Land	<b>Policy 7.14</b> Improving Air Quality <b>Policy 7.15</b> Reducing noise and enhancing soundscapes <b>Policy 8.2</b> Planning Obligations	<b>NPPF</b> – Paragraphs 109, 123 and 124	Lewisham’s Control of pollution and noise from demolition sites Code of practice (2008)  Lewisham Noise Mapping Study (2012)  Lewisham Air Quality Action Plan (2008)  London Borough of Lewisham Streetscape Guide
<b>Flood Risk and Water Management</b>	<b>Policy 10</b> Managing and Reducing the Risk of Flooding <b>Policy 11</b> River and Waterways network		<b>Policy 5.3</b> Sustainable Design and Construction <b>Policy 5.12</b> Flood Risk Management <b>Policy 5.13</b> Sustainable Drainage <b>Policy 5.14</b> Water Quality and Wastewater Infrastructure <b>Policy 5.15</b> Water Use and Supplies	<b>NPPF</b> Paragraphs 94, 95, 99, 100, 101, 102, 103 and 104  Flood and Water Management Act 2010  London Climate Change Adaptation Strategy (2008)  The London Rivers Action Plan  Mayor’s Supplementary Guidance: Sustainable Design and Construction  Thames Catchment Flood Management Plan and TE2100 Plan	Local Biodiversity Action Plan – A Natural Renaissance for Lewisham  Lewisham Strategic Flood Risk Assessment (2008)  Lewisham Flood Risk and Development Sequential Test (2009)  Ravensbourne River Corridor Improvement Plan (2010)

Topics	Core Strategy (June 2011)	Development Management Local Plan	London Plan (July 2011)	National and Other Regional	Other Relevant Guidance
				Thames River Basin Management Plan	
<b>Biodiversity</b>	<b>Policy 12</b> Open space and environmental assets	<b>DM Policy 24</b> Biodiversity, living roofs and artificial playing pitches DM Policy 25 Landscaping and Trees	<b>Policy 5.10</b> Urban Greening <b>Policy 5.11</b> Green Roofs and Development Site Environs <b>Policy 7.19</b> Biodiversity and Access to Nature <b>Policy 7.12</b> Trees and Woodland <b>Policy 8.2</b> Planning Obligations	NPPF Paragraphs 7, 99, 109, 113, 114, 118, 119 and 125  East London Green Grid Framework SPG  Mayor of London's Biodiversity Strategy (2002)	Local Biodiversity Action Plan – A Natural Renaissance for Lewisham