

London Borough of Sutton Local Development Framework

Planning Obligations

Supplementary Planning Document

April 2014



LONDON BOROUGH OF SUTTON
SUPPLEMENTARY PLANNING DOCUMENT
PLANNING OBLIGATIONS

APRIL 2014

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1. Introduction

Background

- 1.1 New development is vital in ensuring the prosperity of the London Borough of Sutton and in meeting the needs of residents, workers and visitors. The London Borough of Sutton has an adopted Core Strategy (December 2009) and Site Development Policies DPD (March 2012). These documents set out a framework to achieve sustainable development within the Borough over the Plan period (up to 2024), and to ensure that development is accompanied by appropriate, supporting infrastructure.
- 1.2 The adopted planning policies seek to develop active, healthy and inclusive communities; achieve environmental sustainability; encourage enterprise and employment; promote sustainable transport and accessibility; and improve the street scene and living environment. The Core Strategy Vision for Sutton is to create a sustainable suburb in London. However, development brings pressures on the environment and community, the impact on our roads, schools and general amenity.
- 1.3 Therefore, in order to fund the provision of the infrastructure necessary to support new development across the Borough, the Council is introducing a Community Infrastructure Levy (CIL). The Planning Inspectorate recommended on 2 December 2013 that the Sutton CIL Charging Schedule be approved. The Charging Schedule was approved at Sutton Full Council on 3 March 2014. This document is a revision of the existing "Planning Obligations Supplementary Planning Document" (March 2007). It explains how Section 106 will operate within the London Borough of Sutton once the CIL Charging Schedule comes into effect on 1 April 2014.

Policy Framework

- 1.4 The National Planning Policy Framework (NPPF) sets out that "Local Plans are the key to delivering sustainable development" (paragraph 150) and also states that local plans should "plan positively for the development and infrastructure required in the area to meet the objectives of the NPPF" (paragraph 157).
- 1.5 The NPPF advises that "SPDs should be used where they can help applicants make successful applications or aid infrastructure delivery, and should not be used to add unnecessarily to the financial burdens on development" (paragraph 153). This SPD does not contain any additional policy requirements; rather it provides further guidance on planning obligations, in addition to the adopted Sutton Core Strategy (December 2009) and Site Development Policies DPD (March 2012).

- 1.6 The Government updated national planning practice guidance to support the National Planning Policy Framework on 6 March 2014. It comprises planning guidance on 41 individual topics.
- 1.7 The National Planning Policy Framework (NPPF) states that planning applications will be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Guidance provided in this document will be a material consideration in the determination of planning applications.
- 1.8 The development plan for the Borough comprises:
 - Core Strategy (December 2009);
 - Site Development Policies Development Plan Document (March 2012);
 - London Plan (July 2011); and
 - South West London Waste Plan (March 2012).

2. What is a planning obligation?

- 2.1 Planning obligations, also known as section 106 agreements, are legal agreements negotiated between local planning authorities and developers, or unilateral undertakings made by developers, usually in the context of the grant of planning permission. They provide a means of ensuring that the proposed development contributes to the creation of sustainable communities, and to secure works, meet costs, provide benefits or impose restrictions in connection with a development to enable it to become acceptable in planning terms. A local planning authority considers planning applications on their merits, and makes a decision based on whether the application accords with the development plan, unless material considerations indicate otherwise. Where an application does not meet the requirements, it may be refused. However, there are instances where the imposition of planning conditions or planning obligations can make a development acceptable in planning terms.

Legislative and National Guidance

- 2.2 The legislative framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended by Section 12 of the 1991 Planning and Compensation Act 1991; Part 11 of the Planning Act 2008; and Section 7 of the Growth and Infrastructure Act 2013. Government policy on planning obligations is set out at paragraphs 203-205 of the National Planning Policy Framework (NPPF) (27 March 2012).

- 2.3 The Community Infrastructure Levy was enacted on 6 April 2010 by the Community Infrastructure Levy Regulations 2010 (Statutory Instrument 948), made under section 206 of the Planning Act 2008. The CIL regulations empower councils to impose a levy but do not compel them to do so. Councils can still use section 106 planning obligations in order to seek funds towards the provision of infrastructure. However, in order to ensure that planning obligations and the community infrastructure levy can work in a complementary way, the CIL regulations scale back the way that planning obligations work. Limitations are placed on the use of planning obligations in three ways:
- the Government's policy tests on the use of planning obligations set out in Circular 5/05 "Planning Obligations" are put on a statutory basis for developments that are capable of being charged the levy;
 - the local use of the community infrastructure levy and planning obligations must not overlap; and
 - pooled contributions from planning obligations towards infrastructure that may be funded by the levy are limited.
- 2.4 With regards to making the Circular 5/05 ('Planning Obligations') tests statutory, Regulation 122 of the CIL Regulations 2010 (as amended) and paragraph 204 of the NPPF state that the following three tests must be satisfied for planning obligations to be required in respect of development proposals. Planning obligations must be:
- necessary to make the proposed development acceptable in planning terms;
 - directly related to the proposed development; and
 - fairly and reasonably related in scale and kind to the proposed development.
- 2.5 In order to ensure that the local use of the levy and planning obligations do not overlap, on the local adoption of the levy, the CIL regulations restrict the local use of planning obligations to ensure that individual developments are not charged for the same items through both planning obligations and CIL. Where a Charging Authority sets out in its Regulation 123 List (Regulation 123 of the CIL 2010 Regulations- a list of items it wishes to fund through CIL), then it is prevented from seeking a planning contribution towards the same item or type of infrastructure.
- 2.6 Upon the local adoption of the levy, or nationally after a transitional period of five years (6 April 2015), the CIL regulations restrict the local use of planning obligations for pooled contributions – pooled contributions may only be sought from up to five separate planning obligations for an item of infrastructure that will not be funded by CIL. The limit of five obligations also applies to types of general infrastructure contributions e.g. education and transport. The start date for this pooling arrangement is for legal agreements that have been entered into since 6 April 2010.

Regional – London Plan (Adopted July 2011)

- 2.7 The London Plan is the strategic plan for London. It sets out an integrated economic, environmental, transport and social framework for the development of the capital to 2031. London Plan policy 8.2 deals with planning obligations. It sets out the Mayor's priorities for planning obligations: affordable housing; supporting the funding of Crossrail where this is appropriate, and other public transport improvements are to be given the highest importance, followed by tackling climate change; learning and skills; health facilities and services; childcare provisions and the provision of small shops.
- 2.8 London Plan policy 8.2 also states that Boroughs should set out a clear framework for negotiations on planning obligations in DPDs, to the effect that it will be a material consideration whether a development makes an appropriate contribution or other provision towards meeting the requirements made necessary by, and related to, the proposed development. Negotiations should seek a contribution towards the full cost of all such provision that is fairly and reasonably related in scale and kind to the proposed development and its impact on a wider area.
- 2.9 The Justification to London Plan Policy 8.2 states that the role of planning obligations will change as a result of the introduction of the Community Infrastructure Levy. The Government's expectation is that the new Levy will be the principal means of funding infrastructure, but it is likely that planning obligations will continue to have an important role with regard to: affordable housing; for impact mitigation; and for items that are not infrastructure.

Local – London Borough of Sutton Core Strategy (Adopted December 2009)/Site Development Policies Development Plan Document (Adopted March 2012)

- 2.10 Sutton Core Strategy policy DP2 deals with planning obligations. It states that the Council will ensure through the use of planning obligations that all new development meets on and off-site requirements that are made necessary by, and are related to, any proposed development. Core Strategy Policy DP3 deals with infrastructure requirements and delivery. It states that the Council will work with infrastructure providers and stakeholders to identify requirements for infrastructure provision and services for new development and will seek to co-ordinate infrastructure delivery, while protecting local amenities and environmental quality.
- 2.11 An "Infrastructure Schedule" is included at Appendix 4 of the Sutton Core Strategy. This contains details of some of the types of community benefits that may be secured through the use of planning obligations.

- 2.12 Planning obligations will be sought in line with the relevant policies in the adopted Sutton Core Strategy, and the adopted Site Development Policies Development Plan Document (especially policies DM20 “Assessing the Transport Impact of New Development”; DM21 “New Development and the Highway Network”; and DM25 “Maximising Affordable Housing Provision”).

Purpose of this document

- 2.13 The main purpose of this document is to supplement Core Strategy policies DP2 “Planning Obligations” and DP3 “Infrastructure and Requirements”. Core Strategy Policy DP2 states: “The Council will ensure through the use of planning obligations that all new development meets on and off-site requirements that are made necessary by, and are related to, any proposed developments”. Sutton Core Policy DP3 states: “The Council will work with infrastructure providers and stakeholders to identify requirements for infrastructure provision and services for new development and will seek to co-ordinate infrastructure delivery, while protecting local amenities and environmental quality. The key infrastructure schemes required to facilitate development and secure the delivery of the Core Planning Strategy include, but are not limited to, those schemes set out in Appendix 4”.
- 2.14 This SPD replaces two current supplementary planning documents: “Planning Obligations” (2007); and “Education Contributions from Residential Contributions” (June 2008).

3. The Relationship between the Community Infrastructure Levy and Section 106

- 3.1 It is important to clarify the relationship between Section 106 and the Community Infrastructure Levy and how both will operate once Sutton’s CIL Charging Schedule commences. It is anticipated that Sutton’s CIL Charge will become operational from 1 April 2014.
- 3.2 CIL payments will go towards supporting the infrastructure projects/types that are set out in the Council’s Regulation 123 List (the Borough’s draft list of infrastructure projects that it will spend CIL funds on and attached as **Appendix 1**).
- 3.3 Sutton Council is also required to act as a Collecting Authority for the Mayor of London. The Mayor of London’s CIL Charge came into force on 1 April 2012. It will be paid by most new development which:
- consists of buildings to which people usually go, so it does not apply to buildings to which people only go occasionally to inspect plant, or development that does not consist of buildings; and
 - has 100 sq m or more of gross internal floorspace, or involves building a dwelling, even where this is below 100 sqm.

- 3.4 Any development that receives planning permission after that date will have to pay, including:
- cases where a planning application was submitted before 1 April 2012 but not approved by then;
 - cases where a borough makes a resolution to grant planning permission (to allow a section 106 agreement to be signed, for example) before 1 April 2012, but does not formally grant permission until after that date;
 - cases where a planning appeal is decided after 1 April, regardless of when the appeal was made.
- 3.5 In Sutton, the Mayoral charge is set at £20 per sq m for relevant development. Sutton's own charge is £100 per sq m for residential development and £120 per sqm for 'convenience' retail (i.e. the purchase of everyday retail items e.g. food, drink, newspapers, confectionery).
- 3.6 As well as any CIL payments, the Council will seek (within the scope of the revised CIL regulations) appropriate direct on-site mitigation as a result of the development from the applicant. Affordable housing will continue to be provided through Section 106. The negotiation of Section 106 agreements will involve the prioritisation of obligations with affordable housing and public transport improvements normally given the highest priority, followed by the carbon offset fund; town centre management/employment initiatives; private residential amenity space; play space; public realm improvements (including biodiversity enhancements); and heritage assets.
- 3.7 In summary, the methods of developers contributing towards infrastructure provision will be a mixture of:
- Section 106 for affordable housing;
 - Section 106 for general direct on-site mitigation;
 - CIL for wider infrastructure provision.

CIL vs Section 106

- 3.8 After the commencement of the Sutton CIL Charging Schedule on 1 April 2014, the following areas will normally be covered by the Community Infrastructure Levy: education; health; sports & recreation; and park provision/nature conservation. In addition, the following areas, where they are not site-specific, will also normally be covered by the Community Infrastructure Levy: public realm improvements; community/youth centres/public art and theatres; sustainable transport; and flood mitigation.

- 3.9 Once the Sutton CIL charge has commenced, it is considered that the following areas would remain suitable for Section 106 agreements: affordable housing; private residential amenity space (where direct site mitigation is involved); public realm improvements (where they are directly related to the development); town centre management/employment initiatives; sustainable transport improvements (where site mitigation is involved); sustainability improvements (e.g. travel plan/car clubs) and heritage assets¹. The Council will be also be adding a carbon offset fund to the list of items that it will seek Section 106 contributions towards. The following areas will be dealt with as part of the planning application and by condition: recycling/air/noise/safety measures (e.g. CCTV); landscaping/archaeology; energy and water efficiency; renewable energy; children's play space; and foul and surface water drainage. This is not an exhaustive list and it is envisaged that Section 106 agreements and conditions will be needed to address a number of issues that arise in relation to the mitigation or impact of a particular development (see paragraphs 3.11 and 3.12).

CIL Exceptional Circumstances

- 3.10 The CIL regulations permit authorities to offer CIL exceptional circumstances relief to developers. In order to be able to qualify for "exceptional relief", two tests must be passed: first, the total cost of the Section 106 obligations must be greater than the CIL charge and second, meeting the cost of the Section 106 agreement and CIL together would make the development financially unviable. It is proposed not to introduce a CIL "Exceptional Relief Policy" at the current time but to monitor the situation and keep it under review.

Qualifying Developments for Section 106 agreements

- 3.11 The exact type and range of planning obligations, which may be sought for an individual site, will depend upon the particular circumstances and development proposed, and its impact upon the local environment, local services and facilities.

¹ (for applications affecting heritage assets, it is considered that applicants should consult the Historic Environment record (held by English Heritage for London) and evidence base documents such as conservation area appraisals and management plans at an early stage to ensure that heritage issues are dealt with appropriately)

- 3.12 Whether or not planning obligations will be sought will be linked to the scale and type of development. Throughout this document, the thresholds for types of planning obligations are listed under the heading of “Qualifying Developments” in each section. Development is taken to include new development, redevelopment and changes of use. Thresholds for qualifying developments are based on the total gross development, rather than on the net additional development. However, the calculation of contributions is based on the net additional development, thus ‘crediting’ the existing use from the calculation of the contribution. This allows the contribution to reflect only the intensification of the use.
- 3.13 Where, in the following sections of this document, the term ‘major development’ is used to describe a threshold, this refers to the definition of major development set out in the Town and Country Planning (Development Management Procedure) (England) Order 2010:
- The winning and working of minerals or the use of land for mineral-working deposits;
 - Waste development;
 - The provision of 10 or more dwellinghouses or where the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development will have more than 10 dwellinghouses;
 - The provision of a building or buildings where the floor space to be created by the development is 1,000 sq m or more ; or
 - Development carried out on a site having an area of 1 hectare or more.
- 3.14 However, the threshold at which planning obligations will be sought differs for various types of developments and these thresholds are indicated in the relevant sections of this document. Where the term “gross floor area” is used, this is defined as “the sum of the gross external measurement of all floor areas within a building”.
- 3.15 Where development sites are subdivided or developed in phases to ensure that separate development proposals fall below thresholds for which obligations may be sought, the Council will, as far as is practical and reasonable, consider sites in their totality.
- 3.16 In some cases, where outline permission is applied for, it will not be clear whether the thresholds will be exceeded. In these cases, obligations may be negotiated on the presumption that the site exceeds the relevant threshold, however conditions and legal agreements will be worded to allow an alternative approach if the threshold is not met.

Drafting of Agreements

- 3.17 This document seeks to ensure that the negotiation process is carried out with fairness and consistency and it is intended that this document be used as a starting point in the negotiation process.
- 3.18 It is necessary to complete the whole application process within the required 8, 13 or 16 week period (13 weeks for 'major' applications and 16 weeks if the application requires an EIA (Environmental Impact Assessment)). In cases where a legal agreement is required, planning permission will not be issued until the legal agreement has been completed. The applicant will be informed of the target date for determination of the application in the acknowledgement letter received upon registration of the application. In cases where an application is to be recommended for approval subject to the signing of a legal agreement, it will be expected that the legal agreement will be completed at least 2 days prior to the application expiration date. This can only happen if the applicant is able to supply the necessary information with the application and will be greatly assisted by the applicant or agent undertaking pre-application discussions with the Council before submission of the application.
- 3.19 It is therefore important that developers enter into discussions regarding planning obligation requirements with Council officers as soon as possible, preferably during the pre-application stage, in addition to testing to see whether the development is financially viable. The nature of planning obligations that are likely to be required for a particular development will be made known to the developer as early as possible in the planning process. These early discussions help to ensure that formal applications can be dealt with in a more certain and speedy manner and the quality of decisions can be better assured.
- 3.20 In the cases where section 106 requirements are known, developers are invited to submit executed unilateral planning obligations as part of their planning application. Where a unilateral obligation is not appropriate, developers are encouraged to submit a draft section 106 agreement with their planning application, using the standard legal agreements that have been prepared by the Council. Copies of standard legal agreements are available from the Council's Planning department and from the Council's website (www.sutton.gov.uk). Unilateral planning obligations should contain terms that reflect those to be found in the standard legal agreements. It should be noted that the standard form of legal agreements may be amended by the Council as necessary to reflect particular circumstances.

- 3.21 If a planning agreement or unilateral obligation is not complete or substantially complete when the application is presented for decision, this will be a factor in the recommendation that is made.

Costs

- 3.22 The Council will expect its reasonable costs in drawing up, administering and monitoring the agreement to be met by the developer. The Council will use its best endeavours to specify these costs at the earliest possible opportunity in the application process. Where valuation advice is required, in order to assess the application, or in cases where a developer has raised concerns about the viability of a development, the Council will expect all reasonable cost of valuation advice to be met by the developer. Where other professional advice is required, for example retail impact, environmental, traffic, or ecological advice, the Council may seek its reasonable costs in seeking such advice to be met by the developer.
- 3.23 For all agreements with monetary heads of terms, the Council will impose a monitoring fee in addition to any standard planning fees and any legal, valuation and/or professional fees, to be utilised in the administration and monitoring of section 106 agreements. The monitoring fee will be equivalent to 2.5% of the value of the total monetary contribution and will be capped at a maximum of £10,000.

Confidentiality

- 3.24 Section 106 agreements will be treated with confidentiality during negotiations in accordance with the Freedom of Information Act. Requests for the release of draft s106 agreements while in the negotiation stage will be referred to the Council's legal department for advice. Once signed, the legal agreement will be registered against the title of the property and on the Local Land Charges Register and is therefore in the public domain.

Viability Issues

- 3.25 The Council recognises that in specific instances, planning obligations may be a significant factor that affects development viability. However, planning obligations are a necessary cost of development and it will be expected that the likely cost of obligations will be factored into the development cost from an early stage. One aim of this document is to encourage transparency in the negotiation of planning obligations to ensure that developers can gain access to information as early as possible in the development process.

3.26 It is recognised that there may be circumstances where a developer may consider that it is not feasible for the proposed development to meet all the requirements set out in local, regional and national planning policies and still be economically viable (for example, where development specific costs are exceptionally high). The onus will be on the developer to provide information regarding the viability of the scheme. In these circumstances, the Council will review the range and nature of obligations. In order to determine such applications, the Council may require valuation advice and/or the use of an independent third party. In cases where a dispute relates to the viability of a proposal, the independent third party might have access to financial information provided by the developer on a strictly confidential basis. The role of the independent third party is to facilitate or contribute to the negotiation process, not to arbitrate, and the responsibility for the final determination of the application remains with the local planning authority. The Council will require its reasonable costs associated with the use of an independent third party or any other necessary valuation advice to be met by the developer.

Referrals, call-ins and appeals

3.27 The Mayor of London must be consulted on planning applications that are considered of potential strategic importance. He can comment on and support these applications or, if he considers it necessary on strategic planning grounds, he can direct the borough to refuse planning permission if he is not satisfied that the proposed conditions and obligations will, in his opinion, make the development acceptable in planning terms. The applicant has the right then to appeal to the Secretary of State and at that stage the Mayor may state what obligations should be included in a planning agreement/unilateral undertaking.

3.28 Planning applications may be appealed, or the Secretary of State may call-in an application for his determination. In such cases, the Council will be unable to negotiate a planning obligation, as the Secretary of State/Planning Inspectorate will decide this. However, the developer can submit a unilateral agreement and the Council will, in cases where the development would be acceptable if planning obligations were secured, seek to negotiate with the developer and would set out the nature of the planning obligations which would be sought.

Local Land Charge

3.29 Planning obligations are registered as a Local Land Charge and as such would come to the notice of a prospective buyer of the land. They will also be registered against the title to the land.

Index-Linking

- 3.30 Contributions sought from developers may be index-linked in the legal agreement, in order to maintain the value of the contribution. The Retail Price Index (RPI) is the most commonly used index of inflation. It is freely available without subscription. The Building Cost Information Service (BCIS) published by the Royal Institution of Chartered Surveyors (RICS), and the Building Price and Cost Indices published by the Department of Trade and Industry (DTI) are alternative indices. The Council will use the most appropriate of this set of indices.
- 3.31 The Council will also review all or parts of the document from time to time in order to update the value of the contributions sought.

4. Affordable Housing

Affordable Housing Definition

- 4.1 The National Planning Policy Framework (NPPF) (27 March 2012) defines affordable housing in Annex 2 'Glossary' as "social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative housing provision. Homes that do not meet the above definition of affordable housing, such as "low cost market" housing, may not be considered as affordable housing for planning purposes".
- 4.2 "Social rented housing is owned by local authorities and private Registered Providers for which guideline target rents are determined through the national rent regime".
- 4.3 "Affordable rented housing is let by local authorities or private Registered Providers of social housing to households who are eligible for social rented housing. Affordable rent is subject to rent controls that require that a rent of no more than 80% of the local market rent is charged".
- 4.4 "Intermediate housing is homes for sale and rent at a cost above social rent but below market levels. These can include shared equity, other low cost homes for sale and intermediate rent but not affordable rented housing".
- 4.5 Affordable housing should be delivered in line with paragraph 50 of the NPPF as well as in line with policies 3.8 - 3.13 of the London Plan (July 2011); the Council's Core Policy BP2 "Affordable Housing" (December 2009); Policy DM25 "Maximising Affordable Housing Provision" of the Site Development Policies DPD (March 2012); and the Council's supplementary planning document "Affordable Housing" (September 2006).

4.6 Core Policy BP2 states that the Council will seek to meet an overall borough-wide target that 50% of all new housing from all new sources is affordable, of which 70% should be for social rent/affordable rent and 30% intermediate. The Council will seek affordable housing on all proposed housing developments, including conversions, capable of achieving 10 units or more. Site Development policy DM25 “Maximising Affordable Housing Provision” states that planning permission will be granted for residential or mixed use development on the basis that the development incorporates the maximum reasonable amount of affordable housing on site, having regard to the Borough-wide target, and the split between social rented and intermediate provision for all sites capable of achieving 10 units or more. In considering proposals, the Council will have regard to: individual site costs; economic viability; the availability of public subsidy; and any other scheme requirements. The reasoned Justification to Core Policy BP2 “Affordable Housing” states that the general conclusions from DTZ’s “Affordable Housing Viability Study” (2008) are that a starting point on negotiations for individual sites should be for 40% affordable housing without grant subsidy and 50% with subsidy on sites of 10 or more.

Off-site Provision of Affordable Housing

4.7 DM25 states that the Council’s priority for affordable housing is that it is delivered on-site. However, in exceptional cases, the Council will accept the provision of affordable housing off-site, or a payment in lieu.

Off-site Provision

4.8 Details of where exceptional cases might be acceptable include:

- Sites where there is already a very high concentration of social housing in the area and to make provision elsewhere in the Borough would help to achieve a more balanced community; or
- Where the acceptable form of site development would not meet current affordable housing needs or would do so inefficiently.

4.9 If, therefore, on-site provision is not achievable, or it can be demonstrated that off-site provision would result in a higher level of affordable housing being delivered, the Council may require the developer to provide a site (a donor site) in the vicinity of the main site, subject to agreement with the Council. Priority will be given to off-site provision over the provision of a commuted sum.

4.10 The off-site provision of affordable housing should lead to financial neutrality i.e. the delivery of the affordable housing on the donor site should be no more or less financially advantageous to the developer than the provision of on-site affordable housing. The Council would expect that such an approach would lead to the provision of additional affordable housing. This could be either in terms of the number or type of affordable housing delivered (e.g. larger affordable units).

- 4.11 When assessing the suitability of an alternative donor site for affordable housing, the Council will examine how much affordable housing could have been delivered on the original development site; the uplift in the value of the development site given that there would be less or no affordable housing delivered on it; and how this additional value can be used on the donor site to provide the maximum reasonable level of housing, having regard to overall financial viability.

Commuted Sum

- 4.12 Where exceptional circumstances have been demonstrated by a developer and the Council has agreed that a cash in-lieu payment is acceptable, there can be no financial advantage to the developer in not delivering the affordable housing on-site.
- 4.13 Commuted sums received by the Council in lieu of on-site provision will be used for affordable housing purposes, with the use being informed by Council housing plans and policies.
- 4.14 The Council will use a similar approach for calculating commuted sums as that for calculating off-site provision viz. the level of contribution required will be based on achieving the maximum reasonable amount of affordable housing, having regard to the Council's affordable housing targets and requirements and overall development viability. The Council will expect a viability appraisal to be carried out to determine the additional residual land value that would be generated by the extra market housing that would be permitted on site, and how this extra value might assist the Council in the delivery of affordable housing.

Undertaking Viability Appraisals

- 4.15 In line with the Justification to Policy DM25 "Maximising Affordable Housing Provision" of the Site Development Policies DPD, the Council recognises that it may not be financially viable to provide 40% affordable housing on all individual sites. The Council will therefore take into account the economic viability of a scheme and the most effective use of public subsidy (where it is a scheme involving the provision of 100% affordable housing), as well as any particular costs associated with the development of the site. In such cases, the Council will request that the developer provides a financial appraisal of the scheme so that a fair contribution can be agreed.
- 4.16 The standard model for carrying out such residential appraisals is the "Three Dragons' Model", which has been developed and updated by the GLA. There are also other forms of appraisal, which the Council is willing to accept. The Council considers that these other models provide more accurate viability appraisals for multi-phased developments than the "Three Dragons' Model". Applicants will pay for viability assessments and any cost of independent assessment when required. All viability assessments will be independently assessed.

Determining the Value of affordable housing units for modelling purposes

- 4.17 The Council expects that the applicant will speak to its Housing Department regarding the levels of Registered Provider contribution to be assumed for the financial modelling purposes (this will include Affordable Rent levels; grant levels; any Council contribution that may be available; and assumptions in relation to Affordable Rent re-let income).
- 4.18 The Council's Housing Department may speak to its Registered Providers in order to determine realistic affordable housing values for specific sites. This work could be undertaken together with the applicant. It is expected that the applicant works with a Registered Provider from the Council's preferred list.

Review of Viability Appraisals

- 4.19 The Council considers that the evaluation of viability appraisals is complex, given the number of variables that have to be entered into the calculation. The current financial toolkits are also limited and are often unable to deal with every important aspect of affordable housing delivery- e.g. appraisals are often unable to deal with how future growth/assumed internal rates of return are calculated (and on which offers for affordable housing are made under the new grant funding regime). It is therefore often difficult for the Council to ascertain if the maximum reasonable amount of affordable housing is being offered by a developer.
- 4.20 Considering this, the Council may seek a review of the affordable housing element of a development scheme if it considers that the scheme fails to meet the Council's affordable housing policy requirements. The Council considers that for schemes with long build-out times and/or at times of economic uncertainty, it will support "cascade agreements" and "contingent obligations". "Cascade agreements" are used to address uncertainties over/changes to the funding of affordable housing, while "contingent obligations" deal with economic uncertainties that may arise over the lifetime of a development proposal. The Council considers that the use of such review mechanisms for affordable housing will assist with the fair implementation of planning policy and, in addition, offer flexibility to developers, while at the same time seeking to maximise the provision of affordable housing in these conditions. For "cascade agreements", there should be a pre-agreed range of affordable housing to be delivered and, if additional grant is made available, more affordable housing should be delivered. Likewise, the preferred level of affordable housing should be allowed to be reduced should the required level of public investment not become available. A similar system should be applied where "contingent obligations" are in use. These should be used to maximise affordable housing output by inserting provisions for the re-appraisal of the viability of schemes or phases prior to implementation in whole or in part. The Council will only seek such reviews for developments of 20 units and above.

4.21 There are two circumstances where the Council will require a new viability appraisal to be undertaken when the original application does not provide a policy-compliant scheme in terms of the level and tenure mix of affordable housing:

- Where there is a delay in starting on-site and an application for renewal of permission is submitted.
- Where a large scheme is built out in phases on submission of reserved matters applications three years or more after the original consent.

Delay in starting on-site

4.22 The Council will require a new viability appraisal in circumstances where there is a delay in the starting on-site.

4.23 The Council will appoint an independent assessor paid for by the applicant to assess the viability of the scheme to determine whether the site would generate a greater or lesser quantum of affordable housing and/or more policy compliant affordable housing than the original permission. The applicant will pay all fees for independent valuations.

4.24 Where the viability assessment concludes that the original offer of affordable housing remains the maximum reasonable level and type of affordable housing that can be achieved, the quantum of affordable housing (and affordable housing tenure mix) to be delivered will remain as determined by the original permission, unless the Council agrees otherwise.

4.25 Where the viability assessment concludes that the scheme can sustain a different quantum of affordable housing and/or more policy compliant affordable housing, depending on the details of the application and the nature of the scheme, the Council will expect to negotiate one or more of the following options:

- The proportion of affordable housing to be provided on-site.
- The tenure mix for the affordable housing element (where the scheme design permits).
- The affordability requirements for shared ownership units, where proposed.
- The provision of units off-site or the payment of a commuted sum.
- The level of the commuted sum in lieu of any additional on-site provision with any commuted sum being ring-fenced for affordable housing purposes.

4.26 If the off-site contribution is to be provided through purchase by the applicant of a donor site, which is preferable to a commuted sum, then the approach set out above in paragraphs 4.9 -4.12 will be followed. If an off-site contribution is taken as a commuted sum, this will be calculated using the approach set out in paragraphs 4.13 – 4.15 above.

Phased Development where a reserved matters application is submitted over three years after the original consent

4.27 The circumstances where phased development is proposed are likely to be varied and therefore determining rigid requirements would not be appropriate. However, it is the Council's expectation that a new viability appraisal will be undertaken if the reserved matters of an associated outline application were to be submitted after the 3 year consent period, as agreed by the Council within the S106 agreement.

4.28 It is recognised that the general approach to such reviews must be relatively simple to provide certainty and recognise developer risk. The Council will appoint an independent assessor paid for by the applicant to assess the economic viability of the scheme to determine whether the site would generate a different quantum of affordable housing and/or more policy compliant affordable housing than the original permission. Where the economics of a scheme have demonstrably worsened, the Council will enter into negotiations on this by looking at tenure changes and then possible other changes to the scheme.

4.29 The main elements of the approach in terms of the new appraisal are as follows:

- When the planning application is consented, a baseline cost will be agreed with the developer.
- When the reserved matters application is submitted, an independent valuation will be commissioned to determine the costs it would be reasonable to assume for that phase of development.
- If the difference between the baseline figure and the revised figure demonstrates scope for an increased provision of affordable housing, the Council will take an increased amount of affordable housing.
- Taking appropriate independent financial advice, the Council will consider capping the total share of any uplift that it takes from a developer for a phased development.

4.30 The applicant will pay all fees for independent valuations.

In relation to use of the Council deferred obligation, the Council would expect to negotiate one or more of the following options:

- An amendment of the tenure mix for the affordable housing element (where the scheme design permits);
- An amendment of the affordability requirements for shared ownership units, where proposed;
- A preference for off-site provision over a commuted sum;
- The level of the commuted sum in lieu of any additional on-site provision with any commuted sum being ring-fenced for affordable housing purposes.

- 4.31 No review will be required by the Council where a scheme provides, either affordable housing on-site or through a combination of on-site provision and/or commuted sums for off-site provision, a policy compliant scheme in terms of both:
- The minimum proportion of affordable homes which should be viable on individual sites as set out in Site Development Policy DM25;
 - The affordable housing tenure mix as set out in Site Development Policy DM25.

5. Employment

Introduction

- 5.1 Development increases opportunities for local employment, especially for those people in Sutton facing problems accessing the local labour market. The maximisation of local labour also reduces the need to travel, which can help with the promotion of sustainable development.

National Policy

- 5.2 Paragraph 19 of the National Planning Policy Framework (27 March 2012) states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. To help achieve economic growth, local authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

Regional Policy

- 5.3 Policy 2.1 of the London Plan (July 2011) states that the Mayor will ensure that London retains and extends its global role as a sustainable centre for business, innovation, and creativity. Policy 2.2 states that the Mayor will, and boroughs should, work to realise the potential of outer London, recognising and building upon its great diversity and varied strengths by providing locally sensitive approaches through LDFs and other development frameworks to enhance and promote its distinct and existing and emerging strategic and local economic opportunities.

Local Policy

- 5.4 The Council's Core Strategy (adopted December 2009) includes a number of strategic employment objectives under the heading "Encouraging Enterprise and Employment". The Core Strategy states that under this theme, it will create a prosperous suburban Borough, with strong and diverse economic growth within which development, transport, enterprise, skills and training are co-ordinated to improve access to local employment, particularly within deprived areas and enhance Sutton's potential as an attractive area for businesses to locate.

Employment Initiatives for New Developments – Local Training and Local Suppliers

- 5.5 For all new development in the borough, the construction phase provides opportunities for local employment, apprenticeships and work experience placements. Commercial developments within the Borough also bring new employment, apprenticeship and work experience opportunities for residents during the end-user phase. This adds increased pressure on the Council to provide access for residents to appropriate employment and skills training. Apprenticeships and work experience placements will enable residents to develop an appropriate skill-set for existing and future employment opportunities within the borough, from an early age.
- 5.6 The Council will seek to ensure that jobs are provided for local people, both in the construction phase of development and by the end-users, where appropriate. To enable local people to benefit from development growth, the Council, with partners, has introduced a number of programmes for employer-led training; construction skills training; apprenticeships and work experience placements.
- 5.7 In order to maximise employment opportunities for local people who need work, the Council will seek to secure planning obligations relating to employment and skills training. These obligations will be utilised for the recruitment and development of skills and career paths of local people. This reduces travel to work distance, increases local household income, skill levels and career opportunities and helps community cohesion.
- 5.8 Planning obligations relating to employment and skills training will be sought for all major residential development and all major commercial development.
- 5.9 The Council will also seek to secure that a minimum of a certain percentage of the total value of contracts that procure goods and services during the construction phase of a development will be achieved using firms located within the Borough. This will be subject to requirements of the Competition Act 1998 and any other applicable legislation, codes of practice or statutory guidance.

6. Community Energy Fund

Background

- 6.1 The Council recognises that in certain cases there may be local circumstances which limit the ability of proposed developments to achieve the required targets for reducing CO₂ emissions through on or near-site measures. Such circumstances may include smaller developments with a) no realistic potential for connecting to existing or future Decentralised Energy networks supplied by low or zero carbon sources of energy or b) smaller developments that are significantly affected by site restrictions or other planning constraints (e.g. flood risk or within a Conservation Area) that limit the type and quantity of renewable energy technologies that may be installed. For example, a development shadowed by a neighbouring site, or with no south facing roof space, would be unable to install solar panels.
- 6.2 In other cases, additional capital costs to the developer arising from the installation of renewable technologies or infrastructure on-site to meet the required levels of carbon reduction, might be demonstrated to have an adverse effect on scheme viability, taking into account the overall costs of bringing the site to the market and planning obligations likely to be negotiated through Section 106 agreements, principally for affordable housing.

Planning Policy Requirements

- 6.3 Although emissions should be minimised as far as possible through on-site measures, Part (d) of Policy DM6 of the Site Development Policies DPD (March 2012) allows for any shortfall in emissions reductions to be offset by negotiating developer contributions through Section 106 agreements to fund CO₂ reduction measures offsite. Sums payable to the proposed Community Energy Fund should reflect the cost of reducing emissions off-site by the same amount as the emissions from the proposed development. They would only be payable where it can be demonstrated that achieving the required targets on-site would not be technically feasible or viable.
- 6.4 Policy DM6 Part (d) states:
“Where compelling reasons can be demonstrated that achieving the relevant carbon dioxide reduction targets on or near site would not be technically feasible or economically viable, the Council will negotiate Section 106 agreements with developers to fund the delivery of carbon reduction measures off-site through the ‘Community Energy Fund’ in accordance with further guidance to be provided in the Council’s Planning Obligations SPD”.

- 6.5 Further support for the principle of negotiating developer contributions for the purpose of funding carbon reduction measures offsite is provided by Policy 5.2 of the London Plan (Part e) (July 2011):

"The carbon dioxide reduction targets should be met onsite. Where it is clearly demonstrated that the specific targets cannot be fully achieved onsite, any shortfall may be provided offsite or through a cash in lieu contribution to the relevant borough to be ring-fenced to secure delivery of carbon dioxide savings elsewhere".

- 6.6 In requiring 'zero carbon' standards for all proposed developments within Hackbridge and for all new dwellings across the Borough from 2016, the Council will apply the Government's revised definition of zero carbon announced by Ministerial Statement in May 2011. Under this definition, the zero carbon target now covers only those emissions that are within the scope of Part L of the 2010 Building Regulations, including those arising from heating, ventilation, hot water, fixed lighting and building services (i.e. a 100% reduction on the Target Emission Rate).
- 6.7 In line with the recommendations of the Zero Carbon Hub² to the Government on 'carbon compliance', the Council will apply a minimum level of CO₂ reduction of at least 40% (compared to the Building Regulations 2010) to be achieved on or near site through a combination of energy efficiency, efficient supply (e.g. connection to a district heating network supplied by low or zero carbon) and renewable technologies. Any remaining CO₂ reductions necessary to meet the relevant targets set by Policy DM6 can be met offsite through developer contributions into the Council's Community Energy Fund (or through unilateral obligations) to support the delivery of carbon reduction measures elsewhere (these are known as 'allowable solutions').

Carbon Pricing

- 6.8 Over recent months, the Council has engaged with the GLA's "Carbon Offset Working Group" and partner Boroughs with a view to developing a common approach across London which ties the valuation of CO₂ directly to the costs of delivering local priority carbon reduction projects. However, the final decision on the price of carbon still rests with an individual Borough. As part of this work, the Council has carried out a wide-ranging review of carbon pricing/ offsetting mechanisms which have already been introduced elsewhere (e.g. Lambeth, Waltham Forest and Islington). The GLA is expected to put forward a recommended London-wide approach in the forthcoming Supplementary Planning Guidance (SPG) on 'Sustainable Design and Construction' expected in early January 2014.

² see 'Allowable Solutions Evaluating Opportunities and Priorities' (Zero Carbon Hub, September 2012) at http://www.zerocarbonhub.org/resourcefiles/Allowable_Solutions_Oct_2012.pdf

6.9 The level at which the CO₂ price is set (£/kg) must also take account of impacts on a scheme's viability; having regard to the overall costs of bringing sites to the market; and stricter limits on the use of Section 106 contributions introduced through the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).

6.10 In developing an appropriate carbon pricing mechanism for Sutton, the Council has used BioRegional's on-line 'Energy Retrofit Tool for Buildings'³ to generate an estimate of the average cost of each of the following retrofit strategies (in £ per kg CO₂) for all dwelling types across the Borough⁴:

- Light retrofit strategy: Cheaper energy efficiency measures with high carbon savings per pound spent⁵;
- Medium retrofit strategy: A combination of light and full retrofit measures excluding solar PV and solar thermal; and
- Full retrofit strategy: All possible energy efficiency measures plus solar PV (electricity) and solar thermal (hot water).

6.11 Table 7.1 below sets out the measures making up each of the above strategies:

Table 6.1: Retrofit Strategies modelled for the purpose of calculating the carbon price

Measure	Light Retrofit Strategy	Medium Retrofit Strategy	Full Retrofit Strategy
Light Retrofit Measures			
Lagging for hot water cylinder	•	•	•
Loft insulation (270mm)	•	•	•
Heating controls	•	•	•
Lagging for hot water pipework on external walls or floors	•	•	•
Draught-proofing: loft hatch, windows, air bricks and doors.	•	•	•
Thermostatic radiator valves	•	•	•
Boiler exchange (G to A rated)	•	•	•
Energy saving light bulbs (would not qualify for Green Deal)	•	•	•
A++ rated fridge/freezer (would not qualify for Green Deal)	•	•	•
Full Retrofit Measures			
Heat exchange ventilation		•	•
Double glazing		•	•
Solid wall insulation (average cost of internal and external)		•	•
Draughtproofing floors		•	•
Upgrade front and rear doors		•	•
Underfloor insulation for suspended timber/ concrete floors		•	•
Solar photovoltaics for electricity (2.1kWp, 12m ² area)			•

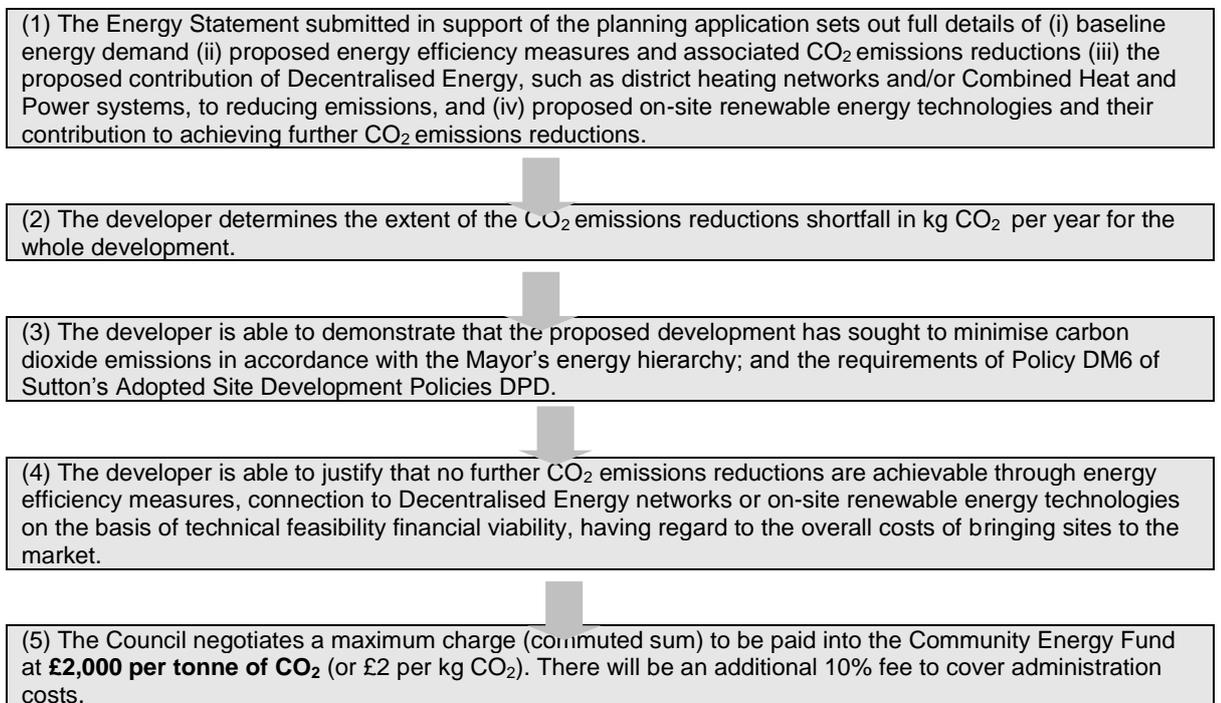
³ the Tool can be accessed at <http://www.bioregional.com/news-views/publications/energy-retrofit-tool-for-buildings/>

⁴ using input data for Sutton's existing housing stock based on the 2001 Census

⁵ most of these measures would pay for themselves over 25 years in accordance with the Green deal 'golden rule';

- 6.12 The results of the analysis give rise to the following range of carbon prices for consideration as the basis for calculating developer payments to the Community Energy Fund:
- Carbon Pricing Option 1: Light retrofit strategy: £2 per kg CO₂;
 - Carbon Pricing Option 2: Medium retrofit strategy: £4 per kg CO₂; or
 - Carbon Pricing Option 3: Full retrofit strategy £9 per kg CO₂.
- 6.13 For the purposes of this document, the Council considers that setting a provisional carbon price of £2 per kg CO₂ (£2,000 per tonne) in line with Option 1 (Light retrofit strategy) has the most realistic prospect of the 3 options examined of avoiding undue impacts on scheme viability⁶.
- 6.14 However, it is important to avoid setting the level so low that developers are dissuaded from achieving the required carbon savings on site. This can be addressed by identifying the Government's proposed Allowable Solution Carbon Price⁷ of £1,380 per tonne (based on £46 per tonne CO₂ per annum for 30 years) as a minimum charge which would apply in certain cases where the full tariff is demonstrated to be incompatible with scheme viability.
- 6.15 Procedures for negotiating developer contributions to the Council's Community Energy Fund are set out in Table 7.2 below. Contributions will only be sought from major developments, as defined in paragraph 3.13 above.

Table 6.2 The Negotiation of developer contributions towards Sutton's Community Energy Fund



⁶ in this context, it should be noted that the Arup report for Waltham Forest recommends a price of £1.80 per kg CO₂ (£1,800/tonne), and this has been endorsed by the GLA as realistic figure which is likely to drive on-site performance without undue impacts on viability

⁷ as suggested in Government's May 2011 'Zero Carbon Homes Impact Assessment' see <https://www.gov.uk/government/publications/zero-carbon-homes-impact-assessment>

How much is likely to be charged per dwelling?

- 6.16 In seeking to introduce the proposed carbon pricing mechanism as part of this document, it is important to estimate the expected level of financial contribution per dwelling in cases where there is a shortfall between the emissions reductions achieved on-site and the policy requirement of achieving a 40% reduction compared to the Building Regulations 2010. This is necessary in order to assess the likely impact on the overall viability of housing delivery arising from charging at £2 per kgCO₂ within the context of competing Section 106 priorities and CIL.
- 6.17 Assuming that on-site emissions reductions achieved by proposed dwellings are unlikely to fall significantly further than 15% short of the 40% reduction target, it can be seen from the worked examples in Table 7.3 below that the charges levied per dwelling would be unlikely to exceed £576 for the average house and £270 for the average flat.

Table 6.3 WORKED EXAMPLES SHOWING HOW THE CHARGE IS CALCULATED FOR BOTH AN AVERAGE HOUSE AND AN AVERAGE FLAT FALLING 15%, 10% and 5% SHORT OF THE 40% REDUCTION TARGET SET BY POLICY DM6 SITE DEVELOPMENT POLICIES DPD FOR 2014-16

	Average House (3-bed)	Average Flat (1 and 2 bed)	Notes
Step 1: Baseline Emissions (kg CO ₂ per m ²)	20 kgCO ₂ per m ²	17 kgCO ₂ per m ²	<i>For a dwelling meeting Part L of 2010 Building Regs</i>
Step 2: Average Floorspace (m ²)	96 m ²	53 m ²	<i>Based on dwelling survey undertaken on behalf of CABE</i>
Step 3: Total Baseline Emissions (kg CO ₂ per dwelling)	(20 x 96) = 1,920 kgCO ₂	(17 x 53) = 901 kgCO ₂	<i>For a dwelling meeting Part L of 2010 Building Regs</i>
Step 4: Emissions to be offset (kg CO ₂ per dwelling)			
<u>Scenario 1:</u> 15% short of 40% policy target	(1,920 kg CO ₂ x 0.15) = 288 kgCO ₂	(901 kg CO ₂ x 0.15) = 135 kgCO ₂	<i>Achieving a 25% reduction below Part L 2010</i>
<u>Scenario 2:</u> 10% short of 40% policy target	(1,920 kg CO ₂ x 0.10) = 192 kgCO ₂	(901 kg CO ₂ x 0.10) = 90 kgCO ₂	<i>Achieving a 30% reduction below Part L 2010</i>
<u>Scenario 3:</u> 5% short of 40% policy target	(1,920 kg CO ₂ x 0.05) = 96 kgCO ₂	(901 kg CO ₂ x 0.05) = 45kgCO ₂	<i>Achieving a 35% reduction below Part L 2010</i>
Step 5: Financial Contribution (£)			
<u>Scenario 1:</u> 15% short of 40% policy target	(288 kgCO ₂ x £2 per kg) = £576	(135 kgCO ₂ x £2 per kg) = £270	House £576 (max.) Flat £270 (max.)
<u>Scenario 2:</u> 10% short of 40% policy target	(192 kgCO ₂ x £2 per kg) = £384	(90 kgCO ₂ x £2 per kg) = £180	House £384 Flat £180
<u>Scenario 3:</u> 5% short of 40% policy target	(96 kgCO ₂ x £2 per kg) = £192	(45 kgCO ₂ x £2 per kg) = £90	House £192 Flat £90

Operation of the 'Community Energy Fund'

- 6.18 The Community Energy Fund will be used to set up, administer and implement a Council programme to install a range of suitable energy efficiency measures and building integrated renewables in domestic properties and other buildings within the Borough. Ward data would be used to identify priority areas, but individual audits would be needed to identify the works needed in each home and whether any other sources of funding could be used to pay for the measures (e.g. Green Deal or Energy Company Obligation).
- 6.19 A number of examples of 'light retrofit' measures that might be relevant for the expenditure of funds from the Community Energy Fund:
- Lagging for hot water cylinder;
 - Loft insulation (270mm);
 - Heating controls;
 - Lagging for hot water pipe work on external walls or floors;
 - Draught-proofing: loft hatch, windows, air bricks and doors;
 - Thermostatic radiator valves;
 - Boiler exchange (G to A rated);
 - Energy saving light bulbs (would not qualify for Green Deal); and
 - A++ rated fridge/freezer (would not qualify for Green Deal)

7. Private Residential Amenity Space

- 7.1 The Council considers that where family housing is proposed, it is important for applicants to take the needs of children into account and that there is good provision of recreation areas, including private gardens, play areas and informal play space. Under Site Development Policy DM29 "Housing Standards", planning permission will not be granted for new residential accommodation, including conversions, unless a minimum amount of private amenity space is provided, in line with the standards set out in paragraph 2.14 of the Council's Urban Design Guide supplementary planning document ("Creating Locally Distinctive Places" January 2008). This SPD recommends at paragraph 2.14 that dwellings of 3 or more bedrooms should be provided with 70m² of private amenity space, while 2 bed dwellings should have at least 40m² of private amenity space. Flats or 1-bed houses should be provided with 25m² of amenity space, which may include all areas of landscaping.

- 7.2 All sites will normally be required to provide the full amount of on-site amenity space, particularly family housing. In cases where a development is unable to provide the full amount of private amenity space provision on site, but where the Council considers that it is otherwise acceptable, a contribution will be sought towards the provision or enhancement of open space in the vicinity of the site (in general it would be expected that the open space enhancement or provision would be within the ward that the development falls within).
- 7.3 Where a residential development outside of an area of open space deficiency (as set out in Map 2.11 “Deficiency in Access to Local Parks” in the Appendix to the Site Development Policies DPD (March 2012)) fails to provide the recommended amount of on-site private amenity space, but is otherwise considered acceptable, a contribution towards the improvement or provision of public open space within the locality may be sought.
- 7.4 It will not be considered appropriate, however, for sites within areas of open space deficiency (ibid.) to provide less than the recommended levels of amenity space on site unless they are located within Sustainable Residential Quality areas (See maps 4.1- 4.8 in Appendix 4 of the Appendix to the Site Development Policies DPD), when a financial contribution may be sought.

Formula

- 7.5 The contribution sought for the off-site provision of open space will be based on the cost of providing the equivalent amount of open space off-site to compensate for a deficiency of provision of private residential amenity space on-site. The cost of provision of private amenity space is based on the cost of laying out open space and is sourced from the Sports England/Milton Keynes/English Partnerships joint pilot project (2004).

Table 8.1

Size of Unit	Amount of Provision	Cost per m ² (land and Vat excluded)	Total cost per unit
Studio / 1 bedroom	25 m ²	£10	£250
2 bedrooms	40m ²	£10	£400
3+ bedrooms	70m ²	£10	£700

- 7.6 Where a proportion of the required private amenity space is provided on site, the total financial contribution sought will be reduced in proportion, and will be negotiated on a case-by-case basis.

Worked Example

- 7.7 A three-bedroom unit is proposed, which would require 70 square metres of amenity space. If only 60 square metres can be provided, but the proposal is otherwise considered acceptable, the required contribution would be $(£700 \times (10/70)) = £100.00$.

Potential Benefits

- 7.8 The Council will ensure that Section 106 contributions are used to meet the open space needs of new residents and mitigate the additional pressure they put upon the Borough's framework of open space facilities.

8 Public Realm Improvements

- 8.1 Site Development Policies DM1 "Character and Design" and DM3 "Enhancing the Street scene and Public Realm" identify the importance of a high standard of design and quality in the public realm. The public realm is defined as being those parts of an area (whether publicly or privately owned) that are available without charge for everyone to use or see, including streets, squares and parks. The retention of an attractive public realm in Sutton is of benefit to residents, businesses and visitors. New development can add to the regular usage of areas within the public realm and the need for higher standards of quality of the public realm. In some cases improvements to the public realm will be necessary in order to integrate the development site into the surroundings. In light of this, planning obligations will be sought in relation to environmental improvements to the public realm, including landscaping, in order to ensure a high quality environment.
- 8.2 Where environmental improvements to the public realm are sought, they will normally be within the vicinity of the site. Environmental improvements may include:
- Landscape works including the provision and maintenance of public realm;
 - Street furniture and lighting;
 - Litter management and recycling;
 - Crime prevention and safety;
 - Accessibility measures;
 - Signage;
 - Facilities such as toilets;
 - Car parking improvements and management;
 - Associated highways works;
 - Paving of footways and streetscape;
 - Biodiversity improvements.

8.3 Developments will be expected to make provision for necessary environmental improvements as an integral part of the development. Where off-site works are necessary in order to make the development acceptable, planning obligations will be sought, commensurate with the scale, nature and potential impacts of the proposed development, towards the provision of environmental improvement schemes in order to achieve a high quality public realm in the Borough. Reference should be made to relevant Planning Briefs or Area Action Plans (e.g. the “draft Design Guidance for Sutton Town Centre”, which focuses on giving public realm guidance to the area around Sutton Station) in relation to any identified needs for environmental improvements.

Qualifying Developments

8.4 The following developments will be liable for contributions towards environmental improvements to the public realm:

- For A3/A4/A5/D2 developments over 100 square metres gross floor area.
- For other non-residential schemes/extensions/changes of use that are over 200 square metres gross floor area.
- Residential development over 10 units.
- For large developments (e.g. over 1,000m² gross floor area) it is preferable for developers to make direct improvements to the public realm (subject to agreement as to the specific nature of the works), to a standard satisfactory to the Council, in lieu of making a contribution.
- Industrial developments greater than 200 m² gross floor area, in Strategic Industrial Areas and Established Industrial locations (Preferred Industrial Areas)
- If a development proposal falls outside or below these thresholds it will still be a requirement that necessary works are undertaken in order to mitigate directly the impact of a development. This will be negotiated on a case-by-case basis.

The formula for environmental improvement contributions

8.5 The level of contribution has been set on the basis of typical costs of recent Council environmental improvement projects. The level is proposed on the basis that the contribution will provide a proportion of the realistic costs of providing environmental improvements within the Borough which will become necessary as a result of additional development. An assessment will be made in each case as to whether the level of contribution is sufficient and it may be necessary to require developers to contribute a greater proportion of necessary funds.

8.6 The costs are set out as follows:

Residential

- £500 per dwelling

Non-residential

- Sites within town centres £15 per square metre gross floor area
- Other sites (excluding sites within Established Industrial Areas) £5 per sq metre gross floor area;
- For A3/A4/A5 uses, an additional £1 per sq metre
- Established Industrial Areas: £15 per sq m gross floor area

Potential Benefits

8.7 Funds will be used for a locally identified need.

8.8 Environmental improvements at a local level will be identified in each case. The Council wishes to ensure that high quality, co-ordinated paving, lighting and street furniture is installed. Street scene improvements may also be appropriately financed from Section 106 monies where there is a direct link with the development. For example, a reflective spray can be applied to pavements outside takeaway shops in order to reduce the build-up of grime and the Council may seek to utilise funds sought from such developments for the implementation of this type of initiative.

9 Transport

Introduction

9.1 In common with the rest of outer London, overall traffic levels in the London Borough of Sutton remain high, leading to increased congestion and a range of associated problems such as increased air pollution, noise impacts and visual intrusion, and delays to deliveries and staff. These environmental, social, and economic impacts are having increasingly severe impacts on the quality of life for Borough residents. New developments can generate additional trips to and from the site depending on site uses, which can add pressure to roads, pedestrian and cycle routes, and public transport facilities, and will lead to additional problems if measures are not taken to address the impact of new developments. The Council will therefore seek to ensure that the transport impacts of new developments are mitigated or compensated for.

Policy Background

- 9.2 The National Planning Policy Framework (NPPF) (March 2012) seeks to ensure that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. Paragraphs 29-41 of the NPPF deal with the promotion of sustainable transport. The overall aim of transport policy is to facilitate sustainable development but also to contribute to wider sustainability and health objectives.
- 9.3 The London Plan (adopted July 2011) states at Policy 6.1 that the Mayor will work with all relevant partners to encourage patterns of development that reduce the need to travel, especially by car; seek to improve the capacity and accessibility of public transport, walking and cycling; support development that generates high levels of trips at locations with high public transport accessibility levels; and improves interchange between different forms of transport, particularly around major rail stations.
- 9.4 At the local level, the Core Strategy (adopted December 2009) states that the Council will adopt an area-based approach to transport improvements, focussing on sustainable locations and key destinations. The Council will implement comprehensive transport measures, aimed at improving sustainable transport options and integration in and around each of the Borough's town centres and strategic industrial areas. These measures will include improvements for pedestrians and cyclists; improvements to bus boarding and waiting facilities; and measures to reduce the volume and speed of traffic.
- 9.5 The Sutton Local Implementation Plan covers the period 2011/12-2013/2014 and beyond to 2031 and contains transport proposals that address locally important issues and contribute to the Mayor's transport goals, challenges and outcomes. The Plan sets out the Council's transport spending plans for the three financial years to 2013/14, sets local transport objectives and targets to meet these. The Plan also sets out the Council's wider and longer-term vision and proposals for improving transport in the borough, as well as a longer list of unfunded schemes for which funding will be sought from other sources including planning obligations from developers.
- 9.6 There are four types of transport planning obligation that may be sought:
- General;
 - Transport Works;
 - Travel Plans; and
 - Car clubs

General

- 9.7 The Council will normally use CIL funding and other mainstream funding programmes to provide for transport infrastructure that is required as a result of incremental growth.
- 9.8 The Council will use legal agreements where a development is required to make specific contributions towards improvements, amendments or additions to public transport services that have not been identified or are not expected to be met by CIL.
- 9.9 The Council will also seek to secure alterations or improvements to the local highway network that are necessary to promote a safe, efficient or sustainable relationship between development and the public highways through planning and/or highway legal agreements.
- 9.10 Development may be required to contribute to improvements in the quality of the public realm, especially larger developments, those in town centres and those in areas of moderate or low public transport accessibility, in order to promote access and use by sustainable transport modes.
- 9.11 Where the Council considers that development would result in adverse traffic impacts on the wider highway network, measures will be secured to reduce, minimise or eliminate those impacts.

Transport Works

- 9.12 Transport works are an integral and essential part of a development scheme, without which planning permission would not be granted.
- 9.13 New developments will be expected to provide for the necessary on- and off-site transport infrastructure including vehicular access, parking, roads, footways, cycleways, lighting, and links to the existing road networks. As well as on-site requirements, new development proposals may create a need for off-site works within the vicinity of the development, for example to ensure the safe flow of traffic and pedestrian and cyclist safety or to facilitate safe access to the development.
- 9.14 Planning obligations will be sought to secure the provision of on and off-site works required in connection with residential and non-residential development of any size, where works are required to make a scheme acceptable.

9.15 Works may include, but not be limited to, the following:

- Highways improvements;
- Footway provision, improvements, resurfacing and kerb alignments;
- Cycleway provision and parking;
- Parking provision;
- Junction improvements;
- Parking restrictions in the vicinity;
- Air quality monitoring;
- Traffic management and traffic calming;
- 'Home Zones' and 'Safer Routes to Schools' initiatives;
- Signage;
- Lighting;
- Road safety;
- Major highways infrastructure (e.g. Beddington Lane);
- Public Transport improvements necessary as part of development (please also see below section on Strategic Transport Improvements).

9.16 The developer must also meet any administrative or public consultation costs involved in the provision of necessary on- or off-site works. Note that section 278 of the Highways Act may apply and is a separate consideration.

Travel Plans

9.17 Travel Plans will set out, as far as is practicable, how the proposed development intends to mitigate its adverse transport impacts and promote sustainable travel, and may include measures relating to encouraging sustainable transport behaviour and infrastructure provision. Travel Plans will include resources for supporting and maintaining the travel plan. Travel plans may include provision for financial penalties to fund the promotion or provision of sustainable transport until travel plan objectives are met. Travel plans submitted in conjunction with a planning application can be made binding through the use of a planning obligation.

Car Clubs

9.18 Car clubs involve car club members having immediate access to a range of car club vehicles kept either on or near the development site. The Council has identified planning obligations as the primary funding source for Car Clubs in the Borough.

9.19 Where the Council considers it appropriate that a car club should be set up arising from new development, it will require the developer to enter into a section 106 Agreement with the Council to provide for either:

- (i) the establishment and operation of a new car club within or adjacent to the development site; or
- (ii) to extend and assist in the operation of an existing car club site(s) within walking distance of the development site.

- 9.20 Any agreement will normally require the developer to procure the services of a reputable and established independent commercial car club operator to operate a car club scheme. Further information is available in the Council's supplementary planning document on Car Clubs (November 2007).

Network Impacts

- 9.21 There will be occasions where transport demand created by development may not be satisfactorily mitigated by the measures in a travel plan or site specific highways improvements. While the Council will endeavour to improve the wider transport network through CIL and other mainstream funding, there will be occasions where a particular site requires public transport services, or highway or traffic management mitigation to the wider network, that has not been identified for investment. This may include increased highway capacity within the network and/or traffic management measures, including the potential introduction or extension of parking controls, or new provision of bus services, subject to consultation.
- 9.22 It is essential that travel plan, infrastructure and traffic management measures are provided in a timescale commensurate with the proposed phasing of the development and the Council will seek to approve trigger points through the appropriate legal agreements.

Standards for contributions towards mitigation measures

- 9.23 The expectation is for infrastructure to be phased and delivered as part of the development proposal. Contributions towards mitigating measures required in relation to the developments will be determined on the basis of the cost of works required. In exceptional circumstances, where this can be justified through a viability assessment, the Council will consider a reduction in S106 contributions towards such measures on the basis of the level of funding contributed through CIL or funding that can be secured through other means.

10. Town Centre Management

- 10.1 Town Centre Management helps to sustain the competitiveness of town centres by marketing the centre, improving accessibility, and making the centre clean, safe and attractive. Where additional development takes place in the town centre, there will be a corresponding increase in pressure on existing town centre management and marketing initiatives, and in light of this, and the benefits which will accrue to new or expanded businesses from good town centre management, it is considered appropriate for developments to contribute towards a proportion of the cost of town centre management.

- 10.2 The ‘Successful Sutton’ ‘Business Improvement District’ (BID) went live on 1st October 2012, following a successful ballot in July 2012. The Group is tasked with the promotion of Sutton town centre, ensuring a thriving future for Sutton and its businesses. By pooling resources, businesses have the ability to make a significant and lasting change to the area, making it a more pleasant, welcoming and attractive place for people to shop and work. This in turn leads to higher footfall, a more contented workforce and ultimately greater profits for all businesses involved.
- 10.3 Within Sutton Town Centre, town centre management is undertaken by the Town Centre Management Group within the Opportunity Sutton team. This comprises a partnership with local business, the police and transport providers, and promotes the town centre. The role of the Sutton Town Centre Manager is to:
- maintain a safe environment in the Town Centre in which to shop, visit, work and live;
 - actively promote the future development of the Town Centre through effective marketing measures and events; and
 - maintain and increase long term funding and membership of Town Centre initiatives.
- 10.4 Within the Borough’s district centres, town centre management was previously undertaken in relation to Wallington, Worcester Park and Cheam. However, the Council’s “Opportunity Sutton” team is involved with a new project for “Strengthening Sutton’s town and district centres”. This project will focus on how the Council can support Sutton’s district and town centres to withstand the pressures currently facing the nation’s high streets. Each district centre will be supported in developing its own Viability Plan and accompanying Action Plan including a number of support measures that may include: the formation of traders’ associations/networks; Business Improvement Districts; business incubators; pop-up shops; and a programme of tailored events. Each Viability Plan will draw on the individual economic strengths of each district centre and the best way to attract investment.

Qualifying Developments

- 10.5 Contributions will be sought from the following developments within Sutton town centre and the district centres:
- Non-residential schemes/extensions over 200 sqm gross floor area (new development; extensions and changes of use);
 - A3/A4/A5/D2 uses over 100 sqm. gross floor area (new development, extensions and changes of use).
 - Developments of over 1000 sq m gross floor area will be assessed on a case-by-case basis because such developments are likely to have a greater impact.

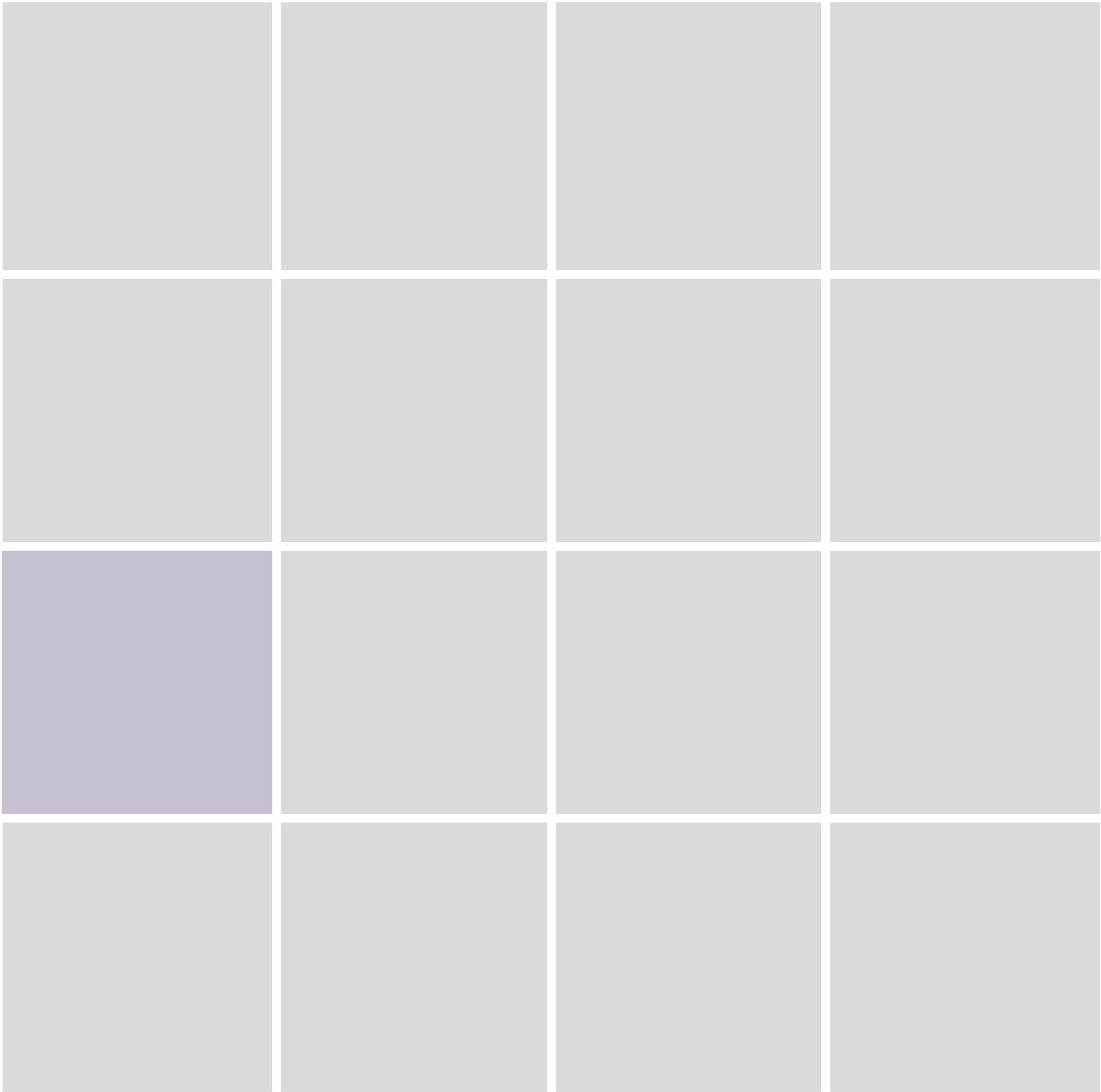
- 10.6 The contribution towards town centre marketing and management will be calculated as follows:
- £10 per sqm up to a maximum of 1000 sq m gross floor area

Potential Benefits

- 10.7 Contributions will be pooled (town centre management cannot be considered as infrastructure, so the “five Section 106 limit” does not apply). The monies will be used in the preparation of Town Centre Management Strategies involving:
- management and marketing initiatives; and the
 - promotion of town centres;

APPENDIX 1 – DRAFT PRIORITY LIST OF CIL PROJECTS UP TO 2016 (APPROVED AT STRATEGY & RESOURCES COMMITTEE, 13 MAY 2013) –PLEASE NOTE THIS LIST IS ACCURATE AS OF 1 APRIL 2014, HOWEVER IT MAY BE ALTERED OCCASIONALLY TO REFLECT REVISED COUNCIL INFRASTRUCTURE PRIORITIES

Area	Specific Project (if applicable)	Funding Gap	Comment
Education	School place expansion and maintenance/improvement works	£9.0m	Funding arrangements and funding levels for Secondary School expansions are currently uncertain
Health	Health provision in Sutton town centre	£5.0m	-
Sustainability	New district heating system in Hackbridge	£4.5m	-
Sustainability -Flooding	Flood alleviation schemes across the borough	Not known at present	
Transport	Rosehill Integrated Transport Package	£100,000	
Transport	Local Parking Mitigation (£240,000 to be divided between the six local committees)	£0.24m	-
Open Space	Borough-wide Play and Activity Provision (£619,000) & Infrastructure Costs (£4,697,000)	£5.3m	This estimate is based on the Priority level of "High" from the Parks department.
Open Space	Borough-wide improvements to allotments	Approximately £0.7m	This estimate is based on a complete list of allotment improvements in the Borough provided by the Parks department.
Wandle Valley Regional Park	Range of measures to improve recreational grounds	£0.78m	
TOTAL		£25.62m	



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