

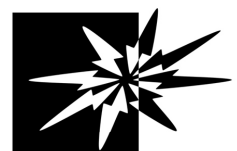
**Appendix B**

**London Borough of Haringey**

**Planning Obligations Supplementary Planning  
Document**

**Consultation Report**

**September 2014**



## **Executive Summary**

### **Introduction**

The Planning Obligations Supplementary Planning Document (SPD) was written with the intention of providing guidance to developers in their requirements with regards the collection of planning obligations to mitigate the effects of development in the borough. The spur for the production of this document is the introduction of Haringey CIL on 1<sup>st</sup> November 2014. The Planning Obligations SPD sets out the items that CIL and S106 will be collected towards.

### **The Consultation**

The consultation ran 1<sup>st</sup> August – 12<sup>th</sup> September 2014. Copies of the documentation were made available online, in local libraries, in the Council's offices at River Park House and in the Civic Centre. Emails and letters to the full town planning database were sent out, a letter placed in the local newspaper, and the consultation was featured on the Council's website. All relevant Duty to Co-operate bodies were consulted in this process.

There were 9 responses to the consultation document, all of which were received by email. Full copies of responses received are contained at Appendix A of this report. Responses were received from:

- Haringey Disability First Consortium
- CGMS on behalf of Provewell Estates
- Montagu Evans on behalf of Berkeley Group
- English Heritage
- Diocese of London
- Transport for London
- The Theatres Trust
- Natural England
- Lambert Smith Hampton on behalf of the Mayor's Office for Policing and Crime (MOPAC)/ Metropolitan Police Service (MPS)

The body of this report contains a summary of the responses received during the consultation period, and the Council's amendments to the SPD. Responses that support the principles of the document have been omitted from analysis.

### **Conclusions**

The main issues raised were:

- HDFC members would like to see the London Borough of Haringey use planning obligations and/or CIL to fund an Independent Consultative Access Group;

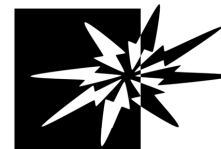


- Developers seeking exemptions from/reduction in the amount of contribution for skills contributions including compensation for loss of commercial floorspace (from £30/m<sup>2</sup>), and leave to use their in house local employment schemes;
- Recommendation that existing community facilities could be improved through s106 when the site they are currently located on are redeveloped;
- Clarity being sought around the value of carbon offsetting;
- Minor text alterations and clarifications.

It is considered that these issues can be satisfactorily managed through making minor modifications to the consultation version of the document.

## Consultation Reporting

Respondent	Summary of Comment	Council Response
Haringey Disability First Consortium	HDFCs members would like to see the London Borough of Haringey use planning obligations and/or CIL to fund an Independent Consultative Access Group.	<p>CIL revenues will be used to fund strategic infrastructure, as set out in the Infrastructure Delivery Plan. Planning obligations gained through s106 will mitigate adverse effects of developments to make them acceptable in planning terms. While issues such as making a site accessible will need to be considered in an application, it is not considered that the establishment of an ICAG is in line with Regulation 122 of the CIL regulations, which would require it to be:</p> <ul style="list-style-type: none"> <li>• Necessary to make the development acceptable in planning terms;</li> <li>• Directly related to the development; and</li> <li>• Fairly and reasonably related in scale and kind to the development.</li> </ul> <p>The example cited at Stratford is for a site of sufficient scale to fund a group, with the s106 effectively being proportionate to the scale of the development. Haringey does not have any sites on that scale, indeed there are few examples of sites of this size (the development of an Olympic Park) coming forward anywhere in London.</p> <p>An ICAG should be considered as part of the Council's Statement of Community Involvement, with this being an appropriate forum for setting out how interest groups such as HDFC are involved in</p>



Respondent	Summary of Comment	Council Response
CGMS on behalf of Provevell Estates	<p>Provevell consider the wording and the current charge as set out in paragraphs 6.24 – 6.25 (para 7.17-7.18 of the revised SPD) to be unreasonable and excessive, and object on 3 key points:</p> <ul style="list-style-type: none"> <li>- The calculation for lost number of jobs is inappropriate;</li> </ul>	<p>planning decisions.</p> <p>The approach taken uses a Borough-wide average employment density. This is predicated on it being possible to convert between B uses to achieve a range of densities of employment, and also the need to retrain local employees from the current use to a future use. As the existing stock transfers to a new set of uses, new skills will need to be learned by the local workforce in order to take up the new jobs.</p>
CGMS on behalf of Provevell Estates	<ul style="list-style-type: none"> <li>- The contribution should be means tested on whether the existing employment space is viable for continued use;</li> </ul>	<p>The exception on the basis of viability of existing use does not apply as it is the regeneration of this redundant stock which is creating the need for re-skilling.</p>
CGMS on behalf of Provevell Estates	<ul style="list-style-type: none"> <li>- Contributions should be assessed on whether there is a net gain in job numbers across the remainder of the scheme.</li> </ul>	<p>As set out in policy this is an issue derived from loss of floorspace. The Council has an issue it wishes to address which is that local residents need enhanced skills to compete in London's labour market. Comparisons can be drawn to the state of the employment stock in Haringey, which fails to compete for firms in London's property market.</p> <p>The Council is happy to provide greater clarity within the SPD that where there is no loss of employment floorspace, no contribution will be sought.</p>
Montagu Evans on behalf of Berkeley Group	<p>Para 1.18 and 1.19: An example of the circumstances in which the borough may seek other types of obligations would be useful.</p>	<p>Noted, by their nature these requirements will be exceptions, but specific geodiversity, or social characteristics such as providing access to provide maintenance to railways or other infrastructures may be required.</p>
Montagu Evans on behalf of Berkeley Group	<p>The commitment to identify specific infrastructure requirements associated with strategic sites in the Site Allocations DPD is supported; otherwise this statement potentially undermines the certainty offered by CIL and referred to in paragraph 1.14 of the SPD.</p>	<p>Noted, the Council will make every effort to maximise certainty through the Site Allocations DPD. Issues that are not anticipated may require obligations however in order to make the</p>

Respondent	Summary of Comment	Council Response
		development acceptable in planning terms. Additionally, smaller sites that come forward will not be included in the Sites DPD, and will follow the principles for the collection of obligations set out in the SPD.
Montagu Evans on behalf of Berkeley Group	Para 2.25-2.29: Reference should be made to the Revised Early Minor Alterations to the London Plan, published in October 2013. A new clause D was inserted into policy 8.3, relating to the identification of strategically important infrastructure through the LDF process.	The Council is, and will continue to, work with the GLA to identify and deliver strategic infrastructure across the borough. Reference will be made in the document to this.
Montagu Evans on behalf of Berkeley Group	Para 2.30: "There are three rates (£50/m2, £35/m2 and £15/m2"	Noted, this will be amended.
Montagu Evans on behalf of Berkeley Group	Para 3.10: "Applications which are submitted without a Planning Obligations Statement/Draft Heads of Terms will not be validated until this information is provided." This statement appears to contradict the statement in paragraph 1.3. This should be clarified.	Noted, while this is not necessarily incorrect, para 1.3 will be amended to remove ambiguity.
Montagu Evans on behalf of Berkeley Group	Para 4.3: There are many circumstances whereby commencement of development is not an appropriate trigger for compliance with a planning obligation. For example, where off-site infrastructure works are required to mitigate the impact of development, a more appropriate trigger for completion of such works would be prior to occupation of the development. Requiring obligations to be complied with earlier than necessary in the development process can jeopardise or delay the delivery of new development. The Council should take a more pragmatic approach in this regard.	The general principal of collecting contributions upon commencement of the development is a sound one as it allows the mitigation to be provided in time for the occupation of the development. The SPD sets out a number of potential trigger points, and the Council will seek to use the most appropriate ones when requiring obligations.
Montagu Evans on behalf of Berkeley Group	Monitoring contributions should be capped at a maximum amount. Otherwise there is potential for the monitoring fee to be disproportionate to the amount of work involved in monitoring obligations, especially in the case of very large developments. This would not be in line with the CIL Regulations.	The complexity of monitoring and implementing obligations increases with the size of the contribution. The current method is considered a suitable process to cover all sizes of contribution.
Montagu Evans on behalf of Berkeley Group	Section 7: Paragraph numbering is incorrect.	Noted, this will be corrected.
Montagu Evans on behalf of Berkeley Group	Para 6.15-6.17 (paras 7.8-7.9 of revised SPD): The standardisation of financial contributions to facilitate construction phase employment opportunities for developments of 10-100 residential units fails to	The Council are happy to allow developers to do this on their own, assuming they can demonstrate the minimum value and local benefit of the

Respondent	Summary of Comment	Council Response
	recognise that developers such as Berkeley Homes are fully committed to and have a successful track record in providing direct apprenticeships and work placements during the construction phase of their developments. Further, the proposal to link such financial contributions to the gross development value of the scheme is questionable; it has the potential to impact on viability and the delivery of affordable housing and other local priorities.	scheme adds up to the value set out in the SPD. This is set out in the draft SPD.
Montagu Evans on behalf of Berkeley Group	Paragraph 6.18 (para 7.11 of the revised SPD) goes some way towards addressing the concern identified in relation to paragraphs 6.15-6.17 17 (paras 7.8-7.9 of revised SPD) above, but a more positive approach and greater recognition of the benefits of developer-led construction phase employment schemes should be taken.	The Council's view is that local targeting of employment schemes for medium-sized schemes is appropriate, and will deliver local job opportunities in the construction phase of a development. For larger sites, it is the Council's view that developers may be able to deliver an acceptable outcome, as the respondent suggests.
Montagu Evans on behalf of Berkeley Group	Para 6.24 (para 7.17 of the revised SPD): It is acknowledged that the principle of seeking financial contributions to mitigate the loss of employment space is established in adopted policy. However, the types of uses considered to provide 'employment space' should be defined – i.e. is this restricted to B-class uses, or does it also apply to A-class and D-class uses?	B-class uses only. This will be clarified.
Montagu Evans on behalf of Berkeley Group	Para 9.5 – 9.6 The document being referred to as the Mayor's Housing Design Guide SPG is the Mayor's Housing SPG. This should be corrected.	This will be amended.
Montagu Evans on behalf of Berkeley Group	Para 10.4-10.5: The document appendix indicates that a price per tonne of carbon dioxide will be applied, but does not specify the rate. As such, it is not possible to comment on the level of contributions being sought. The proposed level of contribution should be subject to consultation before the SPD is adopted.	The Carbon price is referenced from the Mayors Sustainable Design and Construction SPD, we will use this reference.
Montagu Evans on behalf of Berkeley Group	Para 10.8-10.9: More specific guidance should be provided in relation to the distance by which a site will be considered 'proximate' to a decentralised energy network, otherwise this is open to interpretation and provides insufficient certainty on the application of the policy. The timing of networks coming forward also needs to be considered.	Specific distances will be set out in the Development Management DPD regarding this measurement.
Montagu Evans on behalf of Berkeley Group	Para 10.10-10.12: Unable to locate the Council's Decentralised Energy Plan –please provide the full source of this document and how it can be obtained.	There are maps in the Local Plan setting out the areas in which decentralised energy may be viable. A borough wide decentralised energy

Respondent	Summary of Comment	Council Response
		master plan will be produced which will provide more specific requirements.
English Heritage	We would therefore recommend that the historic environment as a specific requirement is more clearly signposted within the document and included within the table at 5.10.	The aim of this being a summary table would be undermined if every item is placed on it.
English Heritage	<p>We would suggest that 9.9 be amended as follows:</p> <p>Where there are heritage assets on a site that are required to be maintained, repaired or enhanced as part of a development, this work will, where necessary, be secured through a planning obligation.</p>	We agree this wording.
English Heritage	Heritage would be more appropriately referenced within Environmental Sustainability	While it is agreed that heritage does contribute to sustainability, the Council feel that it is appropriately located in the document.
Diocese of London	Community facilities should be eligible for either s106 or CIL funding. The rationale for this is that some community facilities are local (i.e. not strategic) such as the Engine Room at Hale Village or the proposed community facility at Haringey Heartlands	Noted, the table on p24 will be updated to add the concept of upgrades to existing community facilities (where appropriate) through s106).
Diocese of London	That faith facilities should be studied as part of revisions of the Borough's Community Infrastructure Plan and should be included where necessary in the Borough's statutory list for CIL funding.	These types of building have not been considered as part of the Community Infrastructure Plan, and will be considered whether these represent essential infrastructure at the next review of this document. At the present time the Council is content that faith facilities can be covered under the more generic term of "community facilities".
TfL	At the outset three types of planning obligation are referred to; non financial obligations, financial obligations and site specific obligations. Having defined these terms they are not used consistently throughout the document.	We will seek to clarify these in the document.
TfL	Paragraph 2.6 for example advises that "a planning obligation can be subject to conditions". It would be better not to use the term "conditions" as this is more commonly understood as a condition attached to a grant of planning permission and its use here introduces confusion for the reader	Noted, the text in the document will be updated.
TfL	Paragraph 1.9 titled "How Planning Obligations are Collected" advises "there are two methods of collecting planning obligations..... the	This will be clarified.



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	Community Infrastructure Levy and through Section 106 agreements". The Community Infrastructure Levy (CIL) is not a planning obligation and the two should not be confused	
TfL	Paragraph 3.7 refers to pre-application advice with Transport for London and the Greater London Authority; it would be helpful to the reader to provide links to both: TfL: <a href="https://www.tfl.gov.uk/info-for/urban-planning-and-construction/planning-applications/pre-application-advice">https://www.tfl.gov.uk/info-for/urban-planning-and-construction/planning-applications/pre-application-advice</a> GLA: <a href="https://www.london.gov.uk/priorities/planning/strategic-planning-applications/preplanning-application-meeting-service">https://www.london.gov.uk/priorities/planning/strategic-planning-applications/preplanning-application-meeting-service</a>	These will be added.
TfL	Paragraph 3.13 refers to a limited list of "Heads of Terms" for applications that are presented to Committee. It should be explicitly stated, that this list should, where relevant, include all non financial obligations, financial obligations and site specific obligations.	This will be amended.
TfL	The section on viability, paragraphs 3.16 – 3.19, whilst not wrong should be re-drafted with an emphasis that a challenge to a s.106 obligation on viability grounds is an unlikely event, with a far greater emphasis on applicant demonstrating there is a viability case to argue. At present the drafting almost invites the applicant to consider a viability challenge.	Noted, this wording will be strengthened.
TfL	The section on Penalty Clause and Enforcement of Obligations (paragraph 4.8) refers to a penalty in the form of interest payments based on the Bank of England base Interest Rate plus 4%. If the penalty clause is meant to be punitive to act as a deterrent, otherwise it not much of an incentive for the applicant to comply, it is recommended that a recognised bank interest rate (e.g. Barclays) plus a percentage uplift (4% or more) should be used rather than the Bank of England Base Rate.	The text as set out is in line with CIL regulations, which will minimize any confusion in the long term.
TfL	Section 8 Transport and Highways can be read to suggest that national and regional transport networks are also considered to be part of strategic infrastructure which will be included in the CIL Regulation 123 list. Given the likely CIL income that the borough may receive it is doubtful this will be enough to deliver the strategic borough-wide transport improvements referred to.	Noted, it is highly likely that national and regional transport improvements will have national and regional funding rather than Haringey CIL. The point being made is that site specific planning obligations will not generally be sought to fund these project.
TfL	paragraph 8.8 refers to any highway works being carried out by the Council, which will not be the case if it involves a contribution or s.278	Clarification will be inserted into the text.

Respondent	Summary of Comment	Council Response
	agreement with TfL in respect of the TLRN	
TfL	Paragraph 8.5 advises that contributions to fund Crossrail will be negotiated in line with the Mayor of London; however, these contributions in Haringey will be CIL payments rather than s.106 contributions.	This will be clarified.
The Theatres Trust	Many important community facilities, such as new theaters, are delivered via s.106 planning agreements that would not otherwise be funded via Council's adopted Community Infrastructure Levy, given the facilities are not owned or provided by the local authority	Noted, the table on p24 will be updated to add the concept of upgrades to existing community facilities (where appropriate) through s106).
Natural England	The inclusion of good Green Infrastructure (GI) is always welcomed and should be supplied as part of any new developments where biodiversity benefits can be provided	Noted.
Lambert Smith Hampton on behalf of the Mayor's Office for Policing and Crime (MOPAC) / Metropolitan Police Service (MPS)	The Table on page 24 covers community facilities and outlines a number of examples of the types of facilities that are covered by this term. A number of those are also included in the definition of social infrastructure within the Local Plan. Whilst policing is covered under the definition of both these terms it is not specially mentioned within this document. We recommend that reference is made to social infrastructure in addition to community facilities and policing is included as a 'specific requirement'.	It is the view of the council that the term "emergency services" can be added to the list of community facilities in the specific requirements.
Lambert Smith Hampton on behalf of the Mayor's Office for Policing and Crime (MOPAC) / Metropolitan Police Service (MPS)	Section 5.2 states that Section 106 agreements will remain and will be generally tied to specific developments for site specific local infrastructure requirements. The table states that 'community facilities' will be delivered through CIL and not through S106. The MOPAC / MPS foresee that funding for infrastructure to support growth across the Borough will come from CIL however, it should be highlighted that there are instances where the use of S106 agreements would be more appropriate in seeking to secure policing infrastructure. This would allow for the direct mitigation of large developments which are likely to be increase the demand on policing resources. CIL may not be able to deliver this type of mitigation with the same amount of certainty. In these circumstances S106 agreements would be better suited to deliver this provided the obligations meet the legal tests: <ul style="list-style-type: none"> <li>• necessary to make the development acceptable in planning terms;</li> <li>• directly related to the development; and</li> <li>• fairly and reasonably related in scale and kind to the development</li> </ul>	This appears in contravention of the CIL Regulations which require CIL and S106 to be spent separately. On sites which may be suitable to provide for emergency services, and emergency facilities are identified in the Reg123 list (which they are not currently) via a review of the Infrastructure Delivery Plan, there may be scope for a developer to provide land in lieu of CIL to help build these.
Lambert Smith	It is considered that this document does not go far enough in requiring	Emergency Services form an important part of

Respondent	Summary of Comment	Council Response
<p>Hampton on behalf of the Mayor's Office for Policing and Crime (MOPAC) / Metropolitan Police Service (MPS)</p>	<p>financial contributions towards policing development where there is a site-specific impact. The contributions sought through planning obligations would include the following:</p> <ul style="list-style-type: none"> <li>• The provision of on-site policing facilities where necessary. This would be a front counter, contact point or deployment bases.</li> <li>• The upgrading of Airwave equipment which is a national digital trunked radio service. The development of large scale buildings or buildings in close proximity to existing police facilities may disrupt the functionality of the Airwave coverage.</li> </ul> <p>It is recommended that additional text is included under the heading 'Site Specific Obligation: Provision of community facilities to make development acceptable'. The additional text should read:</p> <p>'Developments in the Borough should provide the necessary additional communities facilities as part of the development or as financial contributions where they meet the required tests'.</p>	<p>infrastructure to meet the needs of a growing population in the borough. Emergency Services in general will be added to the table at 5.10 of the document.</p>

**Appendix A: Representations made to the London Borough of Haringey Planning Obligations SPD consultation held 1<sup>st</sup> August – 12<sup>th</sup> September 2014**

