

Planning Obligations Supplementary Planning Document

Royal Borough of Kingston-upon-Thames
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Acronyms

NPPF: National Planning Policy Framework

SPD: Supplementary Planning Document

CIL: Community Infrastructure Levy

LPA: Local Planning Authority

TfL: Transport for London

SUD: Sustainable Urban Drainage

DE: Decentralised Energy

01 Introduction

- 1.1 This Planning Obligations Supplementary Planning Document (SPD) 2016 will replace the previous Planning Obligations SPD adopted by the Council in September 2011. The SPD provides detailed guidance on the use of Section 106 Planning Obligations alongside the Community Infrastructure Levy (CIL) to ensure that the development industry and others have a clear view on the relationship between, and likely combined level of, the Borough CIL and planning obligations. Obligations are sought to ensure that any proposed development is acceptable in planning terms and also makes a reasonable contribution towards meeting the infrastructure needs of the borough.
- 1.2 Previously, planning obligations alone were the Council's main means of securing funding for necessary infrastructure improvements arising from large new development. CIL, as introduced by the Planning Act 2008 and the CIL Regulations 2010 (as amended) has largely replaced financial contributions S106 planning obligations as the method by which contributions are made towards the infrastructure needs of the Borough. The Council will no longer require tariff based Section 106 contributions for the same project or type of infrastructure being funded by CIL.
- 1.3 Regulation 123(2) of the CIL Regulations 2010 (as amended) provides that:
- “A planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding of relevant infrastructure”.*
- 1.4 Relevant infrastructure refers to the infrastructure included on the Royal Borough of Kingston upon Thames Regulation 123 list of infrastructure projects and types that it intends will be, or may be, wholly or partly funded by CIL. The purpose of this is to prevent 'double dipping' whereby developers are required to pay twice for the same item of infrastructure both through CIL and S106 planning obligations.
- 1.5 This SPD describes the Council's approach to securing planning obligations and the differences between CIL and S106 agreements, together with the procedures that the Council will employ to secure planning obligations. S106 obligations will be restricted to site-specific matters, described in more detail below. The limits placed on the use of S106 planning obligations does not apply to affordable housing.
- 1.6 Planning obligations will be used where the identified impact of a proposed development cannot be dealt with by planning conditions and the infrastructure requirement relates specifically to that particular development and is not otherwise covered by CIL. Annex 1 of this document provides a tabulated representation of the relationship between CIL and S106.
- 1.7 The guidance set out in this document supplements the policy guidance set out in the London Plan and the Council's Core Strategy and in due course the emerging Local Plan.
- 1.8 The Kingston CIL was adopted on 1st of November 2015. Since then there have been a number of amendments to National Planning Policy that have impacted the collection of S106 contributions. This SPD is also set in the context of the Council's 'Destination Kingston' programme, which is a key element of its objective to transform the Borough for the better. At the core of the programme is Kingston Futures, a Borough wide investment programme that seeks to drive growth opportunities. The emerging Local Plan and supporting evidence base will also be relevant.
- 1.9 The Mayor of London also charges

CIL to contribute towards infrastructure improvements (currently Crossrail) and this is collected on the Mayor's behalf by the London Boroughs. The Borough is currently classified as "Zone 2". Further information on this requirements is set out on the Transport for London website: www.london.gov.uk/what-we-do/planning/implementing-london-plan/mayor-community-infrastructure-levy

close to it e.g. highway works or access improvements

- » prescribe the nature of the development e.g. provide a specific proportion of affordable housing
- » require the land to be used in a specified way
- » require the dedication or transfer of land e.g. for highway or access improvements
- » require a specific commitment from the developer e.g. to travel plans, management or conservation
- » secure financial contributions to mitigate the impact of the development on community infrastructure e.g. towards transport improvements or to compensate for loss or damage e.g. loss of open space
- » financial contributions towards monitoring fees

What are Planning Obligations?

1.10 Local Planning Authorities (LPA) can grant planning permission subject to conditions and, where appropriate, a planning obligation which is a legal document made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). This may take the form of an agreement between the LPA and the developer/applicant or a unilateral undertaking by the developer to the LPA. Section 278 Highway Agreements are also relevant for certain types of development.

1.11 Planning obligations are a means of securing measures to make a development proposal acceptable in planning terms which might otherwise be unacceptable development were only the use of planning conditions to be imposed. As with planning approvals and planning conditions these obligations must accord with relevant statutory tests (referred to in paragraphs 2.1 and 2.2) and to local, regional and national planning policies. Subject to compliance with these matters, planning obligations can be used to mitigate the impact of new development and accommodate it through suitable measures that cannot otherwise be secured by planning conditions alone. They can:

- » restrict the development or use of the land in a specified way
- » require specified works or activities to be carried out on the land or

1.12 Planning obligations will be achieved in two main ways, either the developer provides the physical measures or makes a financial contribution towards any mitigation works to be carried out by the local authority or its partners.

1.13 Planning obligations are a legal charge upon the owner of the land i.e. they "run with the land". Therefore they are enforceable against the original covenantor and successors in title, i.e. anyone subsequently acquiring an interest in the land. Information on undischarged planning obligations is set out in the Local Land Charge Register. Information on this is set out on the Council's website.

1.14 Agreements are governed by the fundamental principle that planning permissions may not be bought or sold, and they cannot be used to secure a share in the profit from development.

1.15 The purpose of this document is to assist prospective developers by identifying the planning obligations that will be sought by the Council, through the grant of planning permissions for development, where such development generates a need for specific new infrastructure. Acknowledgement and preparation for the required planning obligations should be integral to negotiation of land transactions, and the formulation of development proposals.

1.16 The Council will expect developers to enter into discussions on planning obligation requirements with Council officers as soon as possible, preferably at the pre-application stage. The Council's aim is to agree in principle the Heads of Terms of any planning agreement before applications are submitted in order to expedite decisions. Where development viability issues may arise developers will be asked to provide evidence mindful of the Government's advice that an open book approach is desirable on grounds of transparency. Additional guidance is available on this in the Council's adopted Financial Viability in Planning SPD. TfL and the GLA also offer pre-application services. Early engagement with TfL is particularly relevant to schemes generating a transport impact or infrastructure requirement.

02 Policy Context

National

2.1 The National Planning Policy Framework (NPPF) describes a planning obligation as “[assisting] in mitigating the impact of unacceptable development to make it acceptable in planning terms”. The CIL Regulations (2010 as amended) introduced 3 legal tests under Regulation 122 to determine whether a planning obligation can constitute grounds for granting planning permission. The legal tests often also referred to as the ‘Regulation 122 tests’ require that in order to impose planning obligations in the granting of planning permission they must be:

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

2.2 As well as the three legal tests (Regulation 122), The CIL Regulations (2010 as amended) restricts the use of planning obligations by prohibiting pooling from five or more sources (Regulation 123). Regulation 123 states that a section 106 planning obligation cannot constitute a reason for granting planning permission if:

- » the obligation relates to the ‘funding or provision of an infrastructure project or type of infrastructure’; and or,
- » five or more separate planning obligations already exist in the LPA’s area for that project or infrastructure.

2.3 Section 106 planning obligations may still be sought for site specific infrastructure (such as road access and the provision of adequate street lighting) which is necessary to make a development acceptable in planning terms.

Regional

2.4 The London Plan (March, 2016) is the spatial development strategy for Greater London and provides strategic context for planning obligations in London and forms part of the development plan for this borough.

2.5 London Plan Policy 8.2 indicates that:

- » the Mayor wishes to develop voluntary systems of pooling contributions with boroughs for the provision of facilities related to proposed developments that cannot be addressed through the CIL
- » the policy also sets out that development proposals should address strategic as well as local priorities through planning obligations, and that affordable housing and the funding of Crossrail and other public transport improvements should be given the highest priority. Where it is appropriate to seek a Crossrail contribution, this should generally be given higher priority than other public transport improvements
- » importance should also be given to tackling climate change and air quality, social infrastructure and the provision of small shops should also be given priority
- » 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
- » it will be a material consideration whether a development makes an appropriate contribution or other provision (or some combination thereof) towards meeting the requirement made necessary by and related to, the proposed development.

2.6 It should also be noted that the Mayor of London has the discretion to determine planning applications of strategic significance. This includes consideration of any planning obligations relating to those strategic applications the Mayor decides as Planning Authority. On strategic applications that the Mayor decides, boroughs are statutory consultees and conversely, for those strategic applications that boroughs decide, the Mayor is a statutory consultee.

Local

2.7 The Core Strategy (2012) is supported by an Infrastructure Delivery Plan, which assesses the capacity of existing social, physical and green infrastructure and future requirements to cater for forecast population and economic growth in the Borough over its 20 year lifetime and is supported by other Council strategies, including the Local Implementation Plan 2 (LIP2).

2.8 Policies refer to the expectation that new development, where appropriate will contribute towards the costs of delivering public infrastructure, including improvements to facilities and the environment and provide affordable housing through planning obligations in accordance with relevant legislation and policies.

2.9 In addition to the above, there are a number of evidence base documents that support the development plan documents and the emerging Local Plan which may also be relevant. These are available on the Council's website at: http://www.kingston.gov.uk/info/200207/local_development_framework/287/evidence_base_reports

2.10 Major developments, where referred to in this SPD, are as defined in the Development Management Procedure Order and comprises schemes of 10 or more

dwelling, schemes on sites of one hectare or more or schemes providing 1,000sqm or more net additional gross internal floor area. The SPD makes several references to 'significant major development'. In this respect, the Council will have regard to the scale and nature of a major development scheme, its likely impact and the thresholds for applications referred to the Council's Development Control Committee for determination or to the Mayor of London under the Mayor of London Order 2008.

2.11 SPDs are used to add value to existing policy. They build upon and provide more detailed advice or guidance on policies that are adopted in Local Plans.

2.12 This SPD will be a material consideration in the determination of planning applications. It has been prepared to meet the requirements of Part 5 of the Town and Country Planning (Local Planning) Regulations 2012 and associated regulations, national guidance on SPDs and relevant case law at the time of publication.

2.13 The Council is currently working together with TfL and the GLA on a number of policy documents considering the long term development of the borough. Development contributions as a result of this work will be payable to TfL in future.

03 Use of Planning Obligations for Community Infrastructure

3.1 The introduction of the CIL Regulations has redefined and limited the use of S106 planning obligations. However planning obligations will continue to have an important role with regard to affordable housing (CIL cannot be used to fund affordable housing), for impact mitigation (i.e. any impact on the environment or local services that arise directly as a result of the development); infrastructure which is not listed in the council's Regulation 123 list subject to a limit of no more than five separate obligations, and items that are not infrastructure (contributions towards revenue costs, for example).

3.2 Contributions may be financial or in kind. There may be cases where provision in kind is preferable and suitable such as where provision of land for a facility is being sought. Where provision in kind is made, contributions may be sought for reasonable fitting out costs and/or towards revenue costs so that the providers of, for example, a community facility necessitated by the development have facilities suitable for their needs at an affordable cost. Negotiations will require contributions towards the full cost of meeting requirements made necessary by, and related to, the proposed development, that are fairly and reasonably related in scale and kind to the proposed development and its impact on the wider area.

3.3 There may be cases where the proposed development results in a specific need for local infrastructure (or access to a service) that is not currently available, and has not been identified for investment through the CIL Regulation 123 list or wider investment programmes. Some of these requirements may be physically off site, but will be secured under S106 where they are clearly linked to the development site and needed to make that particular development acceptable in planning terms. In very exceptional circumstances, major infrastructure works, such as transport requirements, may be required to enable the development of a specific site, such as the construction of a

new road or the improvement of a major junction to 'unlock' a site, but generally, developments will require site-specific works only, or those which link the new development to the immediate transport network. In such circumstances, the Council would normally expect these aspects to be addressed as part of the proposal at the time planning permission was sought, in which case their delivery will often be secured by a S106 planning obligation or other mechanisms such as S278 of the Highways Act 1980.

3.4 There will be cases where developments will be liable to both pay CIL and enter into a S106 legal agreement. The CIL payment and S106 planning obligations will cover different infrastructure projects and types, and developments will not be charged twice for the same items of infrastructure through planning obligations and the Community Infrastructure Levy.

3.5 The S106 planning obligation requirements as set out in this document are not intended to be exhaustive and the Council may negotiate other forms of planning obligations depending on the individual circumstances of a site and proposal. Requirements identified in this SPD are subject to the three legal tests, in Regulation 122, set out in paragraph 2.1 of this SPD and Regulation 123 of the CIL Regulations 2010 (as amended).

Affordable Housing

3.6 Affordable housing contributions will continue to be provided through S106 as set out in the Council's adopted Affordable Housing SPD. The NPPF identifies a need to provide a wide choice of high quality homes to meet the needs of different groups in the community and supports securing the provision of affordable housing through the use of planning obligations, it favours meeting the need on-site unless off-site provision or a financial contribution of broadly equivalent

value can be robustly justified. Affordable housing is a London Plan and a local priority due to high house prices and an increasing shortfall of affordable housing provision coupled with increasing demand. There is a pressing need to increase the amount of affordable housing in the Borough.

Application

3.7 All development's capable of providing 11 or more residential units will be expected to deliver affordable housing in accordance with the Council's Core Strategy and Affordable Housing SPD. The Council will have regard to national policy and case law as necessary and appropriate in the application of these requirements. For this reason contributions will not be sought from developments of 10 residential units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres subject to current planning practice guidance.

3.8 Tenure and Mix: In terms of tenure, the Core Strategy Policy DM15 states that 70% of the affordable dwellings should be social/affordable rented, with the remaining 30% being intermediate provision. Within these tenures, the expected mix in terms of type (houses or flats) and size (number of bedrooms) is set out the Affordable Housing SPD.

3.9 The mix will form the basis for pre-application discussions with developers. It is recognised that the type and size of affordable housing will be informed by the characteristics of the site and the development as a whole. Applicants should actively consult Kingston Housing at an early stage on the range, mix and tenure type, unit size, service charges, preferred Kingston Housing partner (Registered Providers) and assumptions regarding public funding availability and affordable housing finance

modelling.

3.10 Student Housing: Developments are likely to be exempt from providing affordable housing if the accommodation is secured by a planning agreement which requires all occupants to be enrolled as students at specified academic institution(s). Where there is not an undertaking with a specified academic institution(s), providers should, subject to viability, deliver an element of student accommodation that is affordable for students in the context of average student incomes and rents for broadly comparable accommodation provided by London Universities. This approach is in line with the London Plan (March, 2016), paragraph 3.53B.

3.11 If the accommodation is not secured for students, subject to viability considerations, the Council will require student housing proposals on sites capable of delivering 11 or more conventional units to provide affordable housing. Based on evidence provided in the Affordable Housing SPD and Policy guidance in the Residential Design SPD.

3.12 Viability Assessments: The Council has an adopted Financial Viability in Planning SPD detailing the Council's requirements for viability assessments. This should be referenced before planning permission is sought. Where the applicant considers that their scheme cannot meet the relevant affordable housing requirements, they will be required to submit appropriate financial information on the proposed scheme's viability. This financial viability information will be subject to scrutiny by the Council. The Council may appoint an independent valuer or seek other qualified advice to test assumptions and provide the Council with advice on the levels of affordable housing that can be achieved. The costs of financial appraisals and independent assessments will be met by the developer.

3.13 Off-site provision: Applicants seeking to

provide off-site provision will need to identify their own alternative sites for the delivery of affordable housing and demonstrate why the original site is unacceptable for the provision of affordable housing. The Council must be satisfied that there is a suitable and available alternative site to accommodate the affordable housing and applicants would need to demonstrate how off-site provision provides significantly better value in terms of the number and type of affordable housing provided. Applicants will also be required to demonstrate how they can meet the policy requirement for affordable housing across both sites, taking account of the fact that where off-site housing is allowed, the donor site will be capable of providing more market housing units and therefore the affordable requirement will rise accordingly.

3.14 Payment in lieu: In exceptional circumstances (including management reasons, scheme design, site limitations, Registered Provider interest in purchasing and the consideration of London Plan paragraph 3.74) the Council's preference may be to agree a commuted sum in lieu of affordable housing on-site. This will be considered on a site by site basis.

3.15 Where 'in lieu' financial contributions are to be considered, the level of contribution required will be based upon achieving the maximum reasonable level of affordable housing having regard to the Council's affordable housing targets and requirements and overall development viability. The starting point for negotiations will be how, in taking payment in lieu, the Council will be assisted in meeting its affordable housing targets and requirements set out in the Core Strategy, if these cannot be met on-site. Such negotiations will be informed by a financial viability appraisal to determine the difference between the residual land value generated by the additional market housing and how any additional value will assist the Council in the provision of affordable housing. This

methodology is considered to achieve financial neutrality.

3.16 Commuted sums to be paid will be subject to indexation and will be adjusted by a proportion equivalent to the proportionate rise between the Index prevailing at the date of the council resolution to grant planning permission and the Index prevailing at the payment date. 'Index' will generally mean the All In Tender Price Index produced quarterly by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors (RICS).

3.17 Review Mechanisms: The Council seeks to maximise affordable housing output. Review mechanisms will be used to determine whether a development is capable of providing additional affordable housing or meeting other policy requirements that were deemed unviable at application stage. This will only apply if a surplus is generated over and above the returns necessary for a scheme to be deemed viable. This provision applies to phased or non-phased planning permissions.

3.18 The circumstances where a review is applicable includes but is not limited to:

- » where there is a delay commencing work on-site
- » where a large site is to be built out in phases
- » on submission of reserved matters applications
- » where schemes are anticipated to deliver low levels of affordable housing
- » upon completion of development, after consideration of and accounting for developers risk it is appropriate for the Council to take a commuted sum to support the delivery of affordable housing, or where agreement on viability is not reached at the applica-

tion stage

3.19 In requiring a review mechanism the Council will act in accordance with London Plan Housing Supplementary Planning Guidance. The Council is mindful of the need to:

- » Identify the criteria or thresholds at which a re-appraisal review should be carried out
- » establish on a case by case basis, the threshold level(s) of viability at which additional planning obligation contributions will be required and the extent or share of that additionality.

3.20 In all circumstances, the review mechanism will ensure that the developer achieves a reasonable profit level, reflective of market risk and will be capped at a cash equivalent amount to a policy compliant level.

3.21 The originally agreed planning obligations secured will not be affected by the outcome of a review mechanism.

Community Safety and Visitor Management

3.22 The vision of the Safer Kingston Partnership is that everyone who lives in or comes to our borough should be safe and feel safe. The borough is categorised as the 'safest London Borough', although this masks relatively higher crime figures in Kingston town centre with its vibrant night time economy and one of the largest nightclubs in London.

3.23 Section 106 community safety contributions for CCTV and other initiatives to manage Kingston town centre have assisted in delivering crime reduction objectives and maintaining the Purple Flag

standard accreditation, which is a measure of success in the night time management of town centres.

Application

3.24 Community safety and visitor management mitigation measures may be sought from the types of development set out below, depending upon their nature, scale, location, existing provision and individual circumstances:

- » all types of major development
- » A3 restaurants, A4 pubs and bars and A5 takeaways over 100sqm
- » nightclubs
- » other visitor attractions and entertainment venues.

3.25 This includes new development, changes of use, extensions, applications for use of forecourts and extensions to opening hours.

3.26 Contributions will be negotiated having regard to the location and type of development proposed, the likely number of visitors/residents, the level of sensitivity in the local area and risk of crime or disorder, existing provision and deficiencies. Contributions may be linked to local initiatives and crime reduction strategies. Examples of the type of on-site and directly related mitigation measures are as follows:

- » CCTV - supplementing or improving existing provision, including links to the control room, management and maintenance
- » lighting and public realm improvements in the immediate area that assist in 'designing out crime'
- » measures that improve late night transport travel and information
- » visitor facilities including toilets, facili-

- ties for litter, rubbish or waste
- » town centre management measures such as anti graffiti treatment
- » later opening and manning of public car parks at night
- » clearer signing of routes for visitors
- » more conveniently located, secure cycle parking
- » public facing community policing facilities and non-public facing policing facilities which provide support for policing in the Borough
- » initiatives that promote community safety
- » fire fighting facilities/property improvements
- » operating and management plans may be sought in conjunction with certain development proposals, for example to control the use of outside eating/drinking areas and minimise noise and disturbance from visitors arriving/leaving premises late at night

Employment Development, Training and Business Support

- 3.27 The Council has a range of policies and strategies which aim to raise education and skills levels and increase local employment through initiatives that remove barriers to employment and progression and tackle low participation in the labour market. Strategic development proposals can assist in supporting local employment, skills development and training opportunities.
- 3.28 Whilst Kingston has high levels of employment, it nevertheless has pockets of relative deprivation. It also has a significant imbalance between the types of jobs available and the skills base of residents,

despite having roughly equal numbers of jobs and residents. This results in highly skilled residents commuting out of the Borough to work and residents of other boroughs commuting into the Borough for service jobs.

- 3.29 Small and medium sized enterprises (SMEs) provide a significant proportion of jobs in the Borough and are an important source of employment growth, especially in the knowledge based and creative industry sectors. As new development can create demand for skilled employees and SMEs can be a source of employment for new residents, it may be appropriate to seek planning obligations relating to employment development, training and business support. This can benefit residents, employees and the local economy, help improve the skills base, health and well being, reduce in-commuting and social exclusion.

Application

- 3.30 All types of major development. The Council will seek to secure section 106 planning obligations to ensure that employment and training/skills development opportunities are provided to local people, such as during the construction phase as well as for the end use of a development where appropriate.
- 3.31 Where appropriate, a section 106 planning obligation may be used to manage the rents of small and affordable shop units in large-scale development to appropriate levels and to control their size, location and the nature of the occupant.

Site Specific Transport Requirements

- 3.32 Most new development will create trips and have some impact on local transport networks including highways, footpaths,

public transport, pedestrian and cycle routes. It may create a need for off-site highway or access improvements to maintain highway safety and help reduce car use and congestion, such as links to the existing road network; improvements to junctions, footways, cycle routes, cycle parking, public transport and accessibility/DDA; provision of car clubs/car club bays or car park management schemes.

3.33 The Council will expect the transport elements and impacts of development to be set out in Transport Assessments/ Statements in line with Transport for London (TfL) best practice guidance and the NPPF, which requires that plans and decisions should take account of whether the opportunities for utilizing sustainable transport modes have been taken up to reduce the need for major transport infrastructure, limit any significant adverse impacts of the development and achieve safe and suitable access to the site for all people, giving priority to pedestrian and cycle movements and creating safe and secure layouts which minimise conflicts with traffic.

3.34 The NPPF also refers to the need to incorporate facilities for charging plug-in and other ultra-low emission vehicles; and consider the needs of people with disabilities by all modes of transport. It draws attention to the importance of a Travel Plan for all developments which generate significant amounts of movement.

Application

3.35 This will depend on the nature of the proposals and the extent of the need for highway, sustainable transport and/or traffic management works required. This should be identified in the applicant's Transport Assessment. The Council's transport team and/or TfL will review and agree the

Transport Assessment and advise on the requirements for individual applications.

3.36 Where development results in an adverse impact on the highway network, measures may be required to alter or improve the highway network.

3.37 Contributions from developers for a range of transport and highway network measures may be required as a result of individual schemes. Where a number of schemes have a cumulative effect on the highway network and/or particular junctions, financial contribution may be pooled (for up to five contributions).

3.38 All development will be assessed against the standards set out in the Council's Sustainable Transport SPD (2013) and Transport for London's Travel Plan guidance. Generally travel plans, including delivery and servicing plans and monitoring will be required for large traffic generators, including commercial developments, new and expanded schools, other community facilities and major residential developments. Travel plans are a long term management strategy that seeks to deliver sustainable transport objectives through positive action. Table 1 overleaf, adapted from the Royal Borough of Kingston Sustainable Transport SPD (2013) sets out the councils requirements for Travel plans. Where such plans are required the council will require the payment of a travel plan monitoring fee. Fees will be assessed in respect of each individual application and calculated having regard to the nature of the development, the anticipated traffic generation and the level of monitoring required.

3.39 Where TfL are engaged in any S106 negotiations or incur legal costs associated with S106 agreement, TfL will expect the developer to pay TfL's legal costs. In particular cases, where the extent of the transport mitigation proposed is significant, TfL will insist they are a signatory of the S106 agreement.

Table 1: Thresholds for Travel Plan and Monitoring Fee

Development	Threshold	Requirement	Monitoring Fee
C3 Residential	10-39 dwellings	Travel Plan Statement	£500
C3 Residential	40 or more dwellings	Full Travel Plan	£1,000
All Planning Uses (except C3 and Education uses)	20-49 staff/visitors	Travel Plan Statement	£1,000
All Planning Uses (except C3 and Education uses)	50+ staff/visitors	Full Travel Plan	£3,500
Education uses, All Schools, Colleges, Universities, Student Accommodation	20+ staff/pupils	Full Travel Plan	£3,500

3.40 Possible site-specific transport obligations include:

- » highway works arising from development (Section 278 of the Highways Act) e.g. to include works required to make alterations to mitigate the impact of development on the highway network.
- » the dedication of land required for highway/transport works such as to secure highway improvements to a site.
- » highway improvements (including improved lighting and signage) on or adjacent to development sites which will enhance the walking and pedestrian environment in the immediate vicinity and thereby encourage their usage
- » improvement for cyclists such as the provision of, or contributions towards (subject to CIL pooling restrictions) an on-/off-site cycle way and cycle parking facilities, including any link-

ages and appropriate signage from the development site to existing cycle and highway networks

- » the provision of on-site car club bays or off-site provision.
- » on-site facilities for charging plug-in and other ultra-low emission vehicles in accordance with Chapter 6 (London's Transport) of the London Plan.
- » on-site accessibility/DDA provision/ community transport/shopmobility.
- » securing of and/or improvements to Rights of Way where they are impacted by the proposed development.
- » appropriate car park management arrangements.
- » restrictions on eligibility for parking permits in Controlled Parking Zones.
- » the provision of financial contributions towards (subject to pooling restrictions set out in the CIL regulations), specific off-site works required in connection with a particular development, where

they are required to make a scheme acceptable e.g. the relocation of road crossings adjacent to or near to a site.

- » on-site provision of, or improvements to, public transport infrastructure or services, such as bus stops and shelters. Improvements to a bus service and other improvements to transport interchanges for the benefit of the development site. In some circumstances it may be appropriate to make provision for access, circulation, stopping and turning requirements of buses and for suitably designed and located passenger shelters and/or waiting facilities etc., as part of the development.

3.41 The Mayor of London and Transport for London may also seek planning obligations for referable planning applications.

Public Open Space, Play, Biodiversity and Public Realm

3.42 Whilst the borough has large areas of open space, the largest components are private golf courses and playing fields. The amount of public open space within local parks and playing fields is limited relative to neighbouring boroughs and there is an uneven distribution across the Borough.

3.43 Seeking a good standard of amenity, enhancing and improving the places where people live their lives, conserving and enhancing the natural environment, supporting local strategies to improve health and well being are all core planning principles set out in the NPPF and London Plan and local policies. These support the improvement in the extent and quality of, and access to, green infrastructure, including but not limited to biodiversity, natural landscapes such as rivers, building a sense of place, children's play,

sport and recreation.

Application

3.44 Funding for open spaces such as public parks, required as a result of growth and development, will be provided through the Council as part of the standard CIL charge. Where the development would create a localised requirement for additional open space, e.g. by an increase in population, it is expected that such land is provided as part of the site design or in the vicinity of the site, particularly in areas already deficient in open space.

3.45 Residential schemes of 50 or more dwellings in areas of open space deficiency, will be required to ensure open space is based on the standards in Table 2 adapted from the Core Strategy.

3.46 Developments which directly cause a reduction in open space will only be permitted in exceptional circumstances. Where in exceptional circumstances proposals result in a reduction of open space, applicants will be required to provide replacement provision of equivalent or improved quantity and quality that meets current and future needs in an appropriate location or where, acceptable to the council, a commuted sum towards the provision of open space provision or enhancement of the nearest open space.

3.47 Where appropriate, the Council will also seek the following planning obligations:

- » site specific highway restoration works to make the development acceptable
- » environmental improvements and wider public realm enhancement works, including: route ways, landscaping, tree planting, lighting, surfacing, and street furniture

Table 2: Open Space Standards

Type of Public Space	Standards of provision (hectares per 100 people)		Standard of provision (square metres per person)	
Public parks	1.11	2.11ha per 1000 people for public parks and natural/ semi-natural green spaces, of which 0.8ha per 1000 population should be play space.	11.10	21.1sqm per person for public parks and natural/semi-natural green spaces, of which 8 sqm per person should be play space.
Natural/ semi-natural green spaces	1.0		10.0	
Allotments	0.35		3.5	
Total	2.46		24.6	

- » revitalising and upgrading places and streets plus connecting areas and providing missing links
- » enhancing the distinctiveness of particular areas of the Borough, e.g. by reference to the Borough Character Study)
- » improvements to the Thames riverside and the Hogsmill (and its tributaries) taking account of the Thames Landscape Strategy, London Plan Blue Ribbon policy aims and the London Rivers Action Plan
- » on-site private amenity space as part of development proposals
- » children's play provision in accordance with the benchmark standards set out in the Mayor's Shaping Neighbourhoods: Play and informal Recreation SPG (2012) on sites where child occupancy is expected to exceed 10 children. If on-site provision cannot be provided, an equivalent financial contribution will be sought to fund off-site provision of, or improvements to an existing, adjacent or nearby

playground. This could include improvements to access arrangements between the site and the playground

- » transfer of new open space for adoption and management/ maintenance purposes provided that it has been properly laid out, fully equipped and maintained for a minimum of 12 months to the satisfaction of the Council and subject to a commuted sum to cover future maintenance costs. The commuted sum will be negotiated based on the scale and nature of the new facility to cover a 10 year period, i.e. until it has become properly established and to cover the cost of repair and/or replacement of any equipment provided that would not otherwise have been required had it not been for the direct impact of the scheme on local facilities. The commuted sum will be index-linked from the date the agreement is signed. In cases where developers do not intend to seek adoption, the Council will require a management plan to demonstrate that alternative arrangements are in place for the

long term management and maintenance of the open space and its equipment.

- 3.48 Biodiversity enhancements including local nature reserves and Sites of Nature Conservation Importance (SINCs) taking account of habitat and species action plans. Planning obligations may require developers to carry out works to secure, reinstate, enhance or preserve existing habitat features, create new, or undertake habitat creation schemes and produce management plans for their long-term management and maintenance, and to remedy explicit on-site issues in accordance with the Mayor of London's All London Green Grid SPG (March 2012).

Leisure, Culture, Heritage and Community Facilities

- 3.49 Good design and availability of cultural opportunities can define a sense of place as well as provide the social glue that can bring people together, enhance the quality of their life and health, provide education and training, and bring economic benefits such as tourism to an area. Without integrated planning for cultural development, the financial and physical capacity to deliver cultural infrastructure is limited.
- 3.50 Cultural well-being features first as an ingredient in the "social role" of the planning system set out in paragraph 7 of the NPPF and then more specifically within paragraph 17 as part of the 12 core planning principles which underpin both plan-making and decision-taking, i.e. "...that planning should: take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and

cultural facilities and services to meet local needs." That core planning principle then finds its way into other areas of the NPPF - for example, in paragraph 23, as part of the planning system's role in ensuring the viability and vitality of town centres as the heart of their communities, and in paragraph 70 of the NPPF, which relates to the promotion of healthy communities and, in particular, requires local authorities to plan positively for a community's needs, including those related to "cultural buildings" that enhance the sustainability of communities and residential environments. The London Plan supports the provision of social infrastructure to meet the needs of a growing population.

Application

- 3.51 Planning obligations will be sought where an assessment of current and future community facilities capacity shows that a major residential development scheme or cluster of neighbouring development establishes a site specific need for additional or enhanced community facilities. Further there is an expectation that development schemes that necessitate the removal or demolition of existing community facilities should provide appropriate replacements for these facilities.
- 3.52 The Council will also seek to secure planning obligations for the following:
- » the provision of new public art, artistic features and wider cultural activity, including potential meanwhile uses of sites, will be sought to enhance and integrate new development, both physically and culturally into the surrounding area. The enhancement and restoration of existing public art is also encouraged
 - » major schemes will normally be expected to include public and artist designed elements and/or appropri-

ate cultural activity linked to the development reflective of the scheme's stature

- » appropriate cultural activity may go beyond public art and incorporate the use of space for a programme of cultural or performance activity
- » repair, restoration or maintenance of a heritage asset as well as increased public access and improved signage to and from a heritage asset
- » recording of archaeological remains and its findings published appropriately and placed on the Greater London Historic Environment Record (GLHER)
- » the provision of playing pitches and playing fields to meet the sporting needs of local communities

Sustainable Construction/ Climate Change and Flood Risk

3.53 The NPPF requires local authorities to recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. It comments that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and that planning applications should be approved if its impacts are (or can be made) acceptable to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure. Impacts that may need to be managed include e.g. increased flood risks elsewhere as a direct result of the development, which may require safeguarding land from development that is required for current and future flood management.

3.54 London Plan policies commit London to reducing total CO2 emissions, going beyond the national requirements committing to a

60% reduction in CO2 emissions by 2025.

3.55 Policy 5.2 of the London Plan (March, 2016) requires CO2 reduction targets for major developments to be met on-site (40% from 2013-2016 and zero carbon from 2016 onwards), or if this cannot be fully achieved on-site, any shortfall may be provided off-site through a cash in lieu contribution ring fenced to secure delivery of CO2 emissions savings elsewhere.

3.56 Policy 5.4 supports reducing CO2 emissions from existing buildings wherever opportunities present themselves between new developments and existing buildings through the retrofitting of energy efficiency measures, decentralised energy and renewable energy opportunities. 25% of heat and power used in London is expected to be generated through the use of Decentralised Energy (DE) systems by 2025. The Mayor expects local authorities to work towards achieving this objective and requires developers to prioritise connections to existing or planned DE networks where feasible.

Application

3.57 The Council's preference is for development to meet targets set out in the adopted development plan or London Plan by on-site provision. Where required targets cannot be met, developers are required to contribute to a CO2 offset fund which will go towards the funding of off-site CO2 reduction measures. This will allow developers to support off-site CO2 reduction measures where it is technically not feasible or commercially not viable to abate all CO2 emission reductions through on-site measures.

3.58 Developments are required to connect to a decentralised energy network where one is available nearby, unless developers can demonstrate it is not technically feasible

or financially viable. Developments near to a planned or potential future network must make provision for a connection to the network should one be established.

- 3.59 Some development sites will require site specific monitoring and control of air quality emissions and S106 agreements must be used to ensure the construction and operational phases of development do not adversely impact on the air quality of the local area.
- 3.60 Kingston is susceptible to surface water, river and groundwater flooding. It must be demonstrated that any new development will sustainably manage and reduce flood risk from all relevant sources. The Council's Surface Water Management Plan (SWMP) identifies 14 Critical Drainage Areas (CDA) across the borough, outlining how they are susceptible to flooding. Planning obligations will be secured to require developments that lie within CDAs to demonstrate that the scheme sustainably and appropriately manages flood risk in its local context, through the use of Sustainable Urban Drainage Systems (SUDS) for example. In accordance with the Drainage Hierarchy outlined in Policy 5.13 of the London Plan (March 2016), schemes should seek to retain stormwater on-site, and reduce site runoff to the maximum possible rate. The construction and ongoing maintenance costs of SUDS will be fully funded by the development.
- 3.61 Planning obligations will be secured to ensure development does not increase flood risk elsewhere or place undue stress on drainage infrastructure, and to ensure schemes can demonstrate that there is no adverse impact on the quantity or quality of water resources (for example by maintaining separate foul and surface flows) and adequate measures have been taken to ensure that water conservation and efficiency measures have been built into the design of the scheme.

04 Management and Monitoring Procedure

4.1 This SPD will inform discussions/negotiations on planning obligation requirements and associated documentation, which will be required in association with development proposals/planning applications. Applicants are encouraged to use the Council's pre-application advice service to help clarify what Mayoral/Borough CIL contributions and planning obligations are required at an early stage. The objective is to ensure that:

- » applications can be determined within the target periods for decisions set by government including completed planning obligation agreements/unilateral undertaking
- » applicants provide information at the date of submission of the application, to enable the Council and consultees to respond properly to applications
- » the nature of proposed planning obligations is scoped before applications are submitted for determination.

4.2 The nature and content of a planning obligation in terms of measures to accommodate and mitigate the impact of new development will be a material consideration in the determination of planning applications. Any recommendation to grant a planning permission where a planning obligation is necessary will be subject to the satisfactory completion of that obligation. The Heads of Terms including the scale of any contributions will be set out in the report and recommendation. Where the application is submitted with a unilateral undertaking then any recommendation to approve can be processed immediately and this procedure is preferred for simpler and smaller development proposals.

4.3 Draft Heads of Terms for any relevant planning obligations should be submitted with the relevant planning application at submission stage to meet local validation requirements. The Council has standard forms of Unilateral Undertaking which are available on request.

Timing of Planning Contribution Payments

4.4 The standard point of payment will be immediately on commencement of development, or sooner if infrastructure needs to be in place beforehand (an exception to this are affordable housing contributions). The Council recognises that this is not always appropriate and will seek to time payments on a case by case basis. This is to ensure that works, such as car clubs, public realm and new open spaces, are available as the first residents move in, so that they are not effectively living on a building site and to ensure that infrastructure and facilities are available when they are needed. For larger or phased developments, the Council will take into account the need for Mayoral and Borough CIL payments, and consider this when negotiating Section 106 payment terms.

4.5 The Council will seek the delivery of affordable housing in tandem with open market housing, with the affordable elements being completed first. This will be reflected in the Section 106 Agreement.

4.6 Monitoring fees for agreements regarding parking permits and car club measures will be payable prior to the commencement of development. Legal fees will be payable on completion of the legal document.

Index Linking

4.7 Agreements will set out arrangements for the index linking of planning contributions, normally from the date of the resolution to grant planning permission to the month when payment is due.

Late Interest Payments

4.8 Interest will be charged on late payment of planning obligations from the date of

default until the contribution(s) have been paid in full.

Management Monitoring Fees

4.9 Where a planning obligation is considered appropriate, the Council will specify the use of contributions to ensure that they are applied towards provision or improvement of specific services, facilities and/or infrastructures. Where the obligation requires compliance checks, monitoring, project management and implementation through the Council and its service areas, then an appropriate project management cost will be payable. Fees will be determined and calculated on a case by case basis having regard to the number of obligations involved, their complexity and the extent of monitoring required.

Monitoring Reports

4.10 Planning obligations are the subject of twice yearly reports to the Council's Strategic Committee (which are publicly available). These include an annual report on income and spend during the previous financial year.

Use of Planning Contributions

4.11 Planning contributions will be used for the purposes indicated in this SPD.

Local Land Charges

4.12 Planning obligations are registered as local land charges. Applicants will therefore need to produce title to the site and third parties, such as mortgagees, may have to be party to agreements. Reference to the charge on the Land Charges Register is removed once the obligation has been paid/discharged.

Annex 1 The relationship between CIL, and Section 106 planning contributions

Since the introduction of CIL, S106 has been replaced as the main method by which development contributes towards the infrastructure needs of the Borough. The Council no longer collects tariff based S106 contributions for the same project or type of infrastructure. The table below outlines potential infrastructure requirements and how they will be funded through the use of CIL and S106 agreements. Contributions towards infrastructure will be sought providing they satisfy the statutory tests in Regulations 122 and 123 of the CIL Regulations 2010. The list is not exhaustive and obligations or agreements may be sought for other purposes that are appropriate to particular sites. Items that could be subject to S106 or S278 agreements may also be funded by Neighbourhood CIL as appropriate. Neighbourhood CIL can be spent on infrastructure or anything else that is concerned with addressing the demands that development places on an area.

Table 3: The relationship between CIL and Section 106 planning contributions

Infrastructure Category	CIL (further detail available on R123 list)	S106				
		Minor Residential <10 Units	Minor Commercial <1000sqm floorspace	Major Residential >10 Units	Major Commercial >1000sqm floorspace	Very Large sites with schemes with specific impacts as needs arise
Affordable Housing	All CIL Liable Development			Yes*		
Community Safety and Visitor Management including CCTV				Yes, in relation to a development scheme where necessary to make development acceptable in planning terms	Yes, in relation to a development scheme where necessary to make development acceptable in planning terms	
Employment, Training and Business Support				Yes	Yes	

Community Facilities including Education and Healthcare Facilities	Yes					Yes, on large scale major development sites it may be necessary to provide community facilities or land for community facilities directly on site or nearby to address the direct impacts of the development
Transport, including sustainable transport	Yes			Yes, S106 and/ or S278 legal agreements will be used to secure on site or nearby transport provision where necessary to make development acceptable in planning terms	Yes, S106 and/ or S278 legal agreements will be used to secure on site or nearby transport provision where necessary to make development acceptable in planning terms	
Public open space, play, biodiversity and public realm	Yes			Yes, on site or near to the development scheme where necessary to make development acceptable in planning terms	Yes, on site or near to the development scheme where necessary to make development acceptable in planning terms	
Sustainable construction / climate change and flood risk	Yes			Yes, on site or near to the development scheme where necessary to make development acceptable in planning terms	Yes, on site or near to the development scheme where necessary to make development acceptable in planning terms	

There will be cases where developments will be liable to both pay CIL and enter into a S106 legal agreement. The CIL payment and S106 planning obligations will cover different infrastructure projects and types, and developments will not be charged twice for the same items of infrastructure through both obligations and the levy.

*** Affordable Housing contributions will not be sought from developments of 10 residential units or less.**

If you would like to discuss any aspect of this document or Strategic Planning generally, then please ring the Strategic Planning Team on 020 8547 5002 or email us at local-plan@kingston.gov.uk

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ENGLISH

If you are unable to read this document because of disability or language, we can assist you. Please call the Kingston Council Helpline on 020 8547 5000 or ask someone to call on your behalf.

KOREAN

귀하가 장애인 언어 때문에 이 문서를 읽을 수 없다면, 저희가 도와 드릴 수 있습니다. 킹스톤 카운슬의 전화 상담 서비스(전화번호: 020 8547 5000)로 전화 주시거나 귀하를 위해 누군가에게 전화해 달라고 부탁드립니다.

FARSI

شما اگر به دلیل مشکل زبان و یا نقص عضو قادر به خواندن این سند نمیباشید، ما میتوانیم به شما یاری رسانیم. لطفاً به شماره تلفن کمکی 020 8547 5000 شهرداری کینگستون (Kingston) تماس حاصل نمائید و یا از کسی درخواست نمائید که به نیابت شما تماس بگیرد.

POLISH

Jeśli nie są Państwo w stanie zapoznać się z treścią tego dokumentu z powodu niepełnosprawności lub niezajomości języka, służymy pomocą. Prosimy o telefon na linię pomocy Kingston Council: 020 8547 5000 lub o poproszenie kogoś innego by zadzwonił w Państwa imieniu.

TAMIL

இயலாமை அல்லது மொழி காரணமாக இத்தகவல் பத்திரத்தை உங்களால் படிக்க முடியாவிட்டால் நாம் உங்களுக்கு உதவி செய்ய முடியும். தயவுசெய்து கிங்ஸ்ரன் நகரசபை உதவி அழைப்பிற்கு 020 8547 5000 என்ற தொலைபேசி எண்ணில் தொடர்பு கொள்ளவும் அல்லது உங்களுக்காக ஒருவரைத் தொடர்பு கொள்ளச் சொல்லவும்.