

City of London

~~Draft~~ Planning Obligations

Supplementary Planning Document



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INTRODUCTION

1. This Supplementary Planning Document (**SPD**) sets out further guidance on how the City Corporation will operate s106 planning obligations in the City of London, alongside the City of London Community Infrastructure Levy (**CIL**) and the Mayor of London's CIL (MCIL2).
2. This SPD has been prepared to support policies in the emerging **City of London Local Plan**, City Plan 2036, and the **adopted London Plan 2021 Intend to Publish London Plan**. All references to the **Local City** Plan or the London Plan in this document relate to these **draft** plans.
3. The NPPF, paragraph 48, indicates that local planning authorities may give weight to relevant policies in emerging plans according to:
 - the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
 - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
4. The City Plan 2036 was considered, and agreed for Regulation 19 pre-submission consultation, by the City Corporation's Court of Common Council on 21 May 2020, **with further amendments agreed by the Court of Common Council on 14 January 2021. The City Plan 2036 was subject to Regulation 19 consultation between March and May 2021 and, at the time of adoption of this SPD, is considered to be a material consideration, carrying increasing weight. The City Plan will be submitted for Public Examination later in 2021. Formal adoption is programmed for early 2022.**
5. **A draft of this SPD was subject to public consultation between 26 October 2020 and 11 December 2020. Comments made in response to the consultation have been considered and taken into account in preparing the SPD. Further amendments to this draft Plan are now being considered prior to pre-submission consultation to ensure that it accords with amendments to the Use Class Order (The Town and Country Planning (Use Classes) (Amendment)(England) Regulations 2020, and The Town and Country Planning (Use Classes) (Amendment) (England) (No. 2) Regulations 2020, both of which came into effect on 1 September 2020. The principal effect of these changes is to introduce a new E Use Class incorporating the previous B1 and A1, A2 and A3 Use Classes, whilst retaining the provision to indicate the proposed use by reference to the superseded Use Class Order for Community Infrastructure Levy purposes. The necessary changes to the draft City Plan 2036 principally concern town centre and retail policies and policies seeking the retention of office**

~~floorspace. These policy changes and the amendments to the Use Class Order are not considered to have a material impact on the requirements for s106 Planning Obligations set out in this SPD, which primarily seek contributions from commercial development, with no distinction between use class designation, and residential development.~~

- ~~6. The requirements set out in this SPD are in alignment with the policies in the emerging Intend to Publish version of the London Plan. The London Plan has reached an advanced stage of preparation and formal publication (adoption) of the Plan is expected prior to the adoption of this SPD.~~
- ~~7. For the reasons set out above, the City Corporation considers that the draft City Plan 2036 and the Intend to Publish London Plan both carry weight in the determination of planning applications and that this SPD, which provides more detailed guidance on policies in both these Plans, is also a material consideration carrying weight in decision making.~~

NATIONAL POLICY CONTEXT

8. Planning obligations are legal obligations that are used to mitigate the impact of unacceptable development in order to make it acceptable in planning terms and are entered into via a planning agreement or unilateral undertaking. The legislative basis for s106 planning obligations is contained within the Town and Country Planning Act 1990 (as amended). Further guidance is contained in the Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122, and the National Planning Policy Framework (NPPF), February 2019, paragraph 56, which set out three statutory and policy tests for the use of planning obligations, indicating that:
 - “A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is-
 - (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.”
9. Paragraph 57 of the NPPF indicates that where developer contributions are set out in up to date policies, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage and the weight attached to that viability assessment is a matter for the decision maker (i.e. the City Corporation for applications within the City of London).
10. The 1990 Act provides for the review of planning obligations when they no longer serve their original purpose, or the amendment of the provisions relating to affordable housing.

11. CIL Regulation 122 (2A) allows for the local planning authority to seek contributions from a developer in respect of the cost of monitoring of planning obligations, including reporting of planning obligations through the Infrastructure Funding Statement. The monitoring cost should relate fairly and reasonably in scale and kind to the development and not exceed the cost to the authority of monitoring the obligation over the lifetime of the obligation.
12. CIL Regulation 121A requires the local planning authority to report, no later than 31st December in each calendar year, through an Annual Infrastructure Funding Statement:
 - A statement of the infrastructure projects or types of infrastructure that will be wholly or partly funded by CIL.
 - A report about CIL in the previous year, including details of CIL receipts, CIL expenditure and remaining CIL funds.
 - A report about planning obligations in the previous year, including information on planning obligations entered into during the reported year; expenditure or provision of infrastructure required under agreed obligations during the year; and summary details of agreements under section 278 of the Highways Act 1980.
13. **The City Corporation's Infrastructure Funding Statement is published on its website at: <https://www.cityoflondon.gov.uk/services/planning/planning-policy/development-contributions-community-infrastructure-levy-and-planning-obligations>**
14. The 2008 Planning Act and Community Infrastructure Levy Regulations 2010 (as amended) 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. The Community Infrastructure Levy (CIL) is the primary mechanism for seeking contributions from developers towards the provision of new infrastructure and operates alongside s106 planning obligations. 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.

MAYORAL CIL REQUIREMENTS

15. The London Plan (Policy T9: Funding Transport Infrastructure through Planning and Policy DF1: Delivery of the Plan and Planning Obligations) requires contributions through the Mayoral Community Infrastructure Levy (MCIL2) towards the provision of transport infrastructure of strategic importance, including the completion of Crossrail 1 (the Elizabeth Line) and Crossrail 2. MCIL2 contributions within the Central London area, including the City of London, are required at a rate of:
 - £185 per square metre for office development.

- £165 per square metre for retail development.
- £140 per square metre for hotel development.
- £80 per square metre for all other development, except for public health and education provision which are charged at a Nil rate.

16. The City Corporation is the designated 'collecting authority' responsible for the administration and collection of the Mayoral CIL within the City.

17. London Plan Policy DF1 also indicates a strategic priority in the use of s106 planning obligations for affordable housing provision and public transport improvements.

CITY OF LONDON CIL AND PLANNING OBLIGATIONS REQUIREMENTS

18. The City ~~of London Local Plan (City Plan 2036)~~ (Policy S27: Planning Contributions) sets out the justification for continued s106 planning obligations and the relationship between planning obligations and the City of London ~~Community Infrastructure Levy CIL~~.

19. The City of London ~~Community Infrastructure Levy CIL~~, was implemented from 1st July 2014 and sets the following charge rates:

Land Use	Zone	CIL Rate (£ per m ²)
Offices	City-wide	£75
Residential	Riverside	£150
Residential	Rest of City	£95
Development used wholly or mainly for the provision of medical or health services, except the use of premises attached to the residence of the consultant or practitioner	City-wide	Nil
Development used wholly or mainly for the provision of education as a school or college under the Education Acts or as an institution of higher education	City-wide	Nil
Development used wholly or mainly for the operational purposes of the emergency services	City-wide	Nil
All other uses	City-wide	£75

20. The City ~~of London Local Plan~~ and the ~~Community Infrastructure Levy City CIL~~ are supported by an Infrastructure Delivery Plan identifying the infrastructure required to meet the requirements of the ~~City's Local City Plan~~ and the City Corporation's Transport Strategy, and a Local Plan

Viability Assessment, which considers the combined impact of MCIL2, City CIL and s106 planning obligations on development viability in the City. **The Local Plan Viability Assessment was undertaken in March 2020 and an updated commentary prepared in February 2021. The Viability Assessment, the updated commentary and the Infrastructure Delivery Plan are available on the City Corporation's website at: www.cityoflondon.gov.uk/cityplan2036.**

21. Supporting documents for the City ~~of London Local~~ Plan, **the Transport Strategy** and the City CIL are available on the City Corporation's website.
22. The City Corporation will primarily use contributions through the Community Infrastructure Levy to fund the new infrastructure necessary to support development, as required by CIL Regulations. Section 106 planning obligations and s278 contributions will continue to be used where appropriate to deliver new infrastructure and to manage and mitigate the impacts of development in the circumstances set out in ~~Local~~ **City** Plan Policy S27:
 - Site specific mitigation to make a development acceptable in planning terms and obligations which are necessary to ensure compliance with **Local City** Plan and London Plan policy.
 - The provision of affordable housing. CIL Regulation 63 specifically excludes the use of CIL to fund affordable housing, which will therefore continue to be funded through s106 planning obligations.
 - Local skills, training, **employment job brokerage** and local procurement.
 - Measures to enhance area-wide security within the City.
 - Carbon offsetting, where a developer is not able to deliver the required level of carbon reduction on-site.
23. This SPD sets out how s106 planning obligations in the City of London will be applied within the context of the City ~~of London Local Plan~~ **Plan 2036** and the City of London ~~Community Infrastructure Levy~~ **CIL. The City Corporation publishes an Annual Infrastructure Funding Statement on its website which contains details of City CIL and s106 receipts, details of City CIL and s106 spend and City Corporation funding priorities for the coming year.**

VIABILITY TESTING

24. ~~A Local Plan Viability Assessment has been undertaken to support the development of the City Plan 2036. This~~ **The Local Plan Viability** Assessment has considered the impact of ~~Local City~~ **Plan and London Plan** policies and requirements, together with the City of London CIL and MCIL2, on the overall viability of development in the City of London. The assessment has concluded that the planning obligation requirements in the ~~Local~~ **City** Plan, together with other policy requirements, would not have an adverse

impact on the overall deliverability and viability of development in the City. **The updated commentary in February 2021 concluded that the impacts of the Covid-19 pandemic, in particular, had not changed the underlying viability of development in the City. The assessment also considered the potential to increase City CIL financial contributions and the impact this could have on viability. The assessment concluded that** where individual schemes are at the margins of viability, due largely to site specific considerations, there is sufficient flexibility in the implementation of Local Plan policies to ensure necessary development can proceed.

25. **The conclusions of this assessment have been used to inform the financial contributions set out in this SPD. Any future changes to the City CIL will require further viability assessment, taking into account the London Plan, the City Plan 2036 and the requirements in this SPD.**
26. **The viability assessment modelled a range of increases in financial contributions under CIL, concluding that an increase in the adopted charge rate for commercial development of £70 would reduce residual land values by significantly less than 1% and could be readily absorbed through a modest adjustment to residual land values. In that context, the proposed level of financial contributions under planning obligations for commercial development set out in this SPD are within the range of increase modelled and are considered to be deliverable. The assessment specifically modelled the potential for commuted sums for affordable housing and the methodology for calculating such sums set out in this SPD** ~~Financial contributions sought through the planning obligations outlined in this SPD have been considered through the Local Plan Viability Assessment and found not to impact adversely on the overall viability of development in the City.~~
27. **Local City** Plan Policy PC1: Viability Assessments, sets out the City Corporation's approach to viability. In line with advice in the NPPF and the Planning Practice Guidance, it is expected that **Local City** Plan policy requirements, including planning obligation requirements and CIL and MCIL2 requirements, can be delivered without adversely impacting on the viability of development in the City. Where a developer considers that policy requirements cannot be met in full, then applications must be accompanied by a site and development specific viability assessment. The viability assessment must be prepared in accordance with the standard methodology set out in national Planning Practice Guidance. The price paid for a site and/or building **must** take into account the cost of meeting **Local City** Plan and London Plan requirements in full, including the full requirement for affordable housing. The price actually paid for, or market value of, a site will not be accepted as relevant justification for failing to meet plan requirements.
28. Submitted 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. In the exceptional circumstances that an assessment is redacted, an executive summary will be made public.

29. Where an applicant submits a viability study in support of a lower level of provision of planning obligations, the City Corporation will normally appoint an independent and suitably qualified individual or company to review the viability study and provide independent advice to the City Corporation. The City Corporation will expect the applicant to meet the cost of this independent assessment. The City Corporation will have regard to the recommendations of this independent assessment when determining the planning application. 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, **normally on practical completion for commercial development, or when the , or upon occupation sale of 75% of the permitted residential units has legally been completed.**
30. In determining the appropriate review mechanism, the City Corporation will have regard to national Planning Practice Guidance, the London Plan 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.
31. **Local City** Plan Strategic Policy S3: Housing requires the use of upwards only review mechanisms in circumstances where the affordable housing targets in that policy are not met.

PAYMENT OF S106 PLANNING OBLIGATIONS

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

AFFORDABLE HOUSING

1) Affordable housing requirement on commercial development

34. London Plan Policy SD5: Offices, other strategic functions and residential development in the CAZ, indicates that residential development is not appropriate in defined parts of the City. Elsewhere in the City, office use and other CAZ strategic functions are to be given greater weight relative to new residential development. The City Corporation seeks to balance this policy focus on office development with the need to provide housing to meet identified needs, including the need for affordable housing. The City Corporation therefore uses the London Plan concept of land use swaps, housing credits or off-site contributions towards housing from commercial development within the City of London, rather than requiring on-site mixed commercial and residential use. Such contributions will be delivered through the mechanism of s106 planning obligations.

35. To address this policy approach, the City Corporation requires new commercial development, where there is a **net increase of 500m²** or more Gross Internal Area, to make a financial contribution towards the off-site provision of affordable housing, either elsewhere in the City, or within reasonable travel distance of the City. The financial contribution will be sought at a rate of **£50 per m² GIA** of additional floorspace.

2) Affordable housing requirement on residential development

36. Local Plan Strategic Policy S3: Housing seeks affordable housing contributions from new residential developments, which have the potential for **more than 10 or more** units of housing. The presumption in policy is that affordable housing should be provided on-site and off-site provision or the payment of a commuted sum in-lieu of on-site provision will only be acceptable in exceptional circumstances. Affordable housing on-site must be provided at a rate of:

- a minimum of 35% of the total number of housing units proposed; or
- a minimum of 50% affordable housing on public sector owned land.

On-Site Provision

37. Where the affordable units are provided on-site, the City Corporation will normally require a mix of units in terms of size (number of bedrooms) and tenure to meet identified needs in the City of London. This mix should include social or London affordable rented housing, **affordable home ownership and other** and intermediate housing for rent or sale. Developers should contact the City Corporation's Department of Community & Children's Services to discuss specific needs and requirements.

Off-Site Provision

38. The presumption is **that** the new affordable housing should be provided on-site alongside market housing development in the City of London. Off-site provision will only be accepted in exceptional circumstances where it can be robustly demonstrated that affordable housing cannot be delivered on-site or where off-site provision or a financial contribution would better deliver mixed and inclusive communities that meet the needs of households on the City Corporation's Housing Register, or other priority housing needs.
39. Where the City Corporation is satisfied that exceptional circumstances have been demonstrated and that off-site provision or a cash in-lieu contribution is acceptable in principle, the level of contribution required will be set at a level which ensures that there is no financial benefit to the developer relative to on-site provision. This means that the value of the contribution will be set at a level which captures the full uplift in value on the application site when delivering 100% market housing and ensures, as a minimum, that the same number, size and type of affordable housing will be delivered that would be required on-site.
40. Where the principle of off-site provision has been accepted, this should be met either through:
- provision of the required number of affordable units on an alternative site elsewhere in the City of London or within reasonable travel time of the City. Where provision is made on an alternative site, it must result in additional affordable homes being provided, taking account of any affordable housing expectations on the alternative site as well as the requirement from the application site. Developers will need to liaise with the Department of Community & Children's Services Department on appropriate locations and the proposed mix and tenure of the units to be provided; or
 - provision of a commuted sum, also known as a cash in-lieu payment, to enable the City Corporation to provide suitable affordable housing elsewhere in the City, or within reasonable travel distance of the City, normally on City Corporation-owned or managed housing estates. The level of this contribution will be calculated on a site by site basis, to ensure that the full uplift in value when delivering a 100% market scheme is reflected in the contribution and that there is no financial incentive to the developer **in delivering deliver** the affordable housing by means of a commuted sum. The Local Plan Viability Assessment indicates that a viable contribution to off-site provision should lie in the range of £440,000 to £460,000 per unit. Developers proposing a commuted sum must submit 2 appraisals of the development scheme – one incorporating a policy compliant level of affordable housing on-site and a separate appraisal of the same scheme but with all units

provided as private/market housing. The required commuted sum payment will be the greater of £440,000 per unit or the difference between these two submitted appraisals.

Viability Review Mechanisms

41. Where a viability assessment is submitted which demonstrates that a development cannot meet in full the required affordable housing requirement at the time of permission, the City Corporation will require an upwards only review mechanism within the s106 planning obligation agreement. This mechanism will ensure that any increase in scheme value, or reduction in development cost, are appropriately reflected in increased contributions towards affordable housing. This review will normally take place at the point **of practical completion for commercial development, or** where the sale of 75% of the permitted units has legally been completed.
42. In line with the requirements in the Mayor of London's Affordable Housing and Viability Supplementary Planning Guidance (2017), to incentivise delivery of a development, an early stage review will be required where a development has not reached an agreed level of progress two years after the grant of permission, or an alternative period of time agreed by the City Corporation.

LOCAL SKILLS, TRAINING AND EMPLOYMENT AND LOCAL PROCUREMENT

43. While the City of London continues to develop as a world-leading international centre for financial, professional and business services, London – including parts of Central London - still has some of the most deprived localities in the country, with persistent high levels of unemployment, social exclusion and child poverty. Within the City itself, Portsoken Ward is ranked within the 30% most deprived areas in England, and unemployment in London remains above the national average. **The City Corporation is fully committed to promoting construction as a career and maximising the opportunities for supporting residents into apprenticeships and employment. The City Corporation is strongly committed to meeting demand for and promoting the development of green skills, and maximising opportunities to help residents into apprenticeships, jobs and careers in construction and the growing number of jobs that require green skills. This supports the overarching ambitions set out in the City Corporation's Corporate Plan and supporting strategies, such as the Climate Action Strategy, to support a thriving economy through sustainable and inclusive growth.**

44. Since 2004, the City Corporation has used s106 planning obligations to seek contributions from commercial development in support of training, skills and job brokerage activity.
45. The City Corporation's Corporate Plan aims to maximise the opportunities and benefits afforded by the City's international role in supporting London's communities, including working with partners and neighbouring boroughs to promote employability, provide jobs and growth and deliver a diverse and inclusive workforce. This is reflected in **Local City** Plan Strategic Policy S27: Planning Contributions. The City Corporation continues to seek s106 planning obligations towards the provision of local training, skills, **job brokerage** and local procurement activity to help address ~~some of the~~ issues relating to unemployment, employability, skills and the need for a diverse and inclusive workforce in the City, in Central London, and in other parts of the capital where the City Corporation is supporting access to training and jobs ~~in the Square Mile~~. This approach will be kept under review and amendments made to reflect changing labour market trends in the City and Central London to ensure that it remains relevant and effective.
46. City developments offer significant opportunities in traditional and modern construction methods combined with a range of professional careers, with opportunities for progression in a wide range of construction and built environment roles across the development cycle. The City Corporation seeks to help local residents into such jobs by ensuring that more suitable job opportunities and career paths are available to them, supported by a focus on apprenticeships, and backed by the brokerage, training and employer engagement mechanisms required to make this work.
47. The City Corporation will apply s106 planning obligations to increase local employment opportunities that provide recognised training and offer progression opportunities. This will help to better match skills needs and opportunities in construction, and support the City Corporation's efforts to address unemployment, lack of vocational progression and a mismatch of skills and opportunities for the local population both in the City and in London. as well as support the City's access to skills and talent.
48. This will be achieved through:
- requirements to provide apprenticeship opportunities and measures to ensure the uptake and completion of apprenticeships, thereby ensuring meaningful job and progression opportunities;
 - **cash financial** contributions to support employment, training and skills initiatives, collaborating with partners across London to ensure a match of residents with opportunities and skills shortages on City developments; but also supporting training, apprenticeships and skills development work that reflects the opportunities in City-type jobs (e.g. **the** Financial and Professional Services sector that drives City

developments, and the sectors of the economy that support them, e.g. hospitality and retail);

- curriculum support and community benefit initiatives to be delivered by the developer;
- maximising economic opportunity for local small to medium sized businesses through a local procurement target.

Financial Contributions

49. New commercial development where there is a **net increase of 500m² or more GIA** will be required to make a financial contribution towards local training, skills and employment initiatives at a rate of **£30 per m²** of additional floorspace.

50. Residential development, where there is the potential to deliver **more than 10 or more housing units**, will also be required to make a contribution at a rate of **£5 per m² GIA** of additional floorspace.

51. The levels of contribution are derived from a formula **which** is based on occupancy levels of these developments, measures of local residents seeking employment, and the cost of providing sustained work placements. **These criteria will be kept under review to ensure that levels of contribution remain appropriate in a rapidly changing economic and social environment.** Further information is set out in Appendix 1.

52. The presumption is that developers should make a financial contribution. However, the City Corporation will consider proposals from developers to deliver local training, skills and employment initiatives in place of a financial contribution. Where a developer wishes to consider direct provision of such initiatives, they should liaise with the City Corporation's Innovation and Growth Team to agree the scope and nature of the proposal, ensuring that:

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

Local Skills, Training and Employment

53. In addition to any financial contribution, any development where there is a net increase of 500m² or more GIA will be required to submit an

Employment and Skills Plan (ESP) for the site that meets the requirements of the City Corporation's Code for Local Employment and has been agreed with officers from the City Corporation's Skills Policy Team. All such developments will provide:

- a minimum of one apprenticeship start or a job start lasting at least 26 weeks for every £3 million in contract value. (Eligibility for apprenticeships and job starts for residents of local boroughs is defined in the Code for Local Employment);
- a target number of completions of existing apprentices already employed by the developer or contractors transferring to and/or from other sites;
- work placements for local school age children and / or local adults resident in the City or local boroughs;
- curriculum support activities for students of any institution in the City or local boroughs.

54. The ESP will also require:

- identification in advance of labour requirements across all phases of the development, including numbers and types of job; work packages and timing; recruitment methods; skills needs which could be met through local training providers and provide a plan for meeting such needs;
- details of initiatives to provide appropriate training to ensure effective transition from unemployment into work;
- compliance with the requirements of sharing vacancies, as set out in the City ~~of London~~ Corporation's Code for Local Employment, for collaboration with local boroughs and partnerships established for the purposes of supplying candidates that meet S106 local labour criteria.

55. Where a hotel development is proposed, the City Corporation will require two ESPs addressing local training, skills and employment initiatives: one covering the construction period and the second covering operation of the hotel. The ESP for the operation of the hotel will propose a level of jobs and apprenticeships commensurate with the value of the project.

Local Procurement

56. The City Corporation encourages City businesses and developers to procure locally from small to medium sized businesses. The definition of local business includes businesses within the administrative area of the City and the Central London sub-region (Camden, Islington, Haringey, Hackney, Tower Hamlets, Lewisham, Southwark, Lambeth, Wandsworth, City of Westminster, Kensington and Chelsea).

57. Local procurement can be an effective means of stimulating the economies of neighbouring boroughs, promoting small business growth

and associated job creation. The sourcing of goods and services locally may also help to achieve a more sustainable pattern of land use and reduce the need to travel, leading to reduced road congestion, pollution and carbon emissions, in line with the objectives of the London Plan and the City ~~of London Local~~ Plan.

58. Further guidance is available from the City Corporation's Skills Policy Team on the criteria for eligible local businesses, the Procurement Charter and associated guidance notes, which set a target for developers to source 10% of goods and services, relating to development, from small and medium sized enterprises in the City and its neighbouring boroughs. The City Corporation will seek s106 obligations with developers of qualifying commercial (500m² or more net increase in floorspace, measured by GIA) and residential development (~~more than~~ **10 or more** housing units), requiring them to use best endeavours to meet the 10% target through their development.

SITE SPECIFIC MITIGATION

59. The City Corporation will principally seek to mitigate the impact of development and provide necessary infrastructure through the use of CIL but, in some circumstances, it may be necessary additionally to seek site specific mitigation to ensure that a development is acceptable in planning terms. Under the provisions of CIL Regulation 122 and the NPPF paragraph 56, such s106 planning obligations must only be sought where they meet all of the three statutory tests.
60. The nature and amount of contribution sought for such mitigation will be determined by the individual circumstances of each development proposal. The Local Plan Viability Assessment confirms that the need for site specific mitigation has been reflected through estimates of construction costs and exceptional costs.

AREA SECURITY REQUIREMENTS

61. ~~Local City~~ **City** Plan Strategic Policy S2: Safe and Secure City and Policy SA3: Designing in Security, indicate that developers will be required to contribute towards the funding of measures to enhance security across the City, including collective security across broad areas. Developers will be expected to contribute towards the cost of necessary and proportionate on-street mitigation of the risk of vehicle attack, or the provision of security across a wider area as part of an area-based security approach. The requirement will be assessed on a site by site basis, in liaison with the City of London Police.
62. **City Plan Strategic** Policy S21: City Cluster, further indicates that area-wide security measures will be pursued within the City Cluster area, funded in part through s106 planning obligations proportionate to the scale of the

development. Contributions will be required from development within the City Cluster area as set out in the **Local City** Plan. Major development or developments requiring higher levels of security which are in close proximity to the City Cluster will also be required to make a proportionate contribution, where this is deemed appropriate through discussions with the City of London Police.

63. Area specific security mitigation may include, but is not limited to:

- The design, installation and maintenance of additional HVM bollards.
- The design, installation and maintenance of additional HVM rated street furniture and landscape features.
- The development, construction and monitoring of area wide security checks.
- The design, improvement and installation of soft security measures.
- The development, construction and monitoring of vehicle restrictions, detection and/or check points.
- The design and enhancement of physical infrastructure for on-street policing.

Financial Contribution

64. Within the City Cluster area, and other areas as advised on a site by site basis by the City of London Police, a financial contribution towards area-based security measures will be required on commercial development where there is net increase of **500m² GIA or more**, at a rate of **£10 per square metre** of additional floorspace.

HIGHWAYS WORKS AND S278 AGREEMENTS

65. Section 278 Agreements are legal agreements between a developer and the highway authority made under s278 of the Highways Act 1980. The agreements ensure that highways works necessary to make a development acceptable in principle are funded by the developer and implemented by the highway authority. As such they are a necessary cost on development and will continue to be sought by the City Corporation in addition to any CIL or s106 planning obligation. Both the City Corporation and Transport for London are highway authorities within the City of London.

66. The nature and amount of any s278 Agreement will vary according to the individual circumstances of the development, specifically the impact of the development on the highway.

TRANSPORTATION

67. **The City of London Transport Strategy has a vision to deliver streets that inspire and delight, world-class connections and a Square Mile that is**

accessible to all. The strategy sets out 10 outcomes and a detailed set of 53 proposals to achieve this overall vision. It includes ambitious proposals to:

- prioritise the needs of people walking, make streets more accessible and deliver world-class public realm;
- make the most efficient and effective use of street space by significantly reducing motor traffic, including the number of delivery and servicing vehicles in the Square Mile;
- eliminate death and serious injuries from our streets through measures to deliver safer streets and reduce speeds;
- enable more people to choose to cycle by making conditions for cycling in the Square Mile safer and more pleasant; and
- improve air quality and reduce noise by encouraging and enabling the switch to zero emission capable vehicles.

68. Delivery will be through a variety of funding streams, including City Corporation funding, developer contributions through CIL and s106 planning obligations and funding from Transport for London. Where appropriate, such as where multiple developments are taking place within a defined area, the City Corporation will consider the potential to pool s106 planning contributions to deliver area-wide mitigation and necessary transportation improvements. The use of s106 planning obligations to deliver public transport improvements will be considered where necessary to mitigate the impacts of development.

69. ~~The~~ **City's Local** Plan Strategic Policy S9: Vehicular Transport and Servicing requires developers to demonstrate, through Transport Assessments, Construction Logistics Plans, Travel Plans, Cycling Promotion Plans and Delivery and Servicing Plans, how the environmental impacts and road danger of travel and servicing will be minimised as a result of their development, including through the use of river transport.

70. The City Corporation will use s106 planning obligations or planning conditions in order to ensure that information on the transport implications of development, both during construction and operation, is provided and the arrangements to minimise impacts complied with. **A particular concern is the need to make sufficient provision for active travel, including long and short stay cycle parking, within the development site, in line with London Plan and City Plan requirements. In exceptional circumstances a financial contribution may be accepted to make up for a shortfall in short stay cycle parking.**

71. Transport Assessments and Travel Plans, incorporating Cycle Promotion Plans **should embed the Healthy Streets Approach and** are required for all major development as set out below and for any other development that will cause significant impacts over the local or wider area.

Threshold for Transport Assessments and Travel Plans (incorporating Cycle Promotion Plans)

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

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

- Delivery and Servicing Plans for all major commercial development over 1,000m² and any other development or refurbishment that will cause significant transport impacts on the local or wider area, through operational deliveries and servicing. For smaller development a Delivery and Servicing Plan is encouraged and may be required in areas where this is a particular need to manage delivery and servicing requirements. Delivery and servicing plans will be required to set out proposals for off-site consolidation of servicing and deliveries. Further information is set out in the City Corporation's Freight and Servicing Supplementary Planning Document.
- Construction Logistics Plans for all major developments or refurbishments and for any development that would have a significant impact on the transport network during construction.

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

CONSTRUCTION ENVIRONMENTAL IMPACTS

74. **The City Corporation requires every development to take all reasonable measures to minimise the negative impacts of demolition and construction on the environment.**

75. **All developments are required to comply with the City Corporation's Code of Practice for Deconstruction and Construction Sites. This document sets out the standards expected in the City to mitigate the negative impacts of construction activity and includes air quality, community liaison and consultation, noise and vibration, contamination, waste, light and sustainability. The Code of practice is available on the City Corporation's website at: <https://www.cityoflondon.gov.uk/assets/Business/code-of-practice-for-deconstruction-and-construction-sites-9th-edition.pdf>**

76. **The City Corporation incurs costs in the monitoring of construction practice and in liaising with developers and the community, which should be met by the developer. The level of monitoring required is dependent on a number of factors including size of development, construction practices, proximity to sensitive receptors and permitted times of operation and is set out in Appendix L of the Construction Code.**
77. **The City Corporation will use either s106 planning obligation or planning condition to require compliance with the Code of Practice for Deconstruction and Construction Sites, submission of a scheme of protective works and construction monitoring contribution in accordance with Appendix L.**

CULTURAL STRATEGIES AND PUBLIC ART

78. The City's cultural infrastructure is important to the distinctive and historically significant character of the Square Mile. The international reputation and high quality of this cultural activity has a critical part to play in the vibrancy of the working environment and adds to the appeal of the City as a place to do business. The City Corporation's Cultural Strategy, **the London Recharged Report and the City of London Recovery Taskforce all** highlight that commerce and creativity thrive side by side and sets out a vision to position the City as a world capital for commerce and culture. **The promotion of cultural activity as an integral part of the City's commercial offer will be a key element in delivering a strong recovery from the Covid-19 pandemic.**
79. **Local City** Plan Strategic Policy S6: Culture, Visitors and the Night-Time Economy, requires developers to submit Cultural Plans for major development. The City Corporation will require developers to enter into s106 planning obligation agreements to ensure the delivery of these plans. The City Corporation will set out further detail on the scope and content of Cultural Plans in an SPD. The expectation is that cultural provision will be made on or around the application site and may include the incorporation of cultural activities or displays in ground floor spaces; facilitating public access and providing exhibitions/interpretation boards in relation to matters of historic interest; providing permanent or temporary space for creative enterprises; and incorporating public art either within the design of the building or as freestanding structures. Where agreed with the City Corporation, a developer may make a financial contribution towards cultural provision elsewhere in the City. The amount of this financial contribution and how it will be used to enhance cultural provision in the City will be determined on a case by case basis.
80. **Local City** Plan Policy CV5: Public Art encourages the provision of new artworks in appropriate locations in the City. The City Corporation may use s106 planning obligations to ensure the delivery of such artworks. Financial

or other contributions may be required towards the provision and maintenance of new artworks.

CARBON OFFSETTING

81. London Plan Policy SI 2: Minimising greenhouse gas emissions, requires major development to be net zero-carbon, reducing greenhouse gas emissions in operation. The London Plan requires a minimum on-site reduction in carbon emissions of at least 35% beyond 2013 Building Regulations for major development. Where it is demonstrated that the zero-carbon target cannot be fully achieved on-site, any shortfall should be provided, in agreement with the relevant borough, either:
- through a cash in lieu contribution to the borough carbon offset fund, or
 - off-site provided that an alternative proposal is identified and delivery is certain.
82. The London Plan is supported by further detailed guidance in a number of documents, including the Mayor's Environment Strategy 2018; the Mayor's Energy Assessment Guidance 2020; **and draft 2020** whole life-cycle carbon assessments and "Be seen" energy monitoring guidance ~~– both pre-consultation drafts 2020; and the Mayor's Sustainable Design and Construction SPG 2014.~~
83. The London Plan indicates that boroughs should develop a price for offsetting carbon using either a nationally recognised carbon pricing mechanism or a price based on the cost of offsetting carbon across the borough. The London Plan **suggests indicates that boroughs could use** a nationally recognised non-traded price of £95 per tonne **which boroughs may use** to collect offset payments in lieu of any locally defined value. The suggested carbon offset price has been tested as part of the viability assessment of the London Plan.
84. ~~The City of London Local City~~ Plan Strategic Policy S8: Design, seeks to deliver world class sustainable buildings which contribute towards a zero emission, zero carbon and climate resilient City. **Local City** Plan Policy DE1: Sustainability Standards requires major development to meet London Plan carbon emission standards on site and, in exceptional circumstances, where standards cannot be met on site, for offsetting payments to be made.
85. The City Corporation will use s106 planning obligations to require the provision of offsetting payments at a price of **£95 per tonne of carbon to be offset over a period of 30 years**. This level of contribution accords with the nationally recognised figure identified in the London Plan. It will be periodically updated in line with amendments published by the Mayor, or in line with any ~~The City Corporation is preparing a Climate Action Strategy~~

~~to guide actions by the City Corporation, developers and occupiers within the Square Mile towards a net zero carbon City. The City Corporation may, through this Strategy, publish a~~ locally defined Carbon Offset Price which will replace the nationally defined figure of £95 per tonne.

86. Financial contributions for carbon offsetting will be required on completion of development and prior to occupation. The level of contribution required will be calculated on the basis of carbon reduction projections set out in an Energy Statement submitted as part of the planning application. Developers may submit a further revised assessment demonstrating levels of carbon reduction and revised off-setting contributions upon completion. Financial contributions will be placed into the City Corporation's Carbon Fund, which will be used for carbon reduction projects both within and outside of the City of London **and contribute towards the delivery of a zero carbon City by 2040, in line with the ambitions of the City Corporation's Climate Action Strategy**. Initially this Fund will aim to deliver carbon reduction on City Corporation owned properties (excluding investment properties) where the widest community benefit can be achieved and where measures will deliver carbon reductions additional to those which could otherwise be achieved. ~~The City Corporation is also developing a Climate Action Strategy which will identify further options for carbon offsetting to contribute towards the ambition of a zero carbon City.~~

OPEN SPACES, AND GREEN INFRASTRUCTURE AND PUBLIC REALM

87. ~~Local~~ **City** Plan Strategic Policy S14: Open Spaces and Green Infrastructure, and Policy OS1: Protection and Provision of Open Spaces, seek to protect existing open spaces across the City and require development to provide new open spaces or improvements to existing open spaces. Local **City** Plan Policy OS2: Urban Greening requires new development to meet a minimum Urban Greening Factor target of 0.3 and to submit an operation and maintenance plan to ensure that green features will be maintained successfully for the life of the building. Policy OS3: Biodiversity aims to secure improvements to the City's biodiversity and requires developments to deliver a net gain in biodiversity. Policy OS4: Trees, seeks to protect existing trees in the City and the provision of additional trees both in open spaces and street trees.
88. Where necessary, the City Corporation will use s106 planning obligations to ensure that developers protect existing open spaces, trees and biodiversity and deliver the necessary improvements, **including meeting requirements for Biodiversity Net Gain**. Developers will be required to maintain new open spaces and greenery and contribute towards the future maintenance of public open spaces where these are enhanced through development activity. Maintenance will be secured through s106

obligations. The City Corporation will also seek to secure public access to newly provided open spaces and existing open spaces, where feasible, through s106 obligations. The City Corporation may require a financial contribution in lieu of actual provision to contribute towards the improvement of existing public open spaces or the provision of new publicly accessible spaces. **Developer contributions will also be sought via s106 planning obligations where the statutory tests are met to deliver enhancements or improvements to watercourses in line with the Thames River Basin Management Plan.**

89. **City Plan policy DE3: Public Realm indicates that the City Corporation will work in partnership with developers, TfL and other organisations to design and implement schemes for the enhancement of the streets and spaces between buildings and the creation of new spaces. The City Corporation will primarily use CIL funding to deliver public realm enhancement in the City of London. Where individual developments, or a combination of developments, create a need for improvements to the public realm to mitigate the local impacts of development, the City Corporation will also consider the use of s106 planning obligations for this purpose.**

FLOOD RISK

90. **The City Corporation has defined in the City Plan an area of the City of London that is vulnerable to flood risk (the City Flood Risk Area). This area includes those parts of the City that are vulnerable to surface water flooding and fluvial flooding along the River Thames. The City of London is protected from fluvial flooding by the Thames Barrier and more locally by flood defence walls along the River Thames. The Environment Agency's Thames Estuary 2100 Plan (TE2100) requires flood defences to be raised by 0.5m by 2065 and 1m by 2100. Working in partnership with the Environment Agency, the City Corporation is preparing a Riverside Strategy which includes a detailed survey of the flood defences in the City and identifies options for meeting the TE2100 requirements for raising of the flood defences.**
91. **In line with the 2008 Planning Act, the City Corporation may use CIL contributions to contribute towards the delivery of improvements to the City's flood defences. Where improvements or enhancements are required to existing flood defences, or to provide for flood resilience, as a result of development, the City Corporation may use s106 planning obligations, or planning conditions, as appropriate, to ensure that the necessary works are delivered. S106 planning obligations or conditions may also be used to ensure that development adjacent to the River Thames maintains and, where necessary, enhances flood defences and provides adequate flood protection for the life of the development, including necessary raising of flood defences.**

UTILITY CONNECTIONS TO THE DEVELOPMENT

92. **Local City** Plan Strategic Policy S7: Smart Infrastructure and Utilities encourages early engagement between developers and utility providers to identify the infrastructure needs arising from development and ensure that this provision is in place in time to serve the development. Developers will be required to identify and plan for necessary connections, including for electricity, gas, water supplies, heating and cooling, telecommunications and drainage, including the use of Sustainable Drainage Systems (SuDS). Developers will be required to submit written evidence from utility providers that effective engagement has been carried out. The City Corporation may use s106 planning obligations to ensure that these provisions are delivered in a timely fashion, to ensure continuous engagement regarding route planning and confirmation of load demands; that all necessary utilities are in place prior to occupation of the development and that adverse impacts arising from installation of utilities infrastructure under public highways is minimised, for example by promoting the co-ordination of street works, where possible.

OTHER PLANNING OBLIGATIONS

93. This SPD has set out the principal s106 planning obligations that the City Corporation may seek from developers, to ensure that development is acceptable in planning terms. The City Corporation reserves the right to seek additional or alternative s106 planning obligations to those listed above, where justified by local circumstances or to deliver other priorities in the **Local City** Plan and London Plan and where such planning obligations meet the statutory tests in CIL Regulation 122. Examples may include mitigating the impact of development on heritage assets, mitigating the impact on mobile telephone, Wi-Fi and television reception and the need for wind, thermal comfort, solar glare and convergence and daylight and sunlight assessments.

EXEMPTIONS

94. The City Corporation will seek s106 planning obligations on all new development where required and where that development meets or exceeds the thresholds set out in this SPD.

95. Community Infrastructure Levy Regulations provide for relief from CIL for charities undertaking development wholly or mainly for charitable purposes, where the charity owns a material interest in the relevant land for a period of 7 years beginning with the day on which the development commences. If the development ceases to be used for charitable purposes within this 7 year period, CIL then becomes liable to be paid.

96. To ensure consistency of approach between CIL and s106 in the City, the City Corporation will offer a similar exemption from s106 planning obligations for development where:
- (a) a registered charity has a material interest (a freehold or lease for more than seven years after the date planning permission is granted) in the relevant land; and
 - (b) the development will be used wholly or mainly for charitable purposes.
97. This exemption will not apply where s106 planning obligations are required to deliver site specific mitigation necessary to make a development acceptable in planning terms, or to a requirement to enter into a s278 agreement to deliver necessary highways works.

AMENDMENTS TO PLANNING PERMISSIONS

98. Under s73 of the Town and Country Planning Act 1990, amendments can be made to the conditions attached to a planning permission. Where such amendments are made, they constitute a new consent. Where a s73 application is made, the City Corporation will only seek additional financial contributions through a s106 planning obligation where the new application results in a net increase in floorspace above the original permission. The need for any additional site specific mitigation measures will be assessed on a site by site basis.
99. Where a s73 application results in a reduction in floorspace, when compared with the original permission, the City Corporation will make a refund.
100. S96A of the 1990 Act allows non-material changes to be made to a planning permission. Such changes are unlikely to result in an increase in floorspace and should not, therefore, generate any additional requirement for s106 planning obligations.

INDEXATION

101. The charge rates for affordable housing and other financial contributions set out in this SPD will be subject to indexation from the date of adoption of this SPD to the date of permission, as set out below:
- Indexation for affordable housing, will be by reference to the RICS CIL Index (or other indices specified by national CIL Regulations), to ensure consistency with the approach required for the City CIL.
 - Indexation for other financial contributions will be by reference to the Consumer Price Index.
102. Where site specific mitigation, or other financial contributions which are not set out in the charge rates contained in this SPD, are required through

a s106 planning obligation, these contributions will be indexed by reference to the Consumer Price Index from the date of the Planning & Transportation Committee's resolution to permit the development until the date that payment is due.

103. Contributions required under s278 agreements should meet the full cost of the required remedial or reinstatement works and will not be subject to indexation.
104. Carbon off-set contributions will be calculated according to the price of carbon set out in this SPD, or otherwise notified on the City Corporation's website, at the date of signature of the s106 agreement. They will not be subject to further indexation.

ADMINISTRATION AND MONITORING

105. The City Corporation requires charges to be applied to cover the cost of administration and monitoring of City of London s106 planning obligations. These charges are set out on the City Corporation's website and will be reviewed from time to time to ensure that they continue to cover City Corporation costs. The costs incurred by the Comptroller and City Solicitor in negotiating, drafting and executing s106 agreements will also be charged and the amount will depend on the circumstances.

PROCESS

106. The City Corporation's Section 106 template is available on the City Corporation's website. It will be updated from time to time as appropriate to reflect the **Local City** Plan and London Plan. Where a section 106 agreement is required, applicants will be expected to enter into section 106 agreements in the form indicated in the template and in a timely manner, and to ensure that all parties with interests in the land, including chargees, will join in the agreement before making the application.
107. The applicant will be expected to provide Heads of Terms reflecting the requirements in the template, the obligations outlined in this SPD, and reflecting all parties with interests in the relevant land.
108. Where appropriate the City Corporation will make it a condition of a planning permission that there shall be no commencement (including demolition) until such time as the terms of the section 106 agreement in accordance with the approved Heads of Terms and template have been agreed and entered into by all the parties with interests in the land.
109. Where such a condition is not appropriate, for example because one or more of the site specific Heads of Terms are not drafted with sufficient certainty, the permission will not be issued until the section 106 agreement

has been completed. Failure to complete the agreement in a timely manner may risk refusal.

SUMMARY OF FINANCIAL REQUIREMENTS

Contribution Type	Threshold	S106 obligation
Affordable Housing (commercial development)	500m ² GIA	£50 per m ² net increase
Affordable Housing (residential development)	More than 10 <u>or more</u> units	<u>On-site provision in line with City Plan or site specific assessment for commuted sum</u>
Local skills, training and employment (commercial)	500m ² GIA	£30 per m ² net increase
Local skills, training and employment (residential)	More than 10 <u>or more</u> units	£5 per m ² net increase
Area-wide security (commercial)	500m ² GIA	£10 per m ² net increase
Carbon Offsetting	Minimum 35% on-site improvement in CO ₂ emissions over 2013 Building Regulations	£95 per tonne of carbon to be offset over a 30 year period

APPENDIX 1 – Calculation of Financial Contributions for Local Skills, Training and Employment

110. The formula below is used to establish the required level of contribution for developments of ~~more than~~ 10 **or more** residential units or more than 500 m² of additional GIA of commercial floorspace.

111. The formula is based on occupancy levels of these developments, measures of workless people in Central London boroughs seeking employment, and the benchmarked cost of supporting an unemployed London resident into sustained employment.

112. The contribution is generated by the formula:

Occupancy Level x Worklessness Rate x Cost of Placement

Occupancy Level is the average occupancy for the development type (commercial or residential), measured in persons per m².

Worklessness Rate is the percentage of London's resident population claiming Job Seeker's Allowance (JSA) and those that are economically inactive that want to work.

Cost of Placement is the benchmarked cost of Central London local employment services to place an individual into sustained employment.

113. The figures used to calculate this are as follows:

Development	Occupancy Level	Worklessness Rate*	Cost of Placement	Indicative s106 contribution per m ² (GIA)
Commercial	0.083 ¹	0.078	£5,000	£32.37 (£30)
Residential	0.0125 ²	0.078	£5,000	£4.88 (£5)

*Central London: the Jobseekers Allowance claimant rate @ 3.4% plus (NOMIS) Combined rates of Jobseekers Allowance claimants plus the rate of economically inactive people (who want to work) = 7.8%.

¹ Based on Employment Densities Guide, HCA Guide (2010)

² Method used by WCC in draft City Plan

APPENDIX 2: Definition of qualifying SME for local procurement purposes

114. To qualify as an SME, a business should:

- (a) Be autonomous (i.e. not be majority-owned by, or be a subsidiary or branch of, a larger concern);
- (b) Have an employee headcount of 250 or fewer.