

# **Appendix 1 – draft policies on Planning Contributions**

## **Context**

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

The 2008 Planning Act and Community Infrastructure Levy Regulations 2010 (as amended) set out the legislative and regulatory basis for the CIL. They provide for the setting and collection of a statutory charge levied on development, intended to address the infrastructure needs arising out of the implementation of the Local Plan. CIL is the primary mechanism for seeking contributions from developers towards the provision of new infrastructure. Infrastructure is defined broadly in the Act to include transport, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities and open spaces.

### **Planning Obligations**

CIL Regulations indicate that planning obligations may only constitute a reason for granting permission if the planning obligation is:

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

Planning obligations are legal agreements linked to planning permissions that regulate the way a development is undertaken, and they are used where it is not possible to regulate the permission by means of a condition. They may be in the form of in kind benefits or a financial contribution, and may be used to prescribe the nature of a development, compensate for loss or damage created by a development, or mitigate the impacts associated with the development. The level of any obligation is subject to consideration of its impact on the viability of the development proposed.

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

The City Corporation will seek appropriate contributions from developers to manage and mitigate the impact of development:

1. Requiring contributions through the Community Infrastructure Levy to assist in the delivery of the infrastructure necessary to support implementation of the Local Plan.
2. Requiring s106 planning obligations, having regard to the impact of the obligation on the viability of development, for:
  - a. site specific mitigation meeting statutory tests;
  - b. affordable housing;
  - c. training, skills and job brokerage;
  - d. carbon offsetting;
  - e. local procurement in the City and neighbouring boroughs.
3. Requiring qualifying development to make an additional contribution to meeting the costs of Crossrail or other strategic infrastructure in accordance with the provisions of the London Plan.
4. Use of the Vacant Building Credit is not considered to be appropriate in the City of London

### Reason for the policy

The compact nature of the City and the intensification of development and employment place demands on the City's services, infrastructure and environment. The City Corporation utilises the Community Infrastructure Levy (CIL) to help local infrastructure keep pace with the demands of development and attaches planning conditions and negotiates planning obligations (also known as S106 agreements) with developers, to ensure proposals are acceptable.

### How the policy works

The City Corporation has adopted a CIL Charging Schedule and a Regulation 123 List which sets out the types of infrastructure or infrastructure projects that may be funded in part or in whole by CIL.

In line with legislative and regulatory requirements, and the provisions of the City Corporation's CIL, planning obligations in the City will be sought for site specific mitigation, including contributions towards area-wide security measures in the City Cluster, in line with the policies set out in this Plan. Planning obligations will also be negotiated to deliver affordable housing, the provision of training and skills programmes and carbon offsetting. Specific requirements are set out in other

policies within this Plan, particularly Policies XX Healthy & Inclusive City, XX Housing and XX Sustainability Standards.

Planning obligations in the City are sought principally from commercial development, but other forms of development will also be expected to make contributions, where appropriate. Affordable housing will normally be required on-site on qualifying residential developments, but exceptionally financial contributions will be sought. Financial contributions towards affordable housing will be sought from commercial development.

Where required, the City Corporation will also seek, via s106 planning obligations, to negotiate Section 278 Agreements with developers to ensure that highways works necessary to make a development acceptable in principle are funded by the developer and implemented by the highway authority.

Further detail on required planning obligations is set out in the Planning Obligations Supplementary Planning Document and in the s106 Standard Template which is published on the City Corporation's website.

The Vacant Building Credit is set out in national planning policy and is intended to provide an incentive to bring forward brownfield sites for development. The high cost of land in the City of London, together with high levels of demand for commercial and residential development, mean that additional incentives are not required to encourage brownfield sites to come forward for development. The use of Vacant Building Credit is therefore not considered to be appropriate within the City of London.

## **Crossrail**

The London Plan requires development to make a financial contribution towards the construction cost of Crossrail, through both s106 planning obligations and the Mayoral CIL. Planning obligations contributions will be required from office, hotel and retail development and CIL contributions from all qualifying development in the City.

The Mayor has proposed that the Crossrail CIL and s106 contributions will be replaced by a new Mayoral Community Infrastructure Levy 2, which will contribute towards the cost of delivering the Crossrail 2 railway, or other strategic infrastructure if Crossrail 2 does not progress. If agreed, this new MCIL2 will apply a standard CIL rate across the City for all qualifying development, with higher rates of CIL due for office, hotel and retail development in the City.

## **Policy DM XX: Viability Appraisals**

Development proposals should take full account of the policy requirements set out in this Plan and the London Plan, including financial and other requirements under the Mayoral and City of London Community Infrastructure Levy and s106 planning obligations.

Exceptionally, even where policy requirements have been fully taken into account, applicants may consider that these requirements cannot be delivered in full without adversely affecting the overall viability of a development. Proposals which are not compliant with policy requirements will normally be refused. However, where applicants wish to make a case that non-compliant proposals should be permitted, this must be supported by a scheme specific viability assessment.

The viability assessment should be prepared in accordance with the standard methodology set out in national planning practice guidance. The price paid for a site and/or building will not be a relevant justification for not meeting Development Plan requirements.

Viability assessments will be made available on the Planning Register reflecting the expectation that these should be publicly available. If the applicant considers that the assessment in part or whole should be redacted for reasons of confidentiality, there will be an opportunity for the applicant to make the case. If an assessment is redacted, an executive summary will be made public.

The City Corporation will seek independent verification of submitted viability appraisals, with the cost of verification being met by the applicant.

Where it is agreed that a development cannot viably deliver all required planning obligations at the date of permission, but that there are nevertheless other policy considerations which justify the approval of planning permission, the City Corporation will normally require a review of the viability information at a later stage of the development, or upon occupation.

### Reason for the policy

Delivery of the Local Plan and the London Plan requires developers to make contributions towards infrastructure and affordable housing provision through the CIL and s106 planning obligations. Developers are expected to take into account the full cost of meeting development plan requirements when purchasing sites or buildings and in the design of schemes but, exceptionally, there may be circumstances where a developer considers that meeting development plan requirements in full cannot be delivered without adversely impacting on the viability of a development. In such circumstances, the City Corporation will require a viability appraisal to be submitted in support of the proposed lower level of contributions.

### How the policy works

Where viability appraisals are submitted in support of planning applications, these should be prepared in accordance with the standard methodology for viability appraisals set out in national Planning Practice Guidance. In particular, appraisals should demonstrate that the values assumed for sites and/or buildings fully reflect the planning policy requirements set out in the Local Plan and the London Plan. The actual price paid for land will not be a relevant justification for failing to meet the policies in the development plan.

The City Corporation will assess viability appraisals against the requirements in the Local Plan and London Plan and, where necessary, will seek independent verification of submitted appraisals from suitably qualified consultants who have experience of the development market in central London. The City Corporation will expect the applicant to meet the full cost of this independent verification.

The City Corporation will make all viability appraisals submitted, together with any verification reports, available publicly via the Planning Register on the City Corporation's website. If a developer considers that the viability appraisal should remain confidential in whole or in part, they should provide justification to the City Corporation outlining the potential harm that could occur from making the relevant information public. The City Corporation will consider whether the public interest in maintaining confidentiality outweighs the public interest in making the viability appraisal public. Where the City Corporation considers that an appraisal should remain confidential in whole, or in part, it will keep the justification under review, including taking account of whether information should remain confidential with the passage of time from initial submission.

Where the City Corporation agrees that a development cannot meet the full policy requirements for CIL and s106 planning obligations at the date of commencement, but that there are other policy considerations which would nevertheless justify approval of the scheme despite this non-compliance, the Corporation will normally require that a review mechanism be included within any s106 planning obligation, with a review of the viability information required at a later stage in the development, or upon occupation. In determining the appropriate mechanism, the City Corporation will have regard to national Planning Practice Guidance and the Mayor of London's Affordable Housing and Viability Supplementary Planning Guidance. Where a development is proposed to be undertaken in phases, the City Corporation will normally require a review of the viability prior to the commencement of each phase of the development.

Policy CS XX: Housing requires the use of upwards only review mechanisms in circumstances where the affordable housing targets in that policy are not met.