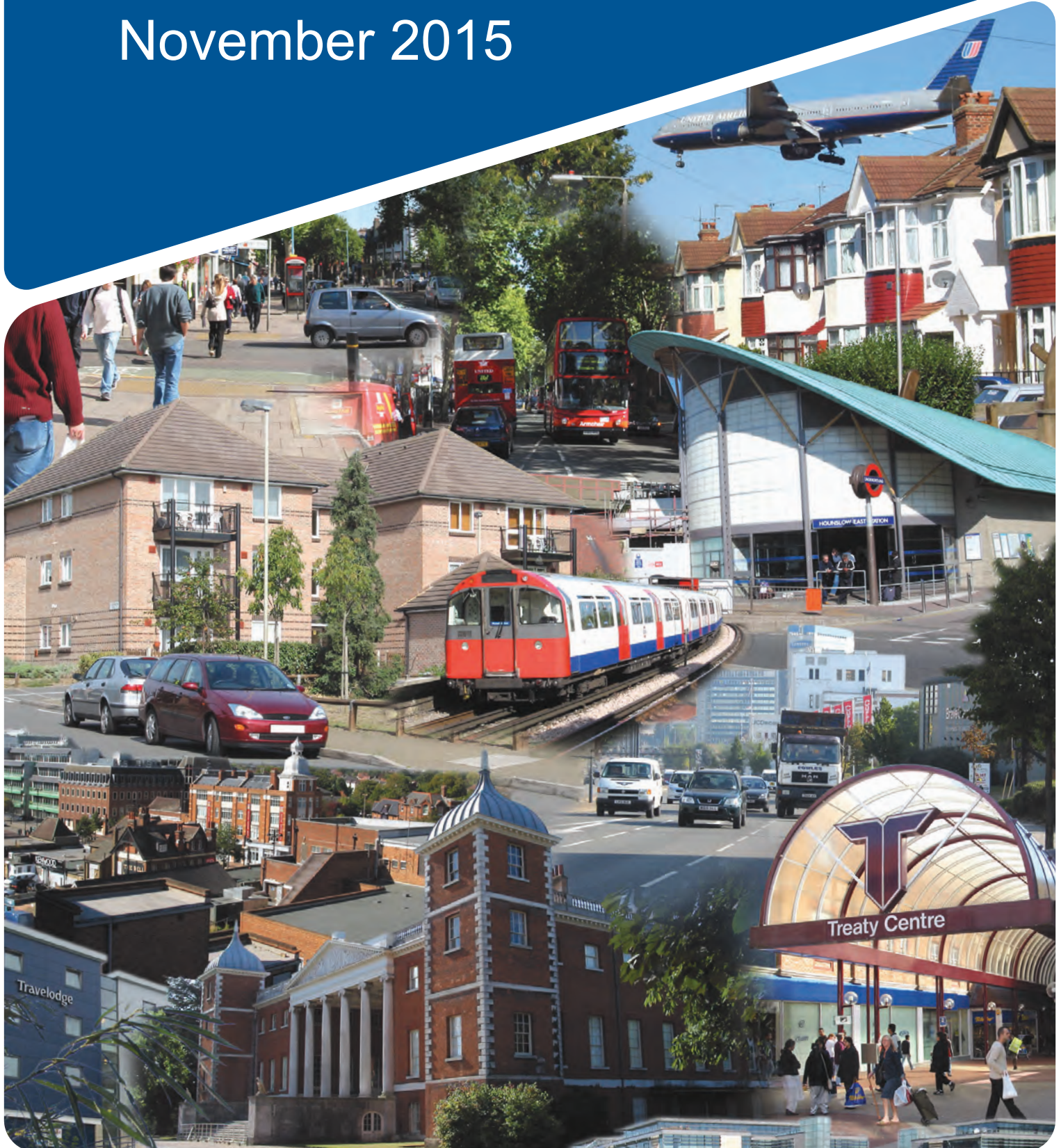




London Borough
of Hounslow

Planning Obligations and CIL SPD

November 2015



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1. Introduction

The role of this SPD

- 1.1 This supplementary planning document (SPD) has been prepared to provide detailed guidance on how planning obligations or Section 106 (S106) agreements and the Community Infrastructure Levy (CIL) will work alongside each other in order to secure the necessary infrastructure contributions required to support growth in Hounslow. It replaces the Planning Obligations SPD 2008 and revises the council's approach to planning obligations, as well as providing guidance on the operation of a Hounslow CIL charging schedule.
- 1.2 New development should contribute to the provision of infrastructure or refurbishment of existing provision to support the additional pressure such growth exerts on both local and strategic infrastructure. This has been previously through financial and non-financial obligations secured under Section 106 of the Town and Country Planning Act 1990. The introduction of CIL has changed the framework for developer contributions by introducing a completely new mechanism for charging development and creating new regulations which change when and how the planning authority can seek planning obligations.
- 1.3 The borough's development plan, including Hounslow Local Plan and the London Plan, require that S106 contributions and CIL will be used to fund infrastructure delivery. These sources of funding will help to deliver the infrastructure needed to support the growth planned for over the next fifteen years.
- 1.4 CIL does not replace S106 agreements, but the introduction of CIL and the subsequent CIL Regulations 2010 have resulted in a tightening up of the S106 tests and a limit to the use of planning obligations. S106 agreements should now be focused on addressing the site specific mitigation required by a new development and cannot be pooled in the same way as before to fund infrastructure. CIL has been developed to address the broader impacts of development and to be used on a strategic basis. The requirement for a charging authority to set out a Regulation 123 list ensures that there will be no circumstances where a developer is paying CIL and S106 for the same infrastructure in relation to the same development. The Regulation 123 list for the Hounslow CIL is to be published on the council's website and lists all items that can be funded in part or in total by CIL. The broad principles behind this list are set out in table 4.3.
- 1.5 This SPD provides the basis for this framework of planning obligations and CIL by setting out the following:
 - The type of planning obligations that may be sought and justification of why these may be required within the new legislative framework;
 - The types of developments that would be subject to planning obligations and CIL contributions, in terms of scale, nature of uses proposed and their location;

- How planning obligations and CIL will be used to fund different infrastructure items to ensure that no development pays twice for the same infrastructure;
- General principles relating to the consideration of such matters as monitoring fees, on-going maintenance, legal costs, pooling of contributions and the possible alternative of use of conditions attached to planning consents; and
- How planning obligations and CIL contributions will be used to support new development in Hounslow and how they will be collected, monitored and reported on.

Legislative and policy context – S106

- 1.6 The legislative framework for planning obligations is set out in Section 106 of the Town & Country Planning Act 1990, the CIL Regulations 2010 and the Growth and Infrastructure Act 2013. The CIL Regulations 2010 scale back the way planning obligations will work, requiring planning obligations to meet legal tests (see para. 2.2) and restricting the pooling of more than five planning obligations to fund a single piece of infrastructure from April 2015 onwards or once a local CIL charging schedule is adopted if earlier.
- 1.7 National policy on planning obligations is set out in the National Planning Policy Framework, which requires Local Planning Authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition and should take account of changes in market conditions over time and be flexible enough to prevent planned development being stalled (NPPF, para. 203 – 206).
- 1.8 The London Plan outlines the Mayor’s approach to dealing with issues of strategic importance across London. Policy 8.2 specifically deals with planning obligations, and sets out that boroughs should provide frameworks for negotiating planning obligations in DPDs. The policy also sets out that development proposals should address strategic as well as local priorities in planning obligations and that the areas of highest importance are affordable housing and the funding of Crossrail and other public transport improvements.
- 1.9 The Local Plan and saved policies in the UDP (to be superseded) both rely on planning obligations to support the delivery of the development plan. The Local Plan sets out in IMP2 that the council will support the delivery of infrastructure through the use of planning obligations and that development proposals should mitigate the impact of the development through a Section 106 agreement where necessary or appropriate. The UDP outlines the approach to S106 at saved policy IMP.6.

Legislative and policy context – CIL

- 1.10 The Planning Act 2008 first introduced the CIL mechanism and the subsequent CIL Regulations 2010 followed, subject to a series of amendments in the proceeding years. The Localism Act 2011 introduced new elements to CIL to support the localism agenda, including the ‘neighbourhood proportion’ which ring-fences a proportion of CIL to be

allocated through community consultation. The Localism Act also clarifies that CIL can be spent on the ongoing costs of providing infrastructure (maintenance, operational and promotional). One of the principles behind CIL is that all development has some impact on the need for infrastructure, services and amenities, and therefore it is only fair that it should share some part of the cost.

- 1.11 The NPPF encourages authorities to develop a CIL rate alongside the Local Plan to 'support and incentivise new development' (NPPF, para.175), while emphasising that there must be a focus on viability and deliverability. The National Planning Policy Guidance (NPPG) website now holds the guidance notes for CIL which was previously in a standalone format. Within the NPPG is practical guidance on the operation of CIL and this provides the official interpretation of the Regulations.
- 1.12 The Mayor of London has set a CIL charge, initially to provide funding towards the Crossrail project. This is additional to any other CIL set in London and must therefore be taken into account when setting a borough CIL. Funding through CIL will support the delivery of the London Plan. The London Plan also sets out the strategic approach to CIL across London at policy 8.3 and the intention to support local authorities in the operation of CIL.
- 1.13 Hounslow Local Plan sets out at policy IMP2 that infrastructure delivery will be supported through the use of CIL receipts from a Hounslow CIL and that developments should provide CIL payments in line with an adopted charging schedule for both the local and the Mayoral CIL.

Who is it for?

- 1.14 The SPD has been prepared for use by the council, developers, infrastructure delivery bodies, the general public and other relevant stakeholders as a guide to the council's position on planning obligations and CIL. It should assist with the planning application process by making developers and landowners aware of the procedures for securing planning obligations and CIL, including clarifying the types of planning obligations that may be sought depending on the nature of the development proposal and site circumstances.

How should it be used?

- 1.15 This SPD should be used as a guide to what will be expected from developer contributions both for planning obligations and CIL. The document should provide more clarity to all parties involved in the development process and certainty as to how CIL receipts and planning obligations received will be used together to deliver needed infrastructure.
- 1.16 It will be used by the council as a material consideration when assessing planning applications and will be reviewed and updated as and when necessary. Developers should draw on this document to assist in their costing and inclusion of S106 planning

obligations in their financial planning and to help reduce time required negotiating and agreeing obligations with the council. The SPD should be read together with the Hounslow CIL Charging Schedule, once adopted.

2. What are planning obligations?

- 2.1 Section 106 of the Town and Country Planning Act 1990 (as amended) enables planning obligations to be secured through a S106 agreement between a council and a landowner. This mechanism is designed to make a development proposal acceptable in planning terms that would not otherwise be acceptable. Planning obligations provide a means to ensure that a proposal for development contributes towards the creation of sustainable communities and should be used to mitigate the negative site specific impacts of a development.
- 2.2 The introduction of CIL has imposed limitations on planning obligations, which must now meet the tests set out in Regulation 122 and 123 of the CIL Regulations 2010 when constituting a reason for the granting of planning permission. The tests under Regulation 122(2) are that a planning obligation must be:
- i) Necessary to make the development acceptable in planning terms**
 - ii) Directly related to the development; and**
 - iii) Fairly and reasonably related in scale and kind to the development.**
- 2.3 Under the CIL Regulations, after the adoption of a Hounslow CIL Charging Schedule or, if earlier, after April 2015, it will no longer be possible to pool planning obligations from more than five developments for infrastructure purposes, even if the infrastructure concerned is not included in the Regulation 123 list.

Types of planning obligations

- 2.4 The council will consider each planning application on its merits against relevant and other material considerations and will negotiate and secure planning obligations on a case by case basis. This SPD focuses on policy requirements of the London Plan and Local Plan and the types of obligations likely to arise as a result of applying these. The nature of site specific impacts may vary widely depending on the site, its local context and the nature of development proposed; therefore it is not possible to list every type of development that might be subject to a planning obligation.
- 2.5 Planning obligations will be primarily used to secure the following items:
- Affordable housing provision;
 - Job brokerage for Hounslow residents;
 - Construction and end-user training for Hounslow residents;
 - Site specific highways, transport network and public realm improvements works;

- Travel Plans;
 - Car free agreements;
 - Car club spaces;
 - Considerate contractor schemes;
 - Sustainable Design: Carbon off-set projects and site specific commitments to connect to decentralised energy networks
 - Site specific mitigation measures such as: heritage, biodiversity, flood risk, air and noise quality, and community safety measures
- 2.6 Further detail of when and how these types of obligations will be secured is set out in section 6. It should be noted that this is not an exhaustive list but details the standard obligations and charges which will be frequently sought.

Negotiating planning obligations

- 2.7 Developers should start discussions on planning obligation requirements with the council as a soon as possible, ideally during the pre-application stage of the process. The ‘heads of terms’ of any planning agreement will need to be finalised before applications are reported to elected members, either through planning committee or a delegated report. Section 6 outlines the process for securing planning obligations through a S106 agreement. This SPD should be used to inform and guide discussions on planning obligations during the pre-application phase.
- 2.8 A planning obligation can be financial, in which case it will require a sum or sums to be paid to the authority on a specified date or on particular trigger points as appropriate, for example on completion of the development.
- 2.9 A planning obligation can be non-financial, in which case it might:
- Restrict the development or use of the land in any specified way;
 - Require specified operations or activities to be carried out in, on, under or over the land; or
 - Require the land to be used in any specified way.
- 2.10 Planning obligations sought on qualifying development may depend on the scale and type of development, for example whether it is a minor or major development. When a standard charge should be applied will be set out in section 6 of this SPD.
- 2.11 Greater London Authority (GLA) and Transport for London (TfL) also offers pre-application services for applications that are referred to the Mayor. Details can be found via the following links.

<https://www.london.gov.uk/priorities/planning/strategic-planning-applications/preplanning-application-meeting-service>

<https://www.tfl.gov.uk/info-for/urban-planning-and-construction/planning-applications/pre-application-advice>

Viability and Viability review mechanisms

- 2.12 If the developer considers that the level of planning obligations required would render a scheme financially unviable, sufficient information must be provided on an open book viability assessment basis to enable the viability of the scheme to be comprehensively assessed.
- 2.13 Where a developer has submitted sufficient evidence to show that the required planning obligations would render a scheme unviable, flexible arrangements relating to the timing and level of planning obligation contributions may be considered by the council if the scheme would otherwise not be able to proceed.
- 2.14 The council will require viability review mechanisms through Section 106 agreements where policy requirements are not met in full at the time permission is granted. Viability review mechanisms will be used to interrogate and verify for example the accuracy of the assumptions which have been made in the original report.
- 2.15 If the review mechanism shows that the development is capable of providing additional affordable housing or other requirements that would otherwise have been necessary, the developer will at that point be required to provide this.
- 2.16 The developer will also be required to meet the council's cost of evaluating any appraisals which will include the appointment of qualified independent assessors.

3. What is CIL?

- 3.1 The CIL was established to enable planning authorities to set a charge for new development in their area and use the funds collected to provide supporting infrastructure. The CIL Regulations require the local authority to prepare a Regulation 123 list that sets out a list of types of projects, which will be funded by CIL. Funding for items included on the Regulation 123 list cannot normally be sought through planning obligations. This is to avoid double charging of development for the same infrastructure.
- 3.2 CIL will be charged when planning permissions have commenced and the charge will be set based on the type, size and potentially location of the development. Unlike planning obligations, CIL is non-negotiable and is mandatory on all qualifying development. Certain types of development and institutions are exempt from paying CIL, as set out in part 6 of the Regulations. Claims for relief cannot be made after the development has commenced and are void if the development has commenced, and no claim for relief has been submitted. The following types of development can apply for relief from CIL:-
- Social housing schemes
 - Charitable institutions
 - Homes built or commissioned by individuals for their own use.
 - Community group self-build projects also qualify for the exemption where they meet the required criteria.

3.3 The CIL will apply to all 'chargeable development' and charges are index-linked. Chargeable development in CIL terms is defined as:

- All new buildings, but excluding buildings into which people do not usually or only occasionally go (e.g. only to inspect machinery or structures such as electricity pylons or substations).
- Development delivering 100 m² or more of additional gross internal floorspace or the creation of one additional dwelling even if the gross internal floorspace is less than 100 m².
- Floorspace which is not exempted through the CIL legislation (as outlined at 3.2) or the nil rating of a type of use through a relevant CIL charging schedule, i.e. the Mayoral or the Hounslow CIL.

3.4 Further information on the operation of CIL can be found in the NPPG.

Mayor's CIL

3.5 The Mayor of London has already set a CIL charge for the Greater London area, with charging commencing in April 2012. This Mayoral CIL must be collected by each London borough and transferred to Transport for London (TfL) to be used to part-fund the delivery of Crossrail Phase 1. The London Borough of Hounslow has been set a Mayoral CIL rate of £35 per m² for chargeable development and this rate has been taken into account when assessing a viable rate for its own CIL.

Hounslow CIL

3.6 The Hounslow CIL, once adopted, will form a locally set CIL for the whole borough, as per the detailed rates set out in the adopted charging schedule. The CIL rates set will be viable charges on development, as required through the CIL Regulations, and designed to close the funding gap to enable the delivery of infrastructure required to support growth in Hounslow.

CIL and Neighbourhood Planning

3.7 In April 2013 the CIL Regulations were amended to include the ability to apply a neighbourhood funding element of CIL. Where Parish or Town Councils exist, the requirement is that a proportion of CIL receipts are passed on to them. For London Boroughs, where there are no Parish or Town Councils, the requirement is that a proportion of CIL (a minimum of 15% of CIL that is collected in an area) is ring-fenced for community expenditure based upon engagement with local communities. The Government does not prescribe a specific process for agreeing how the neighbourhood portion should be spent but suggests that existing community and engagement processes should be used.

- 3.8 Details of the consultation process will be published on the council's website. These decisions are to be taken at a later date in the CIL process, as part of the overall governance procedure.

4. The relationship between planning obligations and CIL

- 4.1 S106 agreements and CIL will operate in parallel to help deliver the needed infrastructure to support the growth. As outlined previously the legislation restricts the same development from funding the same infrastructure through both mechanisms.
- 4.2 Planning obligations will be sought where a site specific impact of the development requires mitigation, such as a needed local access road or public realm improvements directly related to the site. They will also be used for items which are not considered to be infrastructure under CIL, such as employment and training commitments required to mitigate the impact of a development. Contrastingly CIL will be collected from all liable developments and used to deliver strategic infrastructure items. The council is required to publish a Regulation 123 list consisting of strategic infrastructure items required to support growth in the borough that will be wholly funded or part-funded by the Hounslow CIL. The list is based on infrastructure projects set out in the borough's Infrastructure Delivery Plan which are required to support development in the period 2015-2030.
- 4.3 Table 1 sets out the types of infrastructure that CIL payments and section 106 payments will be used to fund or which will be delivered in-kind

Table 1: What can CIL and S106 fund?

Local Plan objectives	Infrastructure	Delivery Mechanism (Financial and non-financial)	
		CIL	S106
Supporting our town centres	Public spaces (excluding site specific mitigations measures)	✓	
Promoting economic growth and inward investment	Employment & training		✓
Delivering sustainable mixed communities	Affordable housing		✓
Reinforcing local character and identity	Heritage assets (excluding heritage assets linked to the development)	✓	
	Heritage assets linked to the development		✓
	Community Safety and Crime prevention measures such as CCTV required for the development activity		✓
Delivering community infrastructure	Education facilities	✓	

Local Plan objectives	Infrastructure	Delivery Mechanism (Financial and non-financial)	
		CIL	S106
	Health facilities	✓	
	Leisure and cultural facilities	✓	
	Community halls	✓	
	Upgrade and maintenance of emergency service facilities	✓	
Ensuring environmental quality	Sustainable design: Carbon off-set projects and site specific commitments to connect to decentralised energy networks		✓
	Strategic Air Quality and Noise mitigation (excluding site specific mitigations measures)	✓	
	Site specific Air Quality and Noise mitigations measures		✓
	Site Specific Biodiversity measures/initiatives		✓
Enhancing connectivity	Transport and connectivity (excluding site specific highways, public realm and transport network matters needed to make a site acceptable in planning terms, as well as off-site work as identified in a transport assessment).	✓	
	Site Specific Highways, public realm and transport mitigation measures ¹		✓
	Travel Plans		✓
	Car free agreements		✓
	Car club spaces		✓
	Controlled parking zone (CPZ) consultations		✓
	Considerate contractor scheme		✓
			✓

¹ Some site specific highways mitigation will alternatively be secured through a s278 agreement under the Highways Act.

How will CIL relate to other developer obligations?

- 4.4 Developers may be asked to provide contributions for infrastructure in several ways, through CIL, planning conditions, planning obligations and/ or section 278 (S278) or highways agreements. The CIL Regulations require that S278 agreements cannot be required for works that are intended to be funded through the levy. Where S278 agreements are used, there is no restriction on the number of contributions that can be pooled.
- 4.5 The Hounslow CIL has been viability tested to establish that the rates set can be charged without putting at risk development within the borough as a whole. The council is required through the CIL Regulations to demonstrate that the impact of developer obligations does not threaten the viability of the sites and scale of development identified in the Local Plan. This includes the provision of affordable housing in line with targets set out in the Local Plan, as well as the continued reliance on planning obligations to deliver some of the infrastructure required by the development in the Plan. The cost of providing a proportion of affordable housing and a range of costs from other continuing S106 requirements, have been taken into account in the viability testing.

5. CIL and S106 process diagrams

- 5.1 The process diagrams in figures 1 and 2 set out how both planning obligations and CIL receipts are secured, collected, monitored, reported and used and shows how these individual processes will work in parallel through the planning system.
- 5.2 Planning obligations are generally agreed as part of the planning application process and then secured when planning permission for a site or scheme is granted. Unlike S106, CIL is non-negotiable once set. When an application is received, council officers will determine if the development is eligible to pay CIL in accordance with the CIL Regulations. The CIL liability will then be calculated and the applicant informed of the amount due. CIL collection arrangements are covered in part 8 of the CIL Regulations and further information on CIL collection, enforcement, forms and templates is also available on the planning portal website.

<http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/>

Figure 1: LBH Section 106 Process Flow Chart

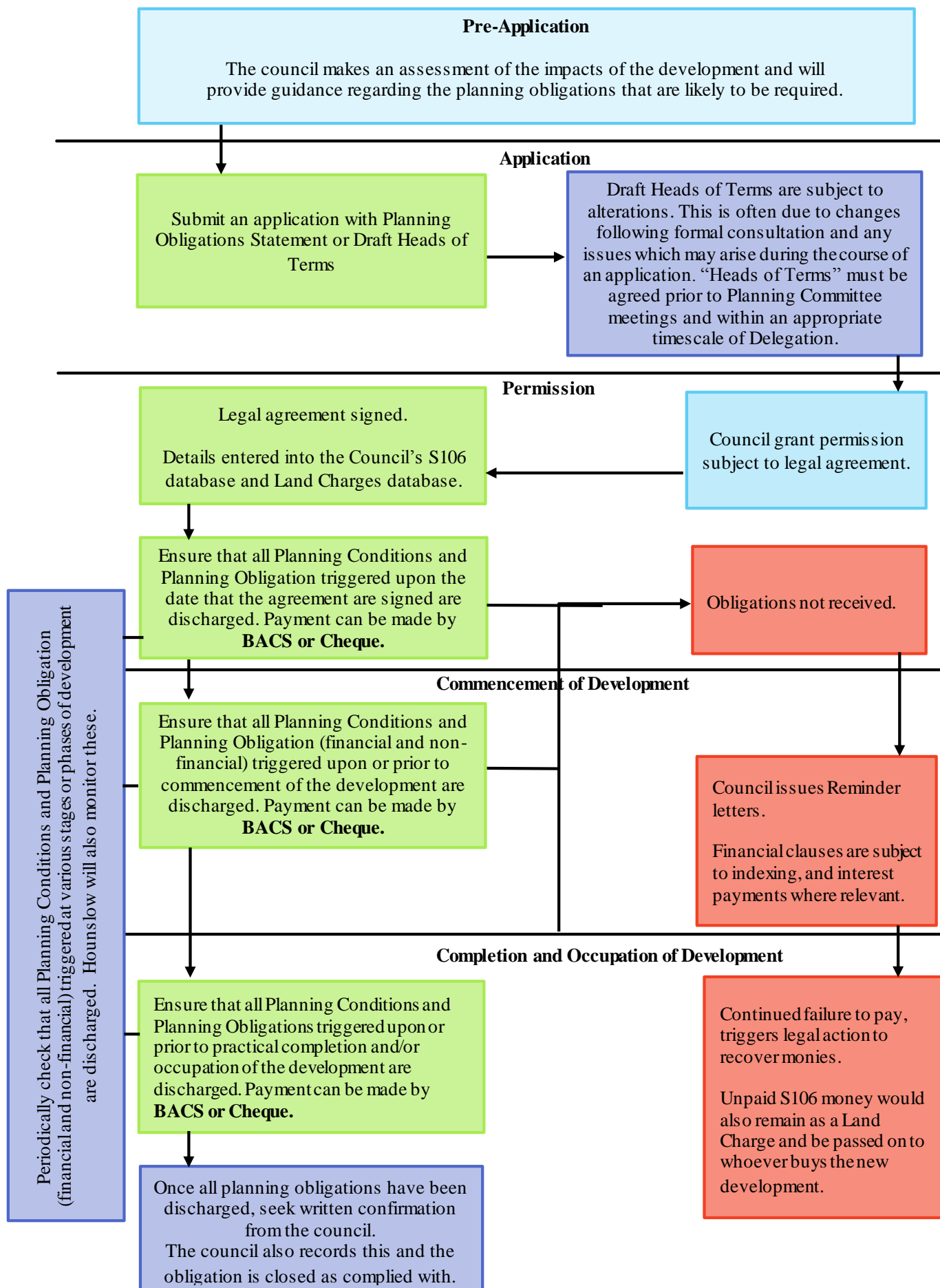
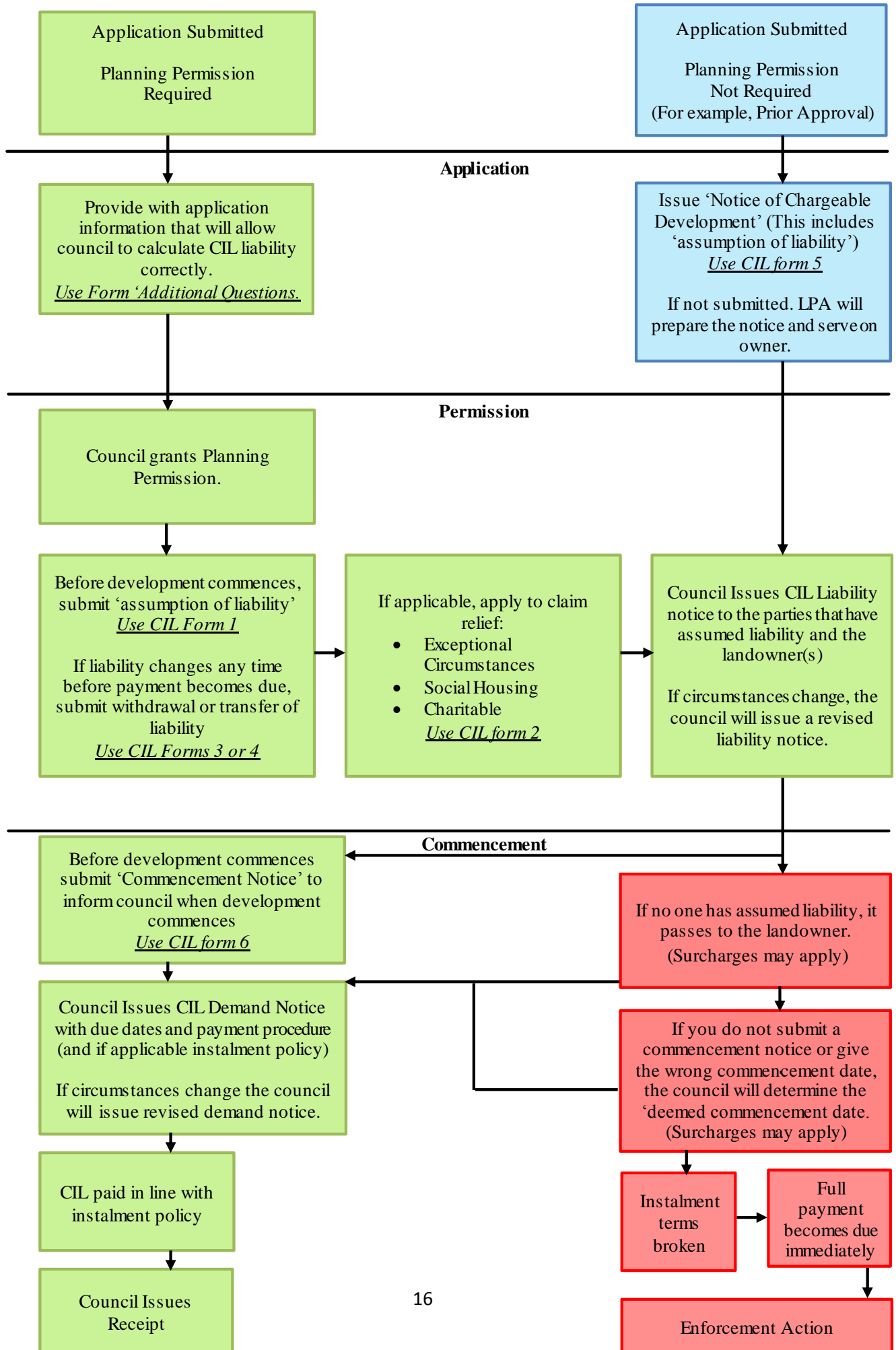


Figure 2: Hounslow CIL Process Flow Chart



6. Standard charges and obligations for S106

- 6.1 Where a development will require site specific mitigation which falls outside of those items on the CIL Regulation 123 list and is in compliance with the three requirements set out in CIL Regulation 122, a planning obligation will be required. This section sets out those charges and obligations which the council envisages being frequently required through S106 agreements when meeting the eligibility requirements which are set out.
- 6.2 While this is intended to provide clarity and transparency for the planning process, it does not form an exhaustive or complete list of planning obligations which might be required in every case. Some developments may require a very case specific form of mitigation to be acceptable in planning terms and mitigate all site specific impacts; and this will be down to the negotiation process which will operate on a case by case basis.
- 6.3 There may be cases where infrastructure provision necessary to make a development acceptable cannot be delivered on-site, in which case the council will expect off-site contributions, whether as alternative provision or a commuted sum.
- 6.4 Where a major infrastructure item, such as a school or a health centre, is best delivered on a particular site, the council will consider accepting these items through payment in-kind of CIL. In such instances the delivery of agreed infrastructure will be in lieu of a CIL payment and will be contingent on the council implementing an infrastructure in-kind policy, in line with the CIL Regulations. This occurrence is not envisaged through existing site allocations and is likely to arise only in exceptional circumstances, if at all.
- 6.5 The negotiation of S106 agreements will benefit from early engagement with the council and should form part of the pre-application discussions for major developments, as shown in figure 1.

Affordable Housing

Policy justification

- 6.6 To ensure that new residential developments in Hounslow contribute towards creating and maintaining sustainable and mixed communities, at least a proportion of the housing proposed should be affordable in the context of local housing need and offer the type of affordable housing which is required. The Local Plan Policy SC2 establishes the need to maximise the provision of affordable housing within Hounslow. The policy sets out that the Council will seek the maximum reasonable amount of affordable housing to be negotiated on a site by site basis on all sites with a capacity to provide ten or more homes (gross) with reference to the strategic borough-wide target of 40% of all new housing as affordable.
- 6.7 Affordable housing will be primarily secured through planning obligations from qualifying residential schemes. It should be noted that this guidance is not supplementary guidance on the delivery of affordable housing and will only provide the fundamental principles of how and when affordable housing is expected to be secured through S106 agreements in Hounslow.

POLICY AND SUPPLEMENTARY GUIDANCE – AFFORDABLE HOUSING

London Plan

- 3.8 Housing choice
- 3.9 Mixed and balanced communities
- 3.10 Definition of affordable housing
- 3.11 Affordable housing targets
- 3.12 Negotiating affordable housing on individual private residential and mixed use schemes
- 3.13 Affordable housing thresholds

Hounslow Local Plan

SC2: Maximising the provision of affordable housing.

Draft Affordable Housing SPD

Emerging supplementary guidance which will set out in greater detail the type of affordable housing provision needed, how it will be negotiated and what should be included in the legal agreement.

Online guidance

A process map will be provided on the council's website to guide developers, RSLs and interested parties through the process of delivering affordable housing in Hounslow. This will not be statutory guidance but will set out the council's preferred steps to successful delivery of affordable housing and an efficient negotiating process.

Process for S106 agreements

- 6.8 Any residential scheme of over ten units (gross) should deliver the Local Plan strategic target of 40% of the total number of units as on-site affordable housing. The following details must also be set out through the S106 agreement to ensure that the affordable

housing delivered is compliant with the policy requirements and acceptable under the terms of the planning application. This should be shown in a breakdown of numbers which demonstrate the development can:

- Meet the required mix of affordable housing tenures;
- Meet the required mix of housing sizes within the affordable housing units including family size housing; and
- Deliver all affordable units on-site, unless exceptional circumstances have been demonstrated in which off-site provision or a payment in lieu will be secured through the S106 agreement. Payments in lieu will be used to deliver affordable housing elsewhere in the borough.

- 6.9 An open book financial viability assessment will be required to support the terms of affordable housing as set out in the S106 agreement and to demonstrate compliance with the development plan. The Council will employ a review mechanism when financial viability assessments demonstrate that current market conditions will support less than 40% affordable housing. The cost of this process should be borne by the developer.
- 6.10 Further detail on the negotiation of affordable housing through S106 agreements is set out in section 2 of this SPD, through the Local Plan policy SC2 and further supplementary guidance.

Relationship with CIL

- 6.11 S106 agreements remain the most appropriate mechanism for securing affordable housing. Current CIL Regulations do not enable affordable housing to be allocated funding or to be delivered as infrastructure in-kind from CIL funding.
- 6.12 The borough-wide viability assessment of potential CIL charges in Hounslow takes into account the costs of delivering the target level of affordable housing before proposing a viable CIL charge. This means that development is assessed as being able to deliver both the target level of affordable housing and CIL.
- 6.13 The council's CIL, and S106 requirements have been subject to viability testing, the Examiner to Hounslow CIL Charging Schedule found that the proposed CIL charges account for a small proportion of development costs and would not affect the delivery of development across the area or materially impact affordable housing provision.
- 6.14 Mayoral and Borough CIL charges applied in viability appraisals should reflect any relief that will apply, such as social housing relief or charitable relief, and should be calculated in accordance with the CIL Regulations 2010 (as amended), for example, with existing floorspace discounted if relevant and the phasing of payments taken into account for phased developments. It is additionally important to ensure that the impact of the Mayoral and Borough CIL instalment policy are taken into account as this will determine the timing of payments.
- 6.15 In some cases a specific development may have a lower CIL liability than estimated by the borough-wide viability assessment, due to a greater amount of floorspace in a particular scheme not being liable to pay CIL than assumed. In these cases, particularly where the total CIL liability is zero, a higher affordable housing provision may be sought by the council to make sure that the maximum level of affordable housing is provided.

These cases will normally apply in change of use applications or where large amounts of floorspace are in existing use, as defined by Regulation 40.

Employment and training

Policy justification

- 6.16 New developments generate employment and training prospects at the construction phase and, where there is a commercial element, at the end-use phase as well. To mitigate any exacerbation of the skills and jobs mismatch in Hounslow, new developments should support local residents to access these employment and training opportunities and simultaneously promote sustainable commuting patterns. The council will therefore seek commitment to providing jobs and training to Hounslow residents.
- 6.17 Where new developments result in a loss of employment space, there should be mitigation of the loss of jobs by the provision of support for local residents in accessing new training and employment opportunities. The Local Plan policy ED2 sets out the requirement to maintain the borough's employment land supply and justify a loss of employment use through evidence that the employment use is not commercially viable. The council will seek mitigation measures in these instances through planning obligations to provide access to jobs and training for local residents.
- 6.18 Access to jobs and training in new developments should be provided to Hounslow residents through established apprenticeship, job brokerage, end-user and construction training schemes. This will support achievement of the policy objectives in ED5 of the Local Plan and help to ensure that Hounslow residents gain the skills needed and can apply for the jobs available to work in the employment sectors operating in Hounslow.

POLICY AND SUPPLEMENTARY GUIDANCE – EMPLOYMENT AND TRAINING

London Plan

4.12 Improving opportunities for all

Hounslow Local Plan

ED2 – Maintaining the borough's employment land supply

ED5 – Enhancing local skills

Hounslow Skills and Employment Strategy 2014

Process for S106 agreements

- 6.19 Financial and/or non-financial contributions to provide employment and training opportunities will be sought for all major residential and commercial developments. Monitoring targets and reporting arrangements will be set out in the S106 agreement, to ensure that the needed employment and skills benefits are delivered.
- 6.20 The following types of employment and skills opportunities which will be sought through S106 agreements:

- **Job brokerage** will be sought from new developments which generate employment either in the construction or end-user phase. This will require developers and end-occupiers to use best endeavors to place Hounslow residents in jobs during both the construction training and where relevant the end-use phase. Job brokerage obligations should be complied with early in the development process to enable residents to benefit from the job opportunities.
- **Construction training** will be sought from all new developments which will have a construction phase. This might include Hounslow residents being placed on an in-house construction training scheme offered by larger scale developers or alternatively being placed on a council-approved training scheme. Construction training obligations should be complied with by the point at which construction of the scheme has started to enable residents to benefit from training and job opportunities linked to this stage in the development.
- **End-user training** will be sought from all new development which includes an employment use. This will be used to provide pre-employment skills training, traineeships, apprenticeships and other opportunities for Hounslow residents to support them in accessing the jobs available from the employment element of the new development. End-user training obligations should be complied with in advance of the completion of the development, to enable residents to utilise the training available to benefit from the job opportunities in the completed scheme.
- **Mitigation of loss of employment space** will be sought through financial contributions towards training based on the number of jobs lost through the new development that will require training and support to find a new job in Hounslow.

In-house delivery

- 6.21 The council will seek for these obligations to be delivered in-house by the developer or occupier where possible. Where such construction and end-user obligations are agreed, developers and occupiers will be required to work with the council to develop a Construction Training Agreement (CTA) or Employment and Skills Plan (ESP), respectively.
- 6.22 Funding to deliver CTA or ESP outcomes will be the responsibility of the developer. The council will work closely with developers, contractors and end-use occupiers to develop the content and support the delivery of the plans. The council will assist developers, contractors and occupiers to deliver their obligations, including support to identify suitable training provision and to find local candidates for apprenticeships, job vacancies etc. A monitoring and delivery fee of £3,000 per TA or ESP will be required by the council to support developers, contractors and end-users to deliver on the targets, and to monitor the outputs. This fee will be secured through the S106 agreement.

Delivery through financial contribution

- 6.23 Where developers and end-users choose not to implement a CTA or ESP, a financial contribution will be sought to deliver a package of training and skills activity for local

residents, including job brokerage. This is not the council's preferred option as it is more beneficial for the development to provide the relevant training to enable access to its jobs. The contribution will be calculated as at 6.25.

6.24 The council will use the financial contributions received to fund employment and skills activity which may include but is not limited to job brokerage, sector-specific training, and pre-employment training related to the development. The fee for coordinating the delivery of this activity will be secured through the S106 agreement and will be calculated as 5% of the total contribution charged on top of the total contribution for training and job brokerage.

6.25 Financial contributions for the council to deliver employment and training outcomes will be calculated using the following approaches:

Contribution purpose	Calculation
Construction phase training and job brokerage.	£2,750 (A) for every £1m of construction costs.
End-user phase training and job brokerage.	$\begin{aligned} & \text{£2,750 (A)} \\ & \times \\ & \text{number of jobs created/ lost through the} \\ & \text{development (B)}_2 \\ & \times \\ & \text{\% of Hounslow residents employed in borough} \\ & \text{(C)} \end{aligned}$

Formula:

(A) – Average cost of job training/ support per person as benchmarked against figures for the same outcome as used by other London boroughs.

(B) – To be calculated using the most up to date Homes and Communities Agency (HCA) Employment Densities Guide for the employment uses in the development.

(C) – Census 2011 data shows that 30% of Hounslow residents in work are employed in the borough, but the most up to date official figures at the time should be used.

6.26 Where an existing employment use is currently on site it may be appropriate only to consider only the net additional floorspace. However, if the unit has been vacant for some time or demolished, all of the proposed floorspace should be considered as additional.

Relationship with CIL

6.27 S106 agreements remain the most appropriate mechanism for securing employment and training contributions. The Planning Act 2008 does not define employment and training as infrastructure and so it is not eligible to be allocated funding or to be delivered as infrastructure in-kind under the CIL Regulations.

² Gross internal floor area of development (m2) X average employee density for development type using HCA Employment Density Guide.

Transport and connectivity

Policy justification

- 6.28 Ensuring growth is supported by good transport connectivity is vital to creating a sustainable borough. New development must be connected into the existing networks and any negative impacts on the local or wider connectivity of the area mitigated. Planning obligations will be used to secure mitigation of site specific impacts and take advantage of any opportunities to enhance the wider transport networks where related to the site.

POLICY AND SUPPLEMENTARY GUIDANCE – TRANSPORT AND CONNECTIVITY

London Plan

- 6.1 Strategic approach
- 6.2 Providing public transport capacity and safeguarding land for transport
- 6.3 Assessing effects of development on transport capacity
- 6.7 Better streets and surface transport
- 6.11 Smoothing traffic flow and tackling congestions
- 6.12 Road network capacity
- 6.13 Parking

Hounslow Local Plan

- EC1 Strategic transport connections
- EC2 Developing a sustainable local transport network

Process for S106 agreements

- 6.29 Site specific obligations to enhance connectivity of development will be sought for all major developments; and in some cases for minor developments where a particular highways improvement or a travel plan is deemed to be necessary.
- 6.30 Developments which require site specific highways and associated public realm matters needed to make a site acceptable in planning terms should provide these mitigating measures through a S106 agreement. This might also include off-site works where the mitigation is still directly related to the development impact.
- 6.31 Transport assessments or statements are required at the application stage to outline the impact of a major development on the transport network and to recommend mitigation measure required. These assessments will be used to identify the types of obligations which should be provided through a S106 agreement. The trigger points at which these obligations become due should be phased according to when the mitigation measure will be required in the development process.
- 6.32 The following types of mitigation will be sought through S106 agreements:
- **Site specific mitigation of impacts on the highway, transport network and the public realm.** This might include the provision of improvements or additions to the highway, integration of the new development into the sustainable local transport network (for e.g. bus or cycle network) or improvements or work to the public realm where it is affected by a new development, including providing connections such

as footpaths and riverside walkways. Such contributions might take the form of a financial payment towards delivery of mitigation works, the safeguarding of land to provide the works in the future or an obligation to deliver the mitigation on-site. This would not normally cover contributions towards a major piece of public realm such as a town centre square, which does not usually provide site specific mitigation of a development.

- **Travel plans** will be sought on all qualifying development as per the latest guidance from Transport for London (TfL) and the council's '10 point guide' or any subsequently adopted guidance. This will include preparation, implementation and monitoring of the Travel Plan, plus a financial contribution paid to the council to **monitor** and support compliance with the Travel Plan.
- **Car free agreements** will be secured for qualifying residential developments in an established controlled parking zone (CPZ) and will prevent the future occupants from applying for an on-street car parking space.
- **Car club bays** may be sought in the vicinity of a new development to encourage a more sustainable mode of transport. Car clubs are a more sustainable method of car use, which allows members to use a car when necessary through access to all car club vehicles. This reduces private car ownership and reduces unnecessary use of cars.
- **Controlled parking zones (CPZ) consultation** funding may be sought to carry out the required procedure for designating and implementing a CPZ. Where a CPZ is designated the impact of the development is minimised by the restrictions to on-street parking in the CPZ.
- **Considerate contractor scheme** may be sought to regulate the manner in which construction works are carried out, particularly to minimise the impact on movement and limit disruption to others around the development.

6.33 Where the site specific impacts of a development are better mitigated by a Section 278 (S278) agreement or 'highways agreement', this will be used to secure the measures required. The benefit of a S278 agreement is that the payment is provided up front so that the council can undertake the work needed during the construction phase of the development, resulting in immediate mitigation and reducing the disruption caused by the construction of the development.

Relationship with CIL

6.34 Strategic transport and connectivity infrastructure items will be funded through CIL contributions where appropriate; however some transport and connectivity measures are needed for a site to be acceptable in planning terms or are directly related to the site. These items will continue to be sought through S106 agreements to ensure that they are delivered at the right time and scale to mitigate the impacts of the development.

6.35 The Mayoral CIL, as set in April 2012, is allocated towards the pan-London transport infrastructure project Crossrail, for which the borough is collecting authority of a £35/sq. m charge. This is charged in addition to a borough CIL. Future projects funded by the Mayoral CIL must also contribute to strategic transport infrastructure, although

specific projects will be determined by the Mayor at the point at which Crossrail has been delivered and fully funded.

Sustainable design

Policy justification

- 6.36 To ensure growth is sustainable and low to zero carbon, new developments are required to meet the relevant targets on-site where possible. This is set out in Local Plan policy EQ1 – Energy and carbon reduction. The same Local Plan policy also sets out that developments should be designed to enable future connection to a potential or existing local decentralised energy network, with a commitment to connect into this network once it is in place.
- 6.37 Policy EQ1 stipulates that all major developments should demonstrate in a detailed energy assessment how carbon dioxide emission reduction targets have been met in accordance with the current London Plan policy and the London Plan energy hierarchy.
- 6.38 Where it can be clearly demonstrated that the London Plan requirement for a reduction in CO₂ emissions cannot be met off-site, carbon mitigation measures may be considered. In these circumstances applicants can make provision for carbon abatement elsewhere in Hounslow or pay a cash-in-lieu contribution to Hounslow council's carbon offset scheme.
- 6.39 Off-site carbon mitigation is not the preferred option and a justification must be provided as to why it is an acceptable approach to meeting the carbon emission reduction target set out in the Development Plan.

POLICY AND SUPPLEMENTARY GUIDANCE – SUSTAINABLE DESIGN

London Plan

- 5.1 Climate change mitigation
- 5.2 Minimising carbon dioxide emissions
- 5.3 Sustainable design and construction
- 5.4 Retrofitting
- 5.5 Decentralised energy networks
- 5.6 Decentralised energy in development proposals
- 5.7 Renewal energy
- 5.8 Innovative energy technologies
- 5.10 Urban greening
- 5.11 Green roofs and development site environs

Hounslow Local Plan

- EQ1 Energy and carbon reduction
- EQ2 Sustainable design and construction

Sustainable Design and Construction SPG Hounslow Regeneration Strategy 2015-19
London Heat Map and London Heat Map Manual, GLA
<http://www.londonheatmap.org.uk/Content/home.aspx>

Process for S106 agreements

- 6.40 Off-site mitigation measures will be sought for all major developments that do not meet the London Plan requirements for carbon reduction on-site. The level of contribution required will be calculated on the basis of carbon reduction projects set out in an Energy Statement submitted as part of the planning application. Developments may submit a further revised assessment demonstrating levels of carbon reduction and revised offsetting contributions upon completion. Financial contributions for Hounslow's carbon offsetting scheme will be required on completion of development and prior to occupation
- 6.41 The price of carbon will be set according to London Plan policy guidance or any subsequent locally set price for carbon in Hounslow, which is based on an adequate evidence base. The carbon offset fund will be used to reduce carbon emissions across the London Borough of Hounslow. This will be achieved by allocating funds predominately to existing low carbon schemes for the domestic sector, civic buildings and schools. The carbon off-set fund might contribute towards the following types of projects:
- Retrofit of social housing
 - Retrofit of schools and civic buildings
 - Implementation of a decentralised energy network
 - Investment in renewable energy projects
 - Low-carbon lighting projects.
- 6.42 All major developments will also be required to provide infrastructure on-site which will allow connection to a potential or existing decentralised energy network, as set out in the GLA's London Heat Network Manual or any subsequent guidance from the GLA. This should be secured through the scheme design as part of the planning permission, however where necessary this could be secured through a S106 agreement. The obligation to connect and use the decentralised energy network will be set out in a S106 agreement, to enable the requirement to be complied with at a stage in the future.
- 6.43 Where a decentralised energy network exists or is planned in the vicinity of the development, a financial contribution may be required to enable the connection to take place.

Relationship with CIL

- 6.44 The mitigation of carbon emissions in off-site projects through a carbon offset fund is not determined to be infrastructure, as it is defined in the Planning Act 2008. Accordingly a S106 agreement is determined to be the most appropriate mechanism for securing this financial contribution. The requirement to off-set carbon emissions not mitigated on-site is related to the specific development and so cannot be effectively achieved through the CIL allocation process.
- 6.45 The site specific nature of connections to a future decentralised energy network makes a S106 agreement the most appropriate mechanism. Non-site specific infrastructure required to operate the wider decentralised energy network may be funded through CIL receipts

Other Planning Obligations

Policy justification

6.46 To ensure the following:

- That we identify, conserve and enhance the significance of the borough's heritage assets as a positive means of supporting an area's distinctive character and sense of history as stipulated in Local Plan policies CC4
- That we protect and enhance the borough's natural environment and seek to increase the quantity and quality of the borough's biodiversity as stipulated in policy GB7
- That developments are located appropriately and incorporate any necessary flood resistance and resilience measures as stipulated in policy EQ3
- That our planning policies prevent unacceptable risk from pollution and ensure that new development is appropriate for its location, sustain compliance with and contribute towards EU limit values or national objectives for pollutants, and our decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development, as stipulated in Local Plan policies EQ4 and EQ5

6.47 Planning obligations will be used to secure mitigation of site specific impacts and take advantage of any opportunities to enhance the context and character, green and blue infrastructure and environmental quality of the borough.

London Plan

5.12 Flood risk management

5.13 Sustainable drainage

7.4 Local Character

7.8 Heritage assets and archaeology

7.14 Improving air quality

7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes

7.19 Biodiversity and access to nature

Hounslow Local Plan

CC1 Context and Character

CC2 Urban Design and Architecture

CC4 Heritage

GB7 Biodiversity

EQ3 Flood risk and surface water management

EQ4 Air quality

EQ5 Noise

Hounslow Air Quality SPD

Mayor's Air Quality Strategy

Process for S106 agreements

6.48 The need for section 106 planning obligations may vary and will depend on site-specific needs and assessments. Where appropriate, a range of matters could be included as part of a Section 106 agreement, such as for example in relation to heritage assets, community safety, biodiversity, flood risk, and air and noise quality.

- 6.49 **Heritage assets:** In relation to heritage assets linked to the development, planning obligations could be included for example for the repair, restoration or maintenance of a heritage assets as well as increased public access and improved signage to and from a heritage asset.
- 6.50 **Community Safety:** Planning obligations may be required for certain types of developments such as night clubs, pubs and bars, sporting and social events and concerts to mitigate factors that are known to increase the risk of crime and disorder in the local surrounding area. Contributions to CCTV and other crime prevention measures required for the activity will be sought where necessary.
- 6.51 **Biodiversity:** Planning obligations may be used to require developers to carry out works to secure or reinstate existing habitat features, enhance existing features, create new features or to undertake habitat creation schemes. In those very exceptional cases where a developer cannot protect an ecological habitat adjacent to or within the boundaries of the site and in other respects the development is acceptable they will be required to provide an alternative compensatory measure of equal or greater value in the locality. These measures could be land off-site on which the council or other responsible agency can carry out works and recover the reasonable costs from the developer, or assistance in enlarging or enhancing existing nature conservation assets and habitats in the locality and make provision for maintenance of the site.
- 6.52 **Flood Risk:** Planning obligations may be required for site specific flood resistance and resilience measures such as SUDs. Where applicable, the council will require a commuted sum to contribute to the long term maintenance of these measures, this will ensure for example functional drainage of the SUDs scheme over the life time of the development.
- 6.53 **Air Quality and Noise:** Site specific monitoring and control of air quality and or noise emissions may be required on certain developments sites. Planning obligations may be used to ensure that other adverse impacts on health and quality of life arising from noise during construction, operational and post completion phases are reduced to a minimum using suitable mitigation measures. Compliance with the air quality EU limit values, should take into account the presence of Area Quality Management Areas (AQMA) and the cumulative impacts on air quality from individual sites in the areas. Long term and major construction projects should incorporate in their site construction management plan, provision for continuous monitoring/logging of noise and vibration level in order to fulfil their statutory obligations in regards to nearby sensitive receptors.
- 6.54 **Relationship with CIL**
Strategic infrastructure assets to address the broader/cumulative impacts of developments in the borough will be funded through CIL contributions and site specific measures needed for a development to be acceptable in planning terms will continue to be sought through planning obligations to ensure that they are delivered at the right time and scale to mitigate the impact of the development.

7. Monitoring and reporting

- 7.1 The council is committed to effective monitoring and management of developer contributions and will report on the outcomes of this process in line with legal requirements and also best practice arrangements.

Planning obligations

- 7.2 Planning obligations will be monitored to ensure that they are undertaken or paid at the agreed trigger points. If there is a failure to comply with the planning obligations, appropriate steps and actions will be taken to ensure compliance with the agreement. Planning obligations will be monitored through a database and reported on a regular basis to Cabinet. This will include a summary in the Authority Monitoring Report of information relating to the agreements entered into, financial obligations received, expenditure and completion of schemes funded from financial obligations.
- 7.3 The requirement on the council to monitor all aspects of S106 agreements carries a financial cost that constitutes an impact of new development. Therefore, the council will include a monitoring fee as a financial contribution for each S106 agreement. The council will require a contribution of £500³ per principal clause within the agreement. This monitoring fee excludes all legal costs associated with the preparation of S106 agreements.

Key details for planning obligation compliance

- Financial Contributions – these will be payable at specific stages in the development process: - either on commencement, completion, first occupation and on larger developments contributions can be phased according to different levels of occupation.
- Trigger dates for each financial and non-financial contribution will be included in the agreement, including the time periods in which each financial contribution is to be spent;
- Upon receipt, financial contributions will be held in an interest bearing account and allocated to a unique finance code.
- Maintenance payments are required for the physical upkeep of a facility; these are paid in perpetuity as agreed with the developer.
- Index Linking – both financial contributions and maintenance payments are indexed to the retail price index to allow for the effects of increased costs. Payments are index linked to from the date that the agreement was entered into until the time of payment

³This may be subject to annual review , please confirm current cost with the council.

Community Infrastructure Levy

- 7.4 Information on the operation of a CIL charge is required to be reported on annually as set out in CIL Regulation 64(4) and amended to include reporting requirements for the neighbourhood proportion. This will include:
- the total CIL receipts for the reported year;
 - the total CIL expenditure for the reported year;
 - summary details of CIL expenditure during the reported year; and
 - the amount of CIL applied to administrative expenses (expressed as a percentage of CIL collected in that year).
- 7.5 Implementation of CIL will be through an infrastructure delivery framework, reporting on the progress of infrastructure delivery in line with the monitoring indicators set out in the Local Plan.
- 7.6 The CIL Regulations allow the charging authority (in this case the council) to take a maximum of 5% of the total annual CIL receipts in order to fund the administrative expenses of operating the levy. These administrative costs can include the set up costs for CIL (including consultation, preparation of evidence and examination) and the ongoing costs to the council of operating and collecting a CIL.

Authority Monitoring Report

- 7.7 Reporting on planning obligations and CIL will be through the Authority Monitoring Report (AMR). The Authority Monitoring Report will be published online on at least an annual basis and in line with the CIL reporting deadlines set out in the CIL Regulations.

APPENDIX 1

Glossary

Affordable housing: Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices.

Car Clubs: These are schemes such as city car clubs and car pools, which facilitate vehicle sharing.

Charging Schedule: Sets out the levy rates for a charging authority area.

Community Infrastructure Levy (CIL): A levy that local authorities can choose to charge on new development in their area. The money can be used to fund infrastructure that the council, local community and neighbourhoods need.

Considerate Contractor Requirements Schedule: Regarding the manner in which construction works are carried out as approved by the council

Crossrail: An east–west, cross-central London rail link between Paddington and Whitechapel serving Heathrow Airport, Canary Wharf and Stratford. It will serve major development and regeneration corridors, and improve access to large areas of central and suburban London.

Decentralised energy: Local renewable energy and local low-carbon energy usually but not always on a relatively small scale encompassing a diverse range of technologies.

Energy Efficiency Measures: This is about making the best or most efficient use of energy in order to achieve a given output of goods or services, and of comfort and convenience. This does not necessitate the use of less energy, in which respect it differs from the concept of energy conservation

Green and Blue Infrastructure: The multifunctional, interdependent network of open and green spaces and green features (e.g. green roofs). It includes the Blue Ribbon Network but excludes the hard-surfaced public realm. This network lies within the urban environment and the urban fringe, connecting to the surrounding countryside. It provides multiple benefits for people and wildlife including: flood management; urban cooling; improving physical and mental health; green transport links (walking and cycling routes); ecological connectivity; and food growing

Heads of Terms: the categories (terms) to be sought in a S106 Agreement

Heritage Assets: A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).

Infrastructure: Term used to describe the facilities and services necessary for local people to live their everyday lives. Infrastructure can take many forms; it can be defined in physical, green and social terms, and can range from strategic provision, such as a new road or school, to the creation of a local play space.

Infrastructure Delivery Plan (IDP): A schedule listing the key pieces of infrastructure required by the Core Strategy over the lifetime of the plan.

Local Plan: The plan for the future development of the local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan

documents adopted under the Planning and Compulsory Purchase Act 2004.

Neighbourhood plans: A plan prepared by a Parish Council or Neighbourhood Forum for a particular neighbourhood area (made under the Planning and Compulsory Purchase Act 2004).

Planning obligation: A legally enforceable obligation entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.

Planning condition: A condition imposed on a grant of planning permission (in accordance with the Town and Country Planning Act 1990) or a condition included in a Local Development Order or Neighbourhood Development Order.

Registered Social Landlord: Registered Social Landlords (RSLs) are independent housing organisations registered with the Housing Corporation under the Housing Act 1996. They may be Industrial and Provident Societies, registered charities or companies.

Regulation 123 List: Under Regulation 123 of the CIL Regulations 2010 (as amended), a Charging Authority is required to provide a Regulation 123 list, which sets out the Charging Authority's spending plans including those projects or types of infrastructure that it intends to fund through the Levy. The regulation 123 list will limit the use of planning obligations where there have been five or more obligations in respect of a specific infrastructure or a type of infrastructure entered into on or after 6th April 2015.

Section 106 Agreements: Confer planning obligations on persons with an interest in land in order to achieve the implementation of relevant planning policies as authorised by Section 106 of the Town and Country Planning Act 1990.

Section 278 Agreement: A legal agreement completed between the developer and the Local Planning Authority, under section 278 of the Highways Act 1980, where a development requires works to be carried out on the existing adopted highway. These agreements provide a financial mechanism for ensuring delivery of mitigation works identified and determined as necessary for planning permission to be granted.

Supplementary planning documents: Documents which add further detail to the policies in the Local Plan. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

Travel Plans: A long-term management strategy for an organisation or site that seeks to deliver sustainable transport objectives through action and is articulated in a document that is regularly reviewed.

Viability Assessment: An assessment of the financial viability of a development, taking into account a range of different factors such as location, type of site, size of scheme and scale of contributions to infrastructure and facilities.

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