

# Supplementary Planning Document Planning Obligations and Affordable Housing



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## Chapter 1 Introduction

### Purpose of this document

**1.1** The purpose of this document is to clearly set out the Council's approach, policies and procedures in respect of the use of planning obligations. It has been prepared as a 'Supplementary Planning Document' (SPD) to support Policy DM50: *Planning Obligations* of Harrow's Local Plan.

### Policy DM 50

#### Planning Obligations

*A. Planning obligations will be sought on a scheme-by-scheme basis to secure the provision of affordable housing in relation to residential development schemes, and to ensure that development proposals provide or fund improvements to mitigate site specific impacts made necessary by the proposal.*

*B. Applications that fail to secure an appropriate Planning Obligation to make the proposal acceptable will be refused.*

*While the introduction of Harrow's Community Infrastructure Levy will ensure that new development helps to fund the cost of new or enhanced strategic infrastructure, the use of planning obligations can ensure that any site specific impacts are appropriately mitigated, thereby ensuring the new development is acceptable in planning terms.*

*While the Council expects most impacts of development to be mitigated through good design and layout, in accordance with Policy DM1, some impacts are likely to require physical works or other forms of improvement to mitigate them. However, the nature of site specific impacts means they vary widely depending on the site, its local context, and the nature of the development proposed. Therefore, beyond the requirements for affordable housing, it is not possible to ascribe a set of circumstances under which certain types of obligations will be sought as a norm. To assist developers and others to understand what types of obligations may be sought, and how these may be best met, the Council is preparing a Planning Obligations SPD.*

**1.2** The aim of the SPD is to:

- Aid the smooth functioning of the planning application process by making developers and landowners aware of the procedures for securing planning obligations, including the provision of affordable housing;
- Clarify the types of planning obligations that may be sought depending on the nature of the development proposal and site circumstances;
- Clarify the relationship between planning obligations, planning conditions and the Council's Community Infrastructure Levy; and
- Help to deliver good quality sustainable development that accords with the policies and requirements of the Harrow Local Plan.

**1.3** The obligations listed in this SPD are those that might be expected given the types of development provided for by the Local Plan. However, it should be noted that other types of obligations, not covered within this SPD, may be required to mitigate a specific development's impacts.

### Status of the document

**1.4** The SPD on planning obligations is a material consideration in the determination of planning applications. The policy that the SPD supplements has been subject to Sustainability Appraisal. The SPD itself has been prepared in accordance with the requirements of the Planning and Compulsory Purchase Act 2004 (as amended) and having regard to the National Planning Policy Framework (paragraph 153). The SPD was the subject of public consultation from 11th July 2013 to 5th September 2013. The consultation was undertaken in accordance with Council's Statement of Community Involvement and the comments received were considered and amendments made to take these into account. The SPD has also been screened and the Council has determined that a full Strategic Environmental Assessment is not needed.

## Chapter 2 Background

### Mitigating the impact of new development

**2.1** In Harrow a minimum of 6,050 new homes are planned to be built and 4,000 new jobs created by 2026. This growth will result in increased pressure on local infrastructure, services and facilities, creating demands for new provision. The Council and developers have a responsibility, through the planning process to manage the impact of this growth and ensure that any harm caused by development is mitigated and that the necessary infrastructure is provided.

**2.2** The infrastructure required to support Harrow's planned growth has been identified in the Council's Infrastructure Delivery Plan (IDP). The council expects new development to contribute to site related and wider infrastructure needs through a combination of the following mechanisms:

- Planning conditions (site/development related);
- Planning obligations to secure developer contributions or works in kind e.g. s106 Agreements (site/development related);
- Community Infrastructure Levy (strategic local and borough-wide infrastructure).

### Planning Conditions

**2.3** Planning conditions are requirements made by the local planning authority, in the granting of planning permission, to ensure that certain actions or elements related to the development proposal are carried out. Planning conditions are likely to cover, amongst other things, the submission of reserve matters; controls over the materials to be used; controls over the occupation of new buildings or further stages of development until certain other actions are completed; the requirement to undertake further investigations as work proceeds (e.g. archaeological recording); construction in accordance with the submitted method statement; and the requirement to implement works in accordance with the submitted plans such as landscaping, tree planting, drainage works etc; and requirements for the certification of works following completion.

**2.4** Where there is a choice between imposing planning conditions and entering into a planning obligation to manage the impacts of a new development, the use of planning conditions is always preferable.

## Planning Obligations

**2.5** Development standards, such as those prescribed in local planning policy, and site specific works, are an integral part of the acceptability of a development proposal in planning terms and are normally required to be implemented as part of the delivery of a development scheme. Where a development proposal does not meet the standards required of local planning policy, it may be possible to make acceptable development proposals which might otherwise be unacceptable through the use of planning obligations.

**2.6** Planning obligations are used to secure measures which are essential for the development to proceed and measures which are required to mitigate the impact of the development. Planning obligations do this through:

- Prescribing the nature of a development (e.g. by requiring a proportion of affordable housing);
- Securing a contribution from a developer to compensate or re-provide for loss or damage created by a development (e.g. through the transfer of land, the requiring of a cash payment to be made, or new habitats to be created etc); and
- Mitigating a development’s impact on the locality (e.g. through the securing of environmental improvements and the provision of both on and off-site infrastructure and facilities to serve the development such as new roads or junction improvements which, without the proposed development taking place, would not necessarily be required).

**2.7** The outcome of the use of planning obligations should be that the proposed development is brought into compliance with the Local Plan policies and that any development specific works are undertaken satisfactorily. Used properly, planning obligations can significantly increase the quality of development.

**2.8** While planning obligations can secure benefits capable of mitigating the adverse impacts of a development, they cannot however, be used to make a bad application good where, for example, a scheme does not comply with the spatial strategy and land use principals of the Local Plan.

## The Community Infrastructure Levy (CIL)

**2.9** CIL is a levy (expressed as pounds per square metre) that is charged on the net additional floorspace created by certain types of new development within the Borough. The purpose of the levy is to help pay for strategic local and borough-wide infrastructure such as schools, transport, libraries, parks, leisure facilities and other strategic infrastructure that is needed to support new development and to create sustainable communities.

**2.10** Harrow’s CIL will come into effect in August 2013. The CIL rates proposed are:

Use	Charge per sqm
Residential (Use Classes C3),	£110
Hotel (Use Class C1), Residential Institutions, except Hospitals, (Use Class C2), Student Accommodation, Hostels and HMOs (Sui Generis)	£55

Retail (Use Class A1), Financial & Professional Services (Use Class A2), Restaurants & Cafes (Use Class A3), Drinking Establishments (Use Class A4), Hot Food Take-aways (Use Class A5)	£100
All other uses	Nil

**2.11** The above rates are exclusive of the Mayor of London's CIL which is an additional £35 per square metre for development in Harrow, and has been applicable since 1 April 2012.

**2.12** Further information on Harrow's and the Mayor's CIL is available on the Council's website [www.harrow.gov.uk/cil](http://www.harrow.gov.uk/cil)

### **S278 Highway Act 1980 Agreement**

**2.13** These are agreements, made under the Highways Act 1980 (as amended), to authorise works on the public adopted highway network that have been identified and determined as necessary for planning permission to be granted.. This SPD does not specify the circumstances in which a s278 agreement will be required. Requirements for s278 agreements will be negotiated separately, although often an obligations will be imposed as part of the s106 agreement to enter into a s278 agreement.

## **Chapter 3 Legislative and Planning Policy Context**

### **Legislative**

**3.1** The legislative framework for planning obligations is set out in Section 106 of the Town & Country Planning Act 1990, as amended by Section 12 of the 1991 Planning and Compensation Act, and the Localism Act 2011.

**3.2** In accordance with the Town & Country Planning Act, planning obligations:

- May be either positive, i.e. requiring a person to carry out a specified action, or negative, i.e. restricting a person from developing or using the land in a specified way;
- May be entered into either by agreement with the Local Planning Authority or by an undertaking by the developer to which the Local Planning Authority is not a party (e.g. unilateral undertaking);
- Must be entered into by means of a Deed;
- Must be registered as a local land charge (for the purposes of the Local Land Charges Act 1975);
- Run with the land and may be enforced against the person entering into it and against any successors in title; and
- Can be enforced by means of injunction.

**3.3** Further detail on these aspects of planning obligations is provided in section 4 of the SPD.

**3.4** Further statutory provisions are set out in Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 ("the CIL Regulations"), as amended by the Community Infrastructure Levy (Amendment) Regulations 2011.

**3.5** The CIL Regulations place into law for the first time, the Government's policy tests on the use of planning obligations. As of 6 April 2010 it became unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following tests:

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

**3.6** The above requirement seeks to clearly delineate the different roles that both CIL and planning obligations have, when used in tandem, to secure the delivery of social and physical improvements and infrastructure required of and to support new development.

### **National Policy**

**3.7** At the national level the National Planning Policy Framework (2012) (NPPF) sets out the Government's economic, environmental and social planning policies for England. Paragraphs 203 to 206 of the NPPF, deal with the use of planning conditions and planning obligations. These reiterate the tests for use of obligations set out in the CIL Regulations; uphold the long standing principal that planning conditions are preferable to planning obligations; and requires local planning authorities to ensure policies on planning obligations take account of changes in market conditions over time and, wherever appropriate, are sufficiently flexible to prevent planned development being stalled.

### **London Plan**

**3.8** The London Plan (July 2011) 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 the Mayor of London will provide guidance on the preparation of frameworks for negotiating obligations in DPDs and the wish that there is a voluntary system of pooling contributions for the provision of facilities related to proposed developments. 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. Climate change, learning and skills, health facilities, childcare provisions and the provision of small shops are also raised as areas of high-importance to be addressed in planning obligations.

### **Local Plan**

**3.9** Harrow's Core Strategy was adopted in February 2012. Policy CS1 establishes the borough's overarching policies, many of which are likely to be relevant to the securing of planning obligations. These include Part D on the protection of heritage assets; Part E on the creation of safe and accessible communities; Part I on housing mix; Part J sets out the affordable housing requirements; Part K residential design; Part Z which requires new development and growth to be coordinated and phased in tandem with the provision of appropriate physical and social infrastructure; and Part AA which requires all development to contribute to the delivery of strategic infrastructure identified in the Infrastructure Delivery Plan.



**3.10** Policy CS1AA also states that site specific requirements will be provided for through planning obligations. To support the implementation of the Core Strategy, the Council's Development Management Policies DPD establishes the Council's policy in relation to planning obligations at Policy DM50. This policy is set out in full in the introduction to this SPD.

## Chapter 4 Procedural Issues

**4.1** Planning obligations are typically secured through legal agreements, known as s106 agreements, made under Section 106 of the Town and Country Planning Act 1990 (as amended). Where planning obligations are required, planning permission will not usually be granted until such time as the s106 agreement has been prepared and completed by all relevant parties.

**4.2** This section of the SPD sets out the process of negotiating, preparing and completing a s106 agreement in association with the handling of planning applications in an efficient and timely manner.

**4.3** It details the actions required to be undertaken by the applicant and the Council at the pre-application and application stages of the planning application process. It also outlines the procedure for agreeing any planning obligations, and identifies the steps required to be taken before a planning application is submitted to the Council and during the consideration of a planning application. The main objectives are to ensure that, as far as possible:

- All appropriate information is provided by the applicant and is available from the date of submission of the application (this information should enable the Council and consultees to respond properly to applications); and
- Where approval is recommended, the planning obligation (be it a unilateral undertaking or s106 agreement) is signed, or in the case of major applications, the detailed proposed heads of terms have been agreed, prior to the application being considered by the Planning Committee or the Head of Development Management for delegated decisions; such that
- The time taken to complete and issue the agreement (assuming approval is granted) is kept to a minimum.

**4.4** The main stages of the procedure are:

- Stage 1: Pre-application;
- Stage 2: Submission of the planning application (including accompanying proposed Heads of Terms, draft Legal Agreement or draft Unilateral Undertaking); and
- Stage 3: Appraisal, validation and agreement of a related planning obligation.

### Pre-application Stage

#### What types of obligations might be sought?

**4.5** In accordance with the Town and Country Planning Act, the Council will consider each application on its merits against relevant policy and other material considerations, and will negotiate and secure planning obligations on a site-by-site and application-by-application basis.

**4.6** While the Council expects most impacts of development to be mitigated through good design and layout (in accordance with Policy DM1), and through the payment of CIL (in respect of strategic local and borough wide infrastructure requirements), some development specific impacts are likely to require physical works or other forms of improvement to mitigate them.

**4.7** The possible obligations, set out in this document, are not exhaustive. The SPD focuses on the policy requirements of the Local Plan, and the types of obligations likely to arise as a result of applying these. However, the nature of site specific impacts means they may vary widely depending on the site, its local context, and the nature of the development proposed. It is therefore not possible to list every type of development that might be subject to a planning obligation or to ascribe a set of circumstances under which certain types of obligations will be sought as a norm. The Council may therefore wish to negotiate other obligations, not included in this SPD, where they are relevant and necessary to a particular development.

**4.8** Nevertheless, the purpose in setting out possible obligations is to assist applicants in preparing their planning applications, and to facilitate pre-application discussions around policy requirements, including affordable housing, development impacts, and appropriate mitigation. It is hoped that this ensures negotiations on planning obligations are conducted in a way that is seen to be fair, open and reasonable.

**4.9** Where development sites are subdivided or developed in phases to ensure that the separate planning applications fall below any specified policy threshold for which obligations may be sought, the Council will, as far as possible, consider sites in their totality. Similarly, proposals which are judged not to make the best use of land, so as to result in underdevelopment, will be resisted and a revised scheme will be sought.

**4.10** This SPD does not only cover financial contributions but also benefits in kind negotiated as part of planning applications. In many cases provision in kind is preferable and suitable, especially where this reduces management costs and/or where finding land for a facility is a problem.

### **Pre-application discussions**

**4.11** In preparing the planning application, the applicant should fully consider the impacts of the proposed development and any planning conditions or obligations that might be required to mitigate those impacts. To assist this process, applicants should have regard to the relevant policies of the development plan, comprising both the London Plan (2011) and the Harrow Local Plan, and any other material considerations, including supplementary guidance as appropriate.

**4.12** Where obligations are likely to be required, applicants are encouraged to engage in pre-application discussions with the Council prior to the formal submission of a planning application. This is particularly important for schemes that trigger an affordable housing requirement in relation to the level, type and mix of affordable housing to be provided, as agreement at the pre-application stage avoids delays and costs to the applicant at the subsequent submission stage<sup>0</sup>. The pre-application process offers the opportunity for the applicant and Council officers to discuss, without prejudice, the types of obligations to be entered into, and whether these can or should be provided 'in-kind' either on or off site, or whether a financial contribution towards provision is appropriate.

**4.13** Where the planning application meets the criteria for referral to the Mayor of London, the applicant should also engage with the Greater London Authority and Transport for London in pre-application discussion.

### Submission Stage

#### Submission of the Planning Application

**4.14** Where it is identified that a planning obligation will be required, the applicant should submit with the planning application a draft unilateral undertaking or a draft s106 agreement based on the Council's standard template which can be obtained from Legal Services (in the case of straightforward financial contributions). In the case of major development proposals, a detailed proposal setting out draft 'Heads of Terms' should be submitted. Where it has been agreed with the Council that a financial contribution is to be made in lieu of the provision of all obligations, the Council anticipates that a unilateral undertaking will be offered.

**4.15** In respect of each obligation, the draft s106 agreement or proposed Heads of Terms should quantify the nature and scale of the obligation, taking account of the requirements of the relevant local plan policy and this SPD, and specify how provision is to be made.

**4.16** In accordance with national planning policy, there is a presumption that infrastructure to be provided through planning obligations should be provided 'in-kind' and 'on-site'. Where an obligation is to be provided other than 'in-kind' and on site, the draft s106 agreement or proposed Heads of Terms should explain the reason why this is, and should specify whether provision is to be made on an alternative site or by means of a payment in-lieu. Where an obligation is to be provided off-site or by means of a payment in-lieu, the applicant should identify the level of contribution applicable to their proposed development.

**4.17** If the applicant considers that, in respect of a particular obligation, no provision should be made, the applicant will need to provide sufficient information with their planning application to support their position.

#### Title Information

**4.18** Planning obligations are legally enforceable against the owner(s) (including their successors in title) of the land to which they relate. Only those persons having a legal interest in the land can enter into obligations even if a prospective purchaser/developer of the land has applied for the planning permission (although it is possible for prospective purchasers to be party to the obligations where they have exchanged contracts to purchase).

**4.19** Because planning obligations run with the land, all owners, lessees and mortgagees must be signatories. The planning obligations are registered on the Local Land Charges Register, which forms part of the publicly available statutory planning register. Therefore, in addition to the draft s106 agreement or Heads of Terms, applicants should submit with their planning application all necessary title and deed information as appropriate.

### Matters to be taken into account in the drafting of a s106 agreement

#### Financial Contributions

**4.20** Financial contributions from s106 agreements will be payable at specific stages in the development process, usually on commencement or on first occupation of the development. However, there may also be cases, typically for large-scale development, where contributions can be phased, in order to match the proportional impact of each phase of the development.

**4.21** Trigger dates for the payment of financial contributions will be included in the s106 agreement, as will any time periods by which the contribution is to be spent. Typically a 10 year repayment period will be required. Where a sum includes a maintenance element (see below), the period for repayment will reflect this, e.g. 10 or 20 yrs - where solely for maintenance no repayment should be required.

**4.22** Following receipt by the Council, financial contributions will be held in interest bearing accounts and will be individually identifiable due to each contribution being allocated a unique finance code. Contributions remaining unspent at the end of a time period specified in the s106 agreement will be returned to the payee in accordance with the terms of the agreement. This only applies to payments under s106 agreements. There are different arrangements for payments made under the Community Infrastructure Levy arrangements.

### **Maintenance Payments**

**4.23** Where contributions are secured through planning obligations towards the provision of facilities, it may be appropriate for the applicant to make provision for the physical upkeep of those facilities. Such payments may be required in perpetuity, although generally where an asset is intended for wider use the maintenance costs and other recurrent expenditure associated with the developer's contributions should be borne by the authority in which the asset is invested.

**4.24** For all maintenance payments, London Borough of Harrow and the developer will need to negotiate the type of payments to be made.

### **Index Linking**

**4.25** All financial contributions in s106 agreements, including maintenance sums, will be indexed to the retail price index so as to allow for the effects of increased costs to implement the necessary actions required by the agreement. For smaller agreements, contributions will be indexed linked from the date that the agreement was entered into until the time of payment. In the case of large complex planning applications and schemes where s106 negotiations may be protracted, indexation will be from the date that the sums were agreed to the time of payment. Indexation provisions will require that no sum in the s106 shall be reduced as a result of indexation.

### **Transfer of Land**

**4.26** Occasionally obligations will require land to be transferred to the Council or another public body, usually in respect of public realm or open space obligations. In such cases the s106 agreement will contain a requirement to pay the Council's or public body's legal costs in respect of the land transfer and provisions relating to the condition of the land to be transferred.

### **Legal Costs**

**4.27** The legal costs of s106 agreements are an impact of a development, one which the Council would not have to bear if the development were not to take place.

**4.28** For legal costs associated with the preparation of the s106 agreement or review of any unilateral undertaking, the applicant will be asked to cover the Council's legal costs. The Developer's legal adviser will be expected to provide the Council's Legal Services with an undertaking to pay the Council's reasonable legal fees before Legal Services commences any work related to the

matter. In the limited cases where a Developer is not legally represented and as such cannot provide a solicitor's undertaking the Developer will be expected to make a payment on account of costs prior to any work being undertaken by Legal Services.

**4.29** The Council's Legal Service will be able to advise applicants on the legal fees. In the event that the actual fees incurred amount to less than the sum paid on account, the difference will be repaid. The Council's legal fees are payable whether or not the matter proceeds to completion i.e. in the event that the agreement/undertaking is drafted but not completed for whatever reason such as where planning permission is refused or where the developer decides not to proceed with the development proposal.

### **Monitoring and Administration Costs**

**4.30** Monitoring of obligations will be undertaken by the council to ensure all obligations entered into are complied with on the part of both the developer and the Council.

**4.31** Developers entering into s106 Agreements or Unilateral Undertakings will be required to pay a monitoring fee in order to contribute towards the Council's costs incurred in the monitoring of the obligations and reporting on s106 agreements as required by government guidance. Work involved includes maintaining the database, logging agreements, checking triggers, estimating indexed amounts figures, arranging receipt of contributions, alerting and checking that they are used by service areas, returning unspent monies (where applicable) and making sure that records are kept of discharge of clauses etc.

**4.32** For monitoring and administrative costs, the Council will include within a s106 agreement an amount to cover these costs. The cost will be based on five percent (5%) cost of the overall cost value of the planning obligations up to a maximum of £50,000 or in the absence of any monetary value arising from the agreement, a flat rate of £500. The fee will be payable on completion of the legal agreement.

**4.33** The administration fee for the Community Infrastructure Levy is incorporated within the Levy itself, so no separate additional fee is payable.

### **Late Payments and Enforcement**

**4.34** In the event of any delay in making any payment required under a s106 agreement, interest shall be charged on the amount payable at the rate of four per cent per annum above National Westminster Bank Plc (or what ever bank the Council uses) base lending rate from time to time in force, from the date that the relevant payment falls due to the date of actual payment. In the rare event of scheduled payments being agreed the sum charged will include interest at the rate normally charged by the Council in addition to any indexing due.

**4.35** The council will work with developers to find solutions in cases where they demonstrate real difficulty in making payments at the trigger set out in the s106 agreement. This could be through agreeing payment of obligations at a later stage of the development process, or through provision by the developer of works rather than finance. However, where it is imperative that the relevant measure is in place prior to a development being occupied, the obligations to fund it will always become payable on commencement of the development and no variation will be possible.

**4.36** Planning obligations are enforceable against the original signatories and anyone who subsequently acquires an interest in the land.

**4.37** The council will enforce obligations through the relevant legal channels once other reasonable approaches to address non-compliance with obligations have been taken. In such cases, the council will seek to retrieve its legal costs in taking action from the party that is in breach of its obligations as well as any additional indexation or interest on the sum that is due.

### **Appraisal, Validation and Agreement of a Related Planning Obligation**

**4.38** In assessing the merits of the planning application and associated material, account will be had to requirements of the SPD as they relate to the proposed development, any formal comments made in respect of the application, and to the detail provided in the draft unilateral undertaking, draft s106 agreement, or proposed Heads of Terms. All of these matters will form part of the assessment of the application and the planning obligations to be sought. It is the responsibility of the Council's Head of Development Management and his/her officers to consider whether it is appropriate, in policy and legal (Regulation 123 of the CIL Regulations) terms, to seek or accept planning obligations in respect of an individual application. Where appropriate, the Case Officer will obtain, from Legal Services, legal advice as to the scope of permissible planning obligations and the content and form of the proposed agreement/undertaking.

### **Statutory Consultation**

**4.39** Planning applications, Design and Access Statements, Environmental Statements, alongside other submitted documents, will be the subject of public and statutory consultation in accordance with the Council's Statement of Community Involvement (updated 2013).

**4.40** Consultation will be undertaken by the Council as soon as possible after applications have been validated and registered. As necessary, other relevant departments of Council will also be consulted on both the detail of the planning application and the proposed planning obligations offered or to be sought in the draft unilateral undertaking or draft s106 agreement.

**4.41** For applications of potential strategic importance<sup>0</sup>, these will be referred to the Mayor as soon as practicable after receiving the planning application.

### **Viability Considerations**

**4.42** Planning obligations, like CIL, are a necessary cost of development and it will be expected that the likely cost of obligations, including requirements for affordable housing provision, will be factored into the development cost from an early stage. Furthermore, the policies of the Local Plan and Harrow's CIL have been subject to assessments of viability to ensure that what is sought is viable in the local context. Therefore the onus will be on the developer to provide robust information regarding the viability of an individual scheme. However, if an applicant can demonstrate that the applicable obligations cannot be fully provided due to exceptional viability circumstances, the Council may review the range and nature of obligations. In order to determine such applications, the applicant is required to submit an open book viability assessment to the Council for consideration by its Property and Valuation Service, Housing Service or an independent assessor, noting that a fee may be charged to cover the Council's costs of reviewing the viability assessment.

**4.43** The development appraisal should use a recognised appraisal model, such as the GLA's Affordable Housing Development Control Toolkit (also known as the Three Dragons Toolkit), and is required to justify the applicant's position. The requirements for open book appraisals are

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These are application that are referable to the Mayor of London under the Town and Country Planning (Mayor of London) Order 2008

provided below. It is important that the information provided for use in a Financial Appraisal is accurate and assumptions will need to be clearly shown in any model used, so the Council can understand how the assumptions are made. The form and methodology of the appraisal should be first agreed with the Council's officers.

### **Requirements for Open Book Appraisals**

- Identify and justify (with comparable evidence where appropriate) all development value and cost variables specify any 'exceptional' cost items with supporting evidence in writing from a reputable cost consultant
- Adhere to the standard conventions in terms of appraisal calculations not least regarding developer's profit;
- Specify all assumptions made concerning the provision of affordable housing and planning obligations;
- Provide Red Book, or other appropriate valuations (bank draft) to support Existing Use Values, where they are affected;
- Identify in cash flow terms the effect of deferred contributions;
- Demonstrate that the development proposal in financial terms is the only feasible option when compared to other possibilities including any role played by public sectors providers of 'gap' funding; and
- Satisfy where necessary any Independent Assessor's evaluation.

**4.44** A detailed list of requirements and expected sources is set out at Appendix 3

**4.45** In cases where a dispute relates to the viability of a proposal, and in any case, where the Council considers it appropriate, an independent financial assessor may be required. The assessor will be appointed by the Council and the reasonable costs of the assessment will be met by the applicant. The independent financial assessor's report will be provided to the Council and the applicant.

**4.46** Where the Council is satisfied that the proposed development cannot, for financial viability reasons, fully provide the obligations due, priority will be given to those obligations necessary to manage the most significant impacts of the proposed development and to the priorities provided in policy or as determined by the Council, taking account of the specifics of the site.

**4.47** Issues regarding viability must be resolved, to the satisfaction of Council, before any meaningful negotiations between the applicant and Council can commence.

### **Negotiation and Reporting**

**4.48** If, at any stage, it becomes clear that the Council cannot recommend approval of a planning application, the discussions on the planning obligation will be suspended.

**4.49** Initially, the Council will write to the applicant to advise whether the draft unilateral undertaking, draft s106 agreement or proposed Heads of Terms, provided at the time the planning application was submitted, is acceptable. For minor planning applications, where the Council considers the unilateral undertaking to be acceptable, the Council may request the applicant to sign and return it prior to the planning application being presented for determination.

**4.50** For major planning applications, where the Council considers the draft s106 agreement or proposed Heads of Terms to be acceptable, the Council will agree with the applicant that this be reported, along with the planning application and any other material considerations, to the Planning Committee for determination.

**4.51** In those circumstances where the Council is not satisfied with the proposed obligations or the form of the draft s106 agreement or proposed Heads of Terms, it will advise the applicant of this, will set out what the Council considers would be acceptable obligations to be sought, and will provide an indicative timeframe for continued negotiations.

**4.52** If, in the unlikely circumstance, the Council and applicant cannot reach an amicable agreement, an independent expert, may be consulted to assist in mediation.

**4.53** The Council, in the majority of cases, will not present applications for approval unless the applicant agrees in principle to the draft s106 agreement or to the detailed proposed Heads of Terms to be reflected in a planning obligation. Should the undertaking, s106 agreement or Heads of Terms not be completed or agreed in principle within the timescale or by the trigger dates set, the Council officers will take the application to Committee with a recommendation that the application be refused. Only in exceptional circumstances will the planning report recommend the application be approved, conditional on the successful completion of the s106 agreement.

**4.54** For applications of potential strategic importance (i.e. referable to the Mayor), unless the Mayor has notified the Council that he does not wish further involvement in the determination of the application, prior to the Council determining the application it will send all relevant material to the Mayor for his consideration, including any draft planning obligations. In such circumstances the Mayor will advise the Council whether he:

- Is content for the authority to determine the application; or
- Will direct the authority to refuse the application; or
- Will determine the application.

**4.55** The Council will advise the applicant of the outcome of the Mayor's decision. Where the Mayor decides to act as the local planning authority for determining the application, the applicant will need to deal directly with the Mayor in subsequent negotiations of the planning obligations to be sought.

## **Post Decision Process**

**4.56** Where planning obligations are to be secured by means of a signed unilateral undertaking that has been agreed with the Council's legal team prior to the planning application being determined, if the application is approved (subject to the completion of the planning obligation) without further modification, the decision notice will be issued and, after payments of relevant costs where applicable, the undertaking will be placed on the local land charges register.

**4.57** Where the draft s106 agreement has been agreed in principle, prior to the application being determined, if the application is approved either by way of delegated powers or Committee decision, the s106 agreement will then be formally completed and sealed prior to the decision notice being issued and the s106 agreement being placed on the local land charges register.



### Appeals and call-in

**4.58** Planning applications may be appealed, or the Mayor or Secretary of State may call-in an application for his determination. In such cases, the Council will be unable to negotiate a planning obligation, as the Planning Inspectorate/Mayor/Secretary of State will decide this. However, the developer can submit a unilateral undertaking and the Council will enter negotiations with the developer to establish and set out the nature of the planning obligations which would be sought, should the application be granted.

### Renegotiation

**4.59** The principles for modifying planning obligations are set out in Section 106A of the Town and Country Planning Act 1990 (as amended). Where an interested party seeks to modify or discharge a planning obligation within 5 years of entering into that obligation this may only be done with the agreement of the council by way of a Deed (except in relation to the modification or discharge of affordable housing requirements). Upon the expiry of 5 years following the date upon which the planning obligation was entered into, a person against whom a planning obligation is enforceable may apply to vary or discharge it. In determining such an application the Council will have regard to whether the obligation “*no longer serve a useful purpose*” or whether it “*continues to serve a useful purpose...equally well*” as modified. These principles will be the underlying considerations.

**4.60** A person against whom an affordable housing requirement is enforceable may apply to the Council for its variation or modification pursuant to s106BA.

**4.61** Prior to submitting an application to vary a planning obligation, applicants are encouraged to talk with the Council about the options available. Recently, the Council has held a number of such discussions and often the solution lies with varying the planning application itself, such as altering the mix of uses or the housing mix, to better address market needs and to improve the viability of the granted scheme. Other options have included varying the payment schedule or the timing for delivery of obligations, to assist in improving cash flow.

**4.62** Where the council is satisfied that an otherwise desirable development cannot be fully policy compliant and remain viable, a reduced package of planning obligations may be recommended. Where the application or request for renegotiating one or more elements of the s106 affects the overall principle of the original decision (e.g. the application would not have been approved without the obligation) the application or proposed variation will be determined by Planning Committee and not under officer delegated powers.

**4.63** Where viability has been raised by the applicant as a reason for the modification or discharge of an obligation, and the council considers that a viability assessment (see ‘Viability Considerations’ above) is required to enable the Council to assess the viability of the development, the applicant will be required to provide any necessary cost and income figures to the Council, and pay the Council’s reasonable costs in appointing consultants to undertake the assessment.

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## Chapter 5 Reporting and Monitoring

**5.1** Planning obligations will be monitored and reported on a regular basis to the appropriate Committee(s). The report will detail:

- Information relating to agreements entered into, this will include details of the development site, the obligations agreed, the relevant dates or timing for completion of each obligation, receipt of payment, the purpose of the obligation and the dates for the receipts of funds;
- Progress on obligations e.g. affordable housing;
- Financial contributions received; and
- The completion of schemes funded from financial contributions.

**5.2** Obligations and/or financial contributions 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.

**5.3** The performance of the SPD will be assessed and reported on as part of the Council's Annual Monitoring Report. The Council has therefore established the following set of monitoring requirements in respect of this SPD:

- The types of obligations being secured and compliance with the requirements of this SPD;
- Monitoring time taken for decisions where a planning obligation has been required as part of the application; and
- Monitoring of delivery (i.e. the completion of obligations including those to be undertaken by delivery agents other than the developer).

## Chapter 6 Affordable Housing

### Introduction

**6.1** Ensuring the delivery of affordable housing is long established as an integral part of Government and Local Plan policy and is essential in facilitating sustainable local communities and providing choice to people with different income levels.

**6.2** Affordable housing reforms announced in late 2010 introduced changes to the definition of affordable housing which now includes social rented, affordable rented and intermediate housing provided to eligible households whose needs are not met by the market<sup>(1)</sup>. The government has made it clear that affordable rented housing will form the principal element of the supply of new affordable housing.

**6.3** This section of the SPD explains the Council's approach to the delivery of affordable housing through s106 planning obligations. It is supplementary to, and expands upon the Local Plan policies for affordable housing, which are set out in the London Plan (Policy 3.11) and Core Strategy (Policy CS1J). It explains how the policies will be applied and provides additional information on what will be expected when dealing with planning applications for development for which an element of affordable housing should be provided.

### The need for affordable housing

**6.4** The cost of housing in and around the borough is high and there is a severe shortfall in the availability of affordable housing. Government guidance on housing and planning has emphasised the requirement for local authorities to assess housing need. Harrow's Housing Needs Assessment and a West London -wide Strategic Housing Market Assessment (SHMA), underpin the Council's housing strategies and Core Strategy Policy CS1J. The assessments show that the demand for affordable housing far outstrips capacity and supply, and that this demand will continue to increase.

The evidence suggests a significant shortfall of affordable housing of all sizes of accommodation, most notably two and three bedroom homes. However, the greatest need, relative to supply, is for family affordable housing, which also reflects the inability of market housing to cater for lower income larger households.

**6.5** The demand for affordable housing is projected to continue increasing due to shortages in overall housing supply; the need for large deposits to access home ownership; increasing housing costs particularly in the private rented sector and the impacts of government welfare reforms. The slow down in the housing market and changes to the way affordable housing is funded has led to a decrease in the development pipeline for new affordable housing delivered through S106 agreements.

**6.6** The Welfare Reform Act confirmed the introduction of Universal Credit and a total benefit cap of £500 per week (£26,000 per annum) for families. The total cap does not take account of the higher costs of housing in Harrow compared to cheaper parts of the country and we estimate it will affect particularly large low income households in the borough.

**6.7** Together with changes to the way that housing benefit is assessed for households living in the private rented sector which has capped the amount of benefit particularly for four bedroom or larger properties, large low income or non working households will find it increasingly difficult to meet their own housing needs in Harrow.

**6.8** A reasonable supply of good quality affordable housing for rent, especially for families, is vital to meet the needs of local households in priority need who are priced out of the private sector housing market in Harrow. In addition Harrow wishes to enable first time buyers, particularly existing social housing tenants who will free up social housing stock, to purchase low cost home ownership properties in the borough.

**6.9** Further information on housing need in Harrow is available in the Housing Evidence Base, available on the Council's website<sup>0</sup>.

### **Policy context**

**6.10** Core Strategy Policy SC1J identifies that the Council will seek the maximum reasonable amount of affordable housing on all development sites with a capacity to provide ten or more units (gross), having regard to:

- the availability of public subsidy;
- the need to promote housing mix and choice in accordance with Policy CS1I;
- the priority afforded to family affordable housing;
- the size and type of affordable housing needed in particular locations;
- the site circumstances and other scheme requirements;
- development viability; and
- the borough wide affordable housing target of 40%

**6.11** London Plan Policy 3.11 reiterates that the provision of affordable housing should be maximized and that priority should be accorded to the provision of affordable family housing. The Policy also establishes that 60% of new affordable housing should be for social and affordable rent, and 40% for a range of intermediate housing products<sup>0</sup>.

**6.12** As per Policy CS1J, there may be instances when the Council considers that an alternative mix between social/affordable rented and intermediate housing is appropriate, for example, in areas that are deemed to have an existing predominance of a particular housing tenure or are unsuitable for family occupation.

**6.13** Should the Council consider that the proposed mix between social/affordable rented and intermediate housing is not acceptable, permission for the development may be refused.

**6.14** The Council monitors the delivery of intermediate and social housing. In the interests of meeting the target mix, this monitoring information may be used to determine the mix on individual developments. This information is available for public consideration by contacting the Harrow Council Housing Enabling Team.

**6.15** As with the amount of affordable housing, the mix between intermediate and social/affordable rented housing for a development should be agreed with Harrow Council officers at the pre-application stage.

### **Unit mix, person occupancy and space standards**

**6.16** The Council seeks to ensure that the mix of dwellings, types, sizes and tenures in large housing development reflects the housing needs of the Borough. The target mix for rented affordable housing in Harrow is given at Appendix 2 and has been formulated using evidence from Harrow's Housing Needs Assessment (2006), the West London Strategic Housing Market Assessment (2010) and current local housing register information. The target mix for intermediate housing, and guidance on affordability levels for intermediate housing, is also given at Appendix 2 and has been formulated using the above evidence base data as well as through profiling of the low cost home ownership register applicants.

**6.17** The Council recognises that different sites will pose different design challenges in terms of providing family accommodation, especially on sites suited to developments of flats. However, even in blocks of flats, good quality family accommodation can be provided, for example, at ground floor level, with access to a private garden or private communal amenity space. It is crucial that well-designed family housing with access to private or communal gardens is 'designed-in' to achieve the expected dwelling mix on a site.

**6.18** On sites that the Council considers to be particularly suitable for family housing, the Council may seek a proportion of affordable family housing above the requirement specified in Appendix 2. Should this have implications on viability (as demonstrated through a development appraisal), the Council will consider the provision of the affordable housing requirement in terms of habitable rooms or floorspace.

**6.19** The Council will not accept a reduced proportion of affordable family homes with 3 or more bedrooms on sites where this could clearly be achieved.

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Intermediate housing is a general term used for affordable homes, both to rent and buy (through mechanisms as shared ownership & FirstBuy), which are aimed at those households who can't afford to meet their needs in the open market but can afford more than social rents.

**6.20** On small sites where 10 or fewer affordable units are being provided, it is unlikely to be practical to have a tenure mix of affordable rented and intermediate housing. On these sites, the Council will take into account the view of its partner Registered Providers in deciding whether to allow flexibility in its required tenure mix. In some situations it may be preferable to encourage provision of the affordable housing in a single tenure in the interests of simplifying management arrangements and ensuring affordability. Developers are again encouraged to engage the Council at the pre-application stage for advice on the tenure mix to be provided.

### **Negotiation of affordable housing**

**6.21** The Council will seek the maximum reasonable proportion of affordable housing on qualifying sites and will expect negotiations to be concluded with Housing Services during the pre-application stage, in order to streamline the passage of the application through the planning process.

**6.22** The Council recognises that a number of factors can impact on the ability of a development to provide the expected proportion, tenure split and mix of affordable housing and comply with the affordable housing criteria. However, the Council will not accept an inflated land value as justification for a departure from the requirements of this SPD and will use the existing value of the site in its current permitted use as the viability benchmark, noting also that Harrow's CIL has been deliberately set at a level that seeks to ensure that affordable housing will continue to be viably delivered.

**6.23** Applicants should not automatically assume that Social Housing Grant will be made available for private sector developments. Indeed normally applications for grant are only considered for schemes which can demonstrate additionality (i.e. that the grant will enable more affordable housing to be delivered than policy requirements alone would deliver). The applicant should consult with the Council's Housing Enabling Team at the pre-application stage, preferably in cooperation with an RP partner, to establish whether Social Housing Grant or an alternative source of funding is likely to be secured.

**6.24** The Council will support bids to the GLA where the amount and type of affordable housing is consistent with policy and demonstrates additionality or where the bid is in support of other corporate Council initiatives such as the regeneration of a specific area.

**6.25** Early engagement with the Council at the pre-application stage is critical to ensure the processes of negotiation and securing affordable housing set out above are undertaken efficiently.

**6.26** The Council has established good relationships with a number of Registered Providers (RPs) that operate effectively in partnership with the Council to provide affordable housing that meets local housing need. As such, the Council encourages developers to meet their affordable housing obligations by forming a partnership with one of the Council's preferred RPs following discussion with the Housing Enabling team. Where possible, RPs who are to be involved in the delivery of affordable housing will be expected to be party to the Section 106 agreement. Applicants should contact the Council's Housing Enabling team at the pre-application stage for an up-to-date list of preferred RPs.

### **Development types from which obligations are sought**

- Residential developments, including mixed-use developments<sup>0</sup>, with a capacity to provide ten or more dwellings (gross).

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Mixed-use developments are schemes that comprise more than one form of land use (e.g. office and retail uses) within the same building or development

### Optimising site development

**6.27** The best use must be made of development sites in accordance with planning policies on density and overall objectives for sustainable development. The Council will look closely at proposals that fall short of providing 10 or more units to make sure the optimum use of land is achieved. This includes the situation where a planning application forms part of a larger site where development of the larger site would be within the above policy threshold.

### Varying existing planning permissions

**6.28** In the event that planning permission is granted for a mixed-use scheme, and a subsequent application seeks to vary a use from a non-residential element to residential use, this will trigger a reassessment of the requirement for affordable housing to be provided on the site.

### Live/work units

**6.29** Live/work units are considered to be residential for the purposes of assessing whether Policy CS1J applies. However, live/work units are not deemed to be appropriate for the provision of affordable housing. Where a scheme of live/work units triggers the affordable housing requirement, the affordable element should be provided in the form of wholly residential units.

### Sheltered Housing and extra care homes

**6.30** Policy CS1J applies to schemes for sheltered housing and extra care homes that fall within the thresholds. However, where an applicant is proposing a scheme for sheltered, extra care or other forms of self contained supported accommodation the council strongly recommends that the Council's Housing Enabling team is contacted to confirm whether or not there is a need for affordable accommodation of the type proposed. If there is, the required amount of affordable sheltered or supported housing will be sought on site. If there is no identified need for such affordable housing, the developer will be required to provide an element of general needs housing on site, through re-design exercises if necessary.

### Residential Care and Nursing Homes

**6.31** Residential care homes and nursing homes, where the accommodation is non-self contained, fall within Use Class C2 (Residential Institutions) and are not subject to the affordable housing policy.

### Student Housing

**6.32** The London Plan (2011) states in paragraph 3.53 that "Student accommodation should be secured as such by planning agreement or condition relating to the use of the land or to its occupation by members of specified educational institutions. If the accommodation is not robustly secured for students, it will normally be subject to the requirements of affordable housing policy."

### Hostels

**6.33** Hostels (classified as sui generis) are not required to provide additional affordable housing.

### Form in which obligations should be made

**6.34** On-site provision is the Council's preference for how affordable housing will be provided by developers. Only where exceptional circumstances exist and where the Council is satisfied that it would be appropriate, will off-site provision be accepted. Where exceptionally housing cannot be provided on or off-site a commuted sum will be required in lieu of provision to secure delivery of affordable housing on sites elsewhere.

**6.35** In accordance with London Plan paragraph 3.74, exceptional circumstances include those where it would be possible to achieve the following:

- Secure a higher level of provision on an alternative site
- Better address priority needs, especially for affordable family housing
- Secure a more balanced community.

### Off-site provision

**6.36** In instances where it is accepted that off-site provision is appropriate, the onus will be upon the developer to find and acquire a more suitable site which would not otherwise be expected to come forward for affordable housing, within the vicinity of the originating development. In such instances the amount of affordable housing will be negotiated and secured through a s106 agreement. Off-site provision should be financially-neutral, i.e. there should be no financial advantage to a developer in providing the housing this way.

**6.37** In instances where the site providing the affordable housing off-site is large enough that, if it were developed independently it would be required to provide affordable housing, the amount of affordable housing will be negotiated as a proportion of both sites combined.

### Calculation of Payment in Lieu

**6.38** Although the Council's preference is to negotiate on-site affordable housing there may be circumstances where the Council agrees that a cash in lieu of provision contribution may be suitable. The procedure for establishing such a contribution is set out at Appendix 4 alongside a link to a calculation spreadsheet.

**6.39** Commuted sums in lieu of on-site affordable housing provision received by the Council will be ring-fenced to secure efficient delivery of new affordable housing through (but not limited to) the following:

- delivery of conventional new affordable housing
- delivery of private rented housing that is affordable to people in housing need on the Council's housing register
- estate regeneration
- bringing long term vacant properties back into use
- acquisition of existing properties

### Review Mechanisms and Extension of Time

**6.40** To take account of changes in the economic climate, and in respect of schemes presently anticipated to deliver low levels of affordable housing, the Council may require re-appraisal of a scheme upon partial or full completion based upon the actual finances of the scheme nearer to

completion. To date, Harrow has agreed with applicants to review financial appraisals at 80% occupation of the residential provision where a much lower than normal provision was agreed at the date of the planning permission.

**6.41** Any applications which are re-submitted by means of extension of time, renewal or variation of the planning permission will be subject to the requirements of Policy CS1J and this SPD. The negotiation process will re-start on re-submission. Scheme proposals will be subject to a 'baseline' level of affordable housing requirements. This will ensure that, in the event of any re-submission of the proposal, the level of affordable housing cannot be negotiated below the 'baseline'. Where it is concluded that the scheme can sustain a greater quantum of affordable housing and/or a more policy compliant affordable housing tenure mix can be provided, the Council will elect to seek the following or a combination of the following:

- A higher proportion of affordable housing on-site.
- Amend the tenure mix for the affordable housing element (where the scheme design permits).
- Amend the affordability requirements for shared ownership units, where proposed.
- A cash in lieu contribution.

### **Perpetuity**

**6.42** The Council requires all affordable housing to be provided in perpetuity, through the s106 agreement. In order to ensure that affordable housing continues to be affordable to those in housing need, and managed to acceptable standards, the Council requires the legal interest and management of the affordable housing produced through S106 obligations to be transferred to a Registered Provider (RP), the Council or equivalent. If the housing is transferred to an RP or the Council these requirements will be deemed to have been met. Social rented homes subsidised by grant funding are subject to the legal Right to Buy/Acquire provisions.

**6.43** Shared ownership or New Build Home Buy homes will remain affordable in perpetuity but may be subject to occupiers 'stair-casing' to full ownership by purchasing additional equity in the property. The grant that was initially invested in the additional equity purchased by the occupier is to be recycled by the RP or equivalent to fund new affordable housing provision elsewhere in the Borough.

**6.44** For rented affordable properties, the Council will nominate 100% of initial lettings and 75% of relets, all of whom will be on the Council's register and will be allocated in accordance with the choice-based lettings system *Locata*. For shared ownership properties the Council will retain the right to nominate 100% of sales and resales. The Council's nominations will be secured through a Nominations Agreement entered into by the RP or equivalent.

## **Chapter 7 Transport and Highways**

### **Introduction**

**7.1** Funding for transport infrastructure required as a result of incremental growth, in particular public transport improvements, will normally be provided by Council as part of CIL and other mainstream funding programmes (i.e. the Local Implementation Plan).

**7.2** However, most developments are likely to generate new travel movements. Any additional alterations to the transport network required to cope with these movements or mitigate impact within or in the vicinity of the new development will be expected to be incorporated within proposals.



**7.3** The mitigation of any development should focus on reducing the impact of the private car and providing opportunities for public transport, walking and cycling for instance.

### **Policy Context**

**7.4** Policies DM43, AAP19 and AAP20, and the associated supporting text, provide the main policy background relating to achieving a safe and sustainable relationship between development and transport.

### **Development types for which obligations are sought**

**7.5** While Transport Assessments and Travel Plans are required for all major development, there is no overall minimum development threshold below which obligations will not be sought. Obligations will be sought where there is a requirement to improve existing, or construct new, highway infrastructure in order to access development in a safe and appropriate manner or to mitigate the effects of the development on the highway network. Consequently there is no trigger below which a highway infrastructure obligation may not be required and there are no types of development that would be exempt from highway infrastructure requirements.

### **Types of obligations**

**7.6** A range of traffic and highway measures may be required as the result of individual schemes. The Council's Transport team will normally advise on the requirements for individual applications, and/or such works will be identified as a result of submitted Transport Assessments. However, the main types of obligations are:

#### Travel Plans

**7.7** A Travel Plan is a package of practical measures to reduce car travel to and from a proposed site, and to encourage the promotion of more sustainable forms of transport by increasing the awareness of travel options, such as walking and cycling, and through the provision of facilities to support such options, such as shower facilities and secure cycle parking. Travel Plans should include targets for the reduction in travel related impacts and include resources for supporting and maintaining the travel plan. Travel plans may include provision for financial penalties to fund the promotion or provision of sustainable transport until travel plan objectives are met.

#### Infrastructure required to enable site delivery

**7.8** Highway amendments and improvements that may be necessary, specific to development, include, but are not limited to, the provision, removal or relocation of street furniture, dropped kerbs, crossovers, pedestrian crossings, bus stops and street trees.

#### Network impacts

**7.9** There will be occasions where transport demand created by development may not be satisfactorily mitigated by the measures in a travel plan or site specific highway improvements. While the Council will endeavour to improve the wider transport network through CIL and other mainstream funding, there will be occasions where a particular site requires public transport services, or highway or traffic management mitigation to the wider network, that has not been identified for investment. This may include increased highway capacity within the network, junction improvements and/or traffic management measures, including the potential introduction or extension of parking controls, subject to consultation.

**7.10** The Council expects major transport service or infrastructure improvements to be rare and that, for most development, on-site works, improvements to immediate highway, travel plans and CIL funding will be sufficient to mitigate adverse transport impacts.

#### Parking restrictions

**7.11** The extension of on street parking controls, waiting restrictions, parking permit eligibility restrictions, and permit free housing will be promoted to mitigate the impacts of development on parking conditions and the local highway network<sup>0</sup>. Planning obligations will be required to secure a financial contribution to the Council to implement parking controls and to ensure that owners or occupiers of car-free residential units are not entitled to apply for parking permits.

#### Car Clubs

**7.12** A Car Club provides an environmentally sound and financially attractive alternative to private car ownership by offering pay as you go short term vehicle hire. Car club related planning obligations can be sought in order to achieve reduced levels of on-site parking provision or, in some circumstances, in order to provide an on-street car club bay in the vicinity of the site. Car club related initiatives can also be included in Travel Plans.

#### **Form in which obligations should be made**

**7.13** It is essential that travel plan, infrastructure and traffic management measures are provided in a timescale commensurate with the proposed phasing of the development and the Council will seek to approve trigger points through the appropriate legal agreements.

**7.14** The obligation can be secured either through a financial contribution, paid to the Council to carry out the identified works, or through developer provision of the identified works. Financial contributions will be determined on the basis of the cost of works required. In cases where the developer is providing infrastructure improvements a licence would be required for the developer to work on the public highway, which could require a s278 Agreement to be entered into and further guidance on this is available by contacting the Council's Transport team.

## **Chapter 8 Public Rights of Way**

### **Introduction**

**8.1** The Council's Rights of Way Improvement Plan (October 2007) highlights the important resource Harrow's network of footpaths, bridleways and byways are for recreation, healthy living and sustainable transport. Contributions towards wider footpath and cycle network improvements will be through CIL. However, where required, on-site links and routes, to connect to the wider network, will still be sought through a planning obligation.

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NB: it should be noted that such controls over parking are unlikely to apply to the requirements for development to make provision for disabled car parking

### Policy Context

**8.2** Policies DM2, DM17, DM21, AAP19 and the Site Allocations DPD seek to enhance public access to the Green Belt, Metropolitan Open Land, areas of nature conservation, and to nearby facilities and public transport. The need to provide or improve access links will be determined by the type and location of the development and its geographical relationship with other facilities, access networks and residential or employment areas.

### Development types from which Obligations will be sought

**8.3** New housing and commercial developments within the borough may trigger a need for publicly accessible routes on-site or to move in and out of the development and link with existing pedestrian and cycle routes and the wider rights of way network.

### Form in which contributions should be made

**8.4** Obligations may be sought on-site as part of the development works to secure new rights of way over the proposed development site or for the upgrade of existing routes. Such obligations may include requirements for maintenance of newly created or existing rights of way. Financial contributions may be appropriate where necessary to establish better links/connections between new and existing routes on site, and that of the existing wider network. The level of any financial contribution will be based on the cost of the works required to establish the link between on and off-site network connections.

## Chapter 9 Public Open Space

### Introduction

**9.1** Harrow's Open Space, Sports and Recreation Study (2009) shows there is a significant quantitative shortfall in accessible open space to meet the needs of the Borough's existing and future population. For this reason, the Core Strategy establishes a presumption against the loss of open space and resists development on open spaces. CIL is intended to contribute towards the improvement in the qualitative standard of existing parks and other public open spaces to improve the capacity of these areas to accommodate the needs of existing and new development. However, additional provision, as part of new development will help address the substantial deficit in quantitative open space provision across the Borough.

### Policy context

**9.2** The Core Strategy seeks to improve the quality and accessibility of all public open spaces within the Borough. Policies CS1F and DM18 provide for the reconfiguration of existing open space where this would, amongst other considerations, address identified deficiencies in the accessibility of open space. Policies CS1F, DM19 and AAP11 also seek the provision of new open space as part of new major development proposals, including new civic spaces for sites within town centres.

### Development types for which obligations are sought

**9.3** Major residential and town centre development proposals. Where a development site includes an area of existing private open space, the Council will seek a planning obligation to secure public access to the open space in appropriate development proposals.

## Types of obligations

**9.4** Obligations may be sought to secure new open space provision on-site, including civic space, or to secure public access to, and use of, existing open space. Obligations, or a financial contribution, may also be sought for the maintenance of newly created open space.

## Chapter 10 Amenity Space

### Introduction

**10.1** Funding for new and improved local parks, required as a result of incremental growth, will be provided for through the CIL charge.

**10.2** However, new residential development, in particular schemes that include family-sized dwellings, should have access to on-site amenity space, which may be shared or private, to allow informal leisure and recreation activities by occupiers of the new dwellings, particularly children.

### Policy context

**10.3** The Local Plan policies DM1 and AAP11 require new residential development to make provision for adequate amenity space.

### Development types from which Obligations will be sought

**10.4** All new residential development is to make provision for adequate amenity space.

### Form in which contributions should be made

**10.5** New residential development is expected to incorporate amenity space on-site within their design to meet the need generated. The standard of provision is set out in the GLA Residential Design Standards SPG as being a minimum of 5m<sup>2</sup> of private outdoor space to be provided for a 1-2 person dwelling, and an extra 1m<sup>2</sup> to be provided for each additional occupant. Balconies can be included in the calculation of amenity space. However, the minimum depth of all balconies and other amenity open space must be 1.5m.

### Financial contributions

**10.6** If in exceptional circumstances agreed by the Council, the amount of on-site amenity space proposed by the applicant does not meet the requirement, then the quality of that proposed will be assessed to determine whether it is considered acceptable and usable for the enjoyment of residents. If the space is not considered appropriate then a commuted sum may be acceptable to improve access to and use of local parks.

**10.7** The commuted sum will be based on the above standard of on-site amenity space to be provided by the scheme, minus any on-site provision towards meeting the required level of provision, multiplied by £50 per m<sup>2</sup>, which represents the lower end cost of improvements to bring local open space in the Borough up to PPG17 audit standard.

**10.8** The proximity and adequacy of existing public parks and playground space will not be a factor in determining the amount and form of amenity space provided for within a new development.

## Chapter 11 Children's Play Space

### Introduction

**11.1** Harrow's Open Space, Sports and Recreation Study (2009) shows the distribution and amount of play space in the Borough and highlights both the sub-area and Borough-wide deficiencies. Overall, there is current 0.03 hectares of play space per 1,000 children (i.e. 1.80m<sup>2</sup> per child). The extent of the Borough's shortfall in play space provision is illustrated using both the Fields in Trust standards and Mayor of London's recommended benchmark. Fields in Trust suggest a standard ratio of children's recreation space to be 0.25 ha per 1000 population (i.e. 15m<sup>2</sup> per child, while the Mayor of London's recommended benchmark is 10m<sup>2</sup> per child.

**11.2** New residential development offers the opportunity to address the existing levels of deficiency through on-site provision of 'door-step' spaces and facilities, which is defined by Play England as 'a small space, within site of home, which children, especially young children can play within view of known adults'. CIL is intended to contribute towards the qualitative and quantitative improvement of other larger types of play space typologies, including neighbourhood and youth play space.

### Policy context

**11.3** London Plan Policy 3.6 and policies DM19 and AAP13 require major residential development to make provision for children's play space.

### Development types from which Obligations will be sought

**11.4** All major residential developments, including mixed-use development resulting in a child yield will be required to make provision for on-site children's play space.

### Form in which contributions should be made

**11.5** New major residential development is expected to incorporate children's play facilities on-site within their design to meet the need generated. Where development is phased, the London Plan requires the provision of play space to be made within the early phases of the development.

**11.6** While the requirement is usually for on-site provision, off-site provision, including the creation of new children's play space or improvements to existing provision may be considered acceptable where such provision can be made within 100m of the development site and where it can be demonstrated that it fully satisfies the needs of the development whilst continuing to meet the needs of existing residents. In such instances, the obligation can be secured either through a financial contribution, paid to the Council to carry out the identified works, or through developer provision of the identified works.

### Standard of provision

**11.7** While the Mayor's Guidance sets the benchmark standard of 10m<sup>2</sup>, this is a significantly higher figure than the current level of provision. Harrow's Open Space, Sports and Recreation Study (2009) specifies that a standard needs to be set that is both aspirational and also achievable. For this reason the quantity standard for children's play space within Harrow has been set at 4m<sup>2</sup> of dedicated play space per child.

**11.8** A table setting out the calculation of child yield is set out in **Appendix A**.

## Financial contribution

**11.9** Where a financial contribution is required for off site provision, this will be based on the child yield from the development, multiplied by 4m<sup>2</sup> of play space provision per child, multiplied by £95, which is the average cost per sq m of provision.

## Chapter 12 Public Art

### Introduction

**12.1** The Council is in the process of updating its Cultural Strategy, the aim of which is to encourage strong leadership in the broader context of arts, culture and creative industries, and supporting new cultural practitioners across the Borough.

**12.2** The provision of public art and artistic features should form an integral element to any development with a significant impact on its physical environment and setting.

### Policy context

**12.3** London Plan Policy 7.5 and Policies AAP1 and AAP7 seek the provision of a high quality public realm both within and adjoining development sites. The provision of such space includes the incorporation of public art, especially in areas of high footfall or public interest where people like to gather, to provide a point of interest and to engage users of the space.

### Development types from which Obligations will be sought

**12.4** All major development that has a significant impact on its physical environment and setting will be required to make provision for Public Art.

### Form in which contributions should be made

**12.5** Qualifying development schemes will normally be expected to provide public and artist designed elements up to a maximum of £50,000. A proportion of that art is expected to be free standing from the development or an independently commissioned art work, supporting the Cultural Strategy and local artists. The overall public art provision will be subject to consideration in light of other planning obligations sought, including the creation of new or improved public realm, and the design and architectural merits of the development proposed.

**12.6** As appropriate, the funding of art can be by means of a sum set aside to be spent by the developer or a financial contribution to the Council. A transparent process of commissioning public art work, involving professional art organisations and/or stakeholder community engagement will be expected.

## Chapter 13 Community Safety

### Introduction

**13.1** The promotion of good design, to design out crime, is the primary means of addressing community safety in the planning system. However, there will be instances where the nature of development will create the requirement for additional management measures to be put in place to tackle risks of access and security in the area of development.

### Policy context

**13.2** Policies DM2 and AAP4 require new development to create attractive, active and safe environments, including public spaces and access ways through or adjoining a site that are overlooked, have appropriate lighting, create a sense of ownership, and provide clear sight lines. While London Plan Policy 3.16 seeks the delivery of necessary social infrastructure to support development proposals.

### Development types from which Obligations will be sought

**13.3** All developments where relevant and required to meet safety needs arising from scheme, and/or where in terms of visitor numbers there is a requirement for Council or other public sector ongoing expenditure to deal with specific circumstances of visitor and public management.

### Types of obligations

**13.4** Measures to improve community safety in the vicinity of developments may include:

- improved street lighting;
- CCTV camera installation, coverage, and monitoring arrangements.

### Form in which contributions should be made

**13.5** Direct provision by the developer, the end user, or through financial contributions will be sought where appropriate to secure these facilities or services. The level of any financial contributions will be based on the cost of the works required.

## Chapter 14 Historic Environment

### Introduction

**14.1** The London Borough of Harrow has a wide range of heritage assets, and the Council has a duty to conserve and enhance the significance, character and setting of the borough's historic environment.

### Policy Context

**14.2** London Plan Policy 7.8 and Policies DM7 and DM8 details the Council's policy requirements in relation to managing the historic environment, including archaeological assessment requirements.

### Development types from which Obligations will be sought

**14.3** Development proposals that include, or may impact, an identified heritage asset or its setting.

### Types of Obligations

**14.4** Where appropriate, the range of matters that could be included as part of a s106 agreement in relation to heritage assets include:

- repair, restoration or maintenance of a heritage asset(s) and their setting;
- increased public access and improved signage to and from heritage assets;

- interpretation panels/ historical information and public open days;
- production and implementation of a Conservation Management Plans;
- measures for preservation or investigation and recovery of archaeological remains and sites;
- display of archaeological sites;
- dissemination of historic environment information for public/school education and research; and
- sustainability improvements (such as loft insulation) for historic buildings.

### **Form in which obligations should be made**

**14.5** It is essential that heritage works are provided in a timescale commensurate with the proposed phasing of the development and the Council will seek to approve trigger points through the s106 agreement.

**14.6** The obligation will be secured through developer provision of the identified works. Where appropriate, the obligation may include provision for the long-term maintenance of the heritage asset.

**14.7** Where the proposal involves enabling development to secure the repair, restoration and maintenance of the heritage asset, the Council will require any identified funds raised through provision of the enabling development to be held in a escrow account, and appropriate arrangement put in place to manage the spending of such funds.

## **Chapter 15 Employment and Training**

### **Introduction**

**15.1** The Mayor's London Plan cites the need to improve London's skills base, improve employment opportunities and remove barriers to employment, and identifies learning and skills as two key priorities for planning obligations. For the purpose of this SPD, this includes a wide range of activities and covers:

- employment and training including construction training and the use of local labour
- local regeneration initiatives, such as the development of incubator space for small businesses
- tourism
- town centre improvement and management

**15.2** The Council's Enterprising Harrow 2007-16 Strategy, Local Economic Assessment 2012/13, and Economic Dashboard 2013 have identified that:

- local businesses have difficulty finding premises and retaining and attracting skilled people to the local economy
- there are pockets of low skilled residents with diminishing job opportunities
- the number of economically inactive residents is increasing
- there is a downturn in employment growth and limited expected increases in projected employment growth in outer London
- There is more retail purchasing by residents outside Harrow's town centres due to competition from existing and new retail locations such as Watford and Westfield at Shepherd's Bush
- 27.4% of working age residents are economically inactive



- Harrow town centre and Wealdstone District centre are important economic and employment hubs
- in some parts of the borough, particularly areas of social housing, worklessness is nearly 25%.

**15.3** There is a need to ensure that appropriate skills are developed and that local residents, particularly those not in work, have the ability to access either the jobs created in building new developments and or once the development is built.

### Policy Context

**15.4** Core Policy SC1P and Policies DM31, DM32, AAP15 and AAP16 make provision for new and redeveloped employment floorspace where this delivers more viable and better suited floorspace tailored to meeting Harrow's future employment needs. These policies are supported by London Plan Policy 4.12, which seeks to improve employment opportunities for Londoners, to remove barriers to employment and progression, and to tackle low participation in the labour market. Part B of the policy requires strategic development proposals to support local employment, skills development and training opportunities.

**15.5** The Mayor's policy on Planning Obligations (London Plan Policy 8.2) also affords importance in securing obligations to learning and skills development.

### Development types from which Obligations will be sought

**15.6** All major developments will need to contribute to local employment and training.

### Types of Obligations

**15.7** To support economic growth and local employment generation, various employment and training measures may be sought through planning obligations on new major development, including:

- Construction Training;
- General Employment and Training Contributions;
- Securing Employment Premises; and
- Use of Local Suppliers

### Construction training

**15.8** For all large-scale development the Council will seek to ensure that employment and training/skills development opportunities are provided to local people during the construction phase of the development.

**15.9** The Council's Economic Development team provides programmes and services, directly and through partners, to support access to employment and training/skills development for local labour including brokerage, training, apprenticeships and work experience placements. Apprenticeships and Work Experience Placements enable residents to develop skills for existing and future employment opportunities from an early age.

**15.10** Major Developments<sup>0</sup> will be expected to comply with Planning Obligations relating to:

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Major development is defined in the Town and Country Planning Act as development of 10 residential units or 1000sqm or 0.5ha or greater

- **Notification of Vacancies:** the developer will arrange for the notification of job vacancies to be made to the Harrow's Economic Development Team or other nominated agencies, to be advertised exclusively to local residents via the Economic Development Team's brokerage mechanism for a minimum period. The developer will also ensure that its contractors and sub-contractors within the supply chain comply with this obligation.
- **Local Labour:** The period of exclusivity is designed to maximise the supply of job ready local labour into the vacancies arising. A specified proportion of the overall number of construction workers employed on a development must be local trainees. The proportion should be agreed in advance. Normally the expected level would be one trainee per 10 construction workers engaged on site over the course of the development. Candidates for work based learning and training opportunities will be nominated by Harrow Council (or another agency as agreed by the Council).
- **Apprenticeships:** The developer will be expected to agree a specified proportion of the total number of construction and ancillary jobs as Apprenticeships. The expected level will be 1 Apprentice per £3 million development cost. A support fee of £1,500 per apprentice placement will also be payable to cover the recruitment process. The developer or its supply chain will be expected to employ Apprentices at least the minimum wage and support training/college release arrangements until attainment of their qualification at a minimum of NVQ Level 2. Candidates for Apprenticeship places will be nominated by the Council's Economic Development Team (or other agency as agreed by the Council).

**15.11** In order to achieve the maximisation of local labour as proposed via the above obligations the Developer and main contractor will provide construction phasing information and labour forecasting data to the Council to enable appropriate, job ready local candidates to be matched to job opportunities as they arise.

**15.12** The Developer will enter into a Local Training and Employment Agreement with the Council based on the obligations above which will establish greater detail for the supply of local labour within the development programme. This will include; the provision for training opportunities and local recruitment by the owner/developer and their contractors.

**15.13** Following adoption of the Training and Employment Agreement the owner/developer, and their contractors, will work with Harrow Council's Economic Development team to implement and, where necessary, procure implementation and promote the objectives of the approved Agreement. The Developer will also identify a named contact responsible for implementation of the provisions within the Local Employment Agreement.

**15.14** The Economic Development team will support the owner/developer and their contractors to advertise and promote employment and training opportunities, identify recruits for employment and training, act as a liaison with local and sub-regional employment and training providers.

**15.15** Contractors and sub contractors will be requested to ensure that their labour agencies engage with Harrow Council to facilitate local unemployed residents access job opportunities.

**15.16** Appendix 5 provides a template for an Employment and Training Plan.

**15.17** In exceptional circumstances, where a developer is unable to provide such local employment opportunities as required the Council may accept a commuted sum to enable adequate alternative employment opportunity to be provided. This would be calculated based on the cost of Construction Training Placement £2,615 multiplied by the gross internal area of development (sqm)/ 1,000 (sqm).

### General Employment and Training Contributions

**15.18** For major development schemes that have a significant impact in creating new long term employment opportunities the Council will require the developer to collaborate with the Council's Economic Development Team in seeking agreement with end users to participate in Council agreed initiatives to access to employment for local labour.

**15.19** The mechanism by which the Developer and the Council will work together to maximise access to end use employment opportunity for local labour will be specified in the Local Employment Agreement. The Council will expect the Developer to agree to the provision jobs to be taken by local people (including Apprenticeships) in the final development.

**15.20** In exceptional circumstances, where a developer is unable to collaborate with the Council in maximising access to end use employment opportunity for local labour the Council may accept a commuted sum to enable adequate alternative employment opportunity to be provided. This would be calculated based upon the employee yield of the development (i.e. the net new floor area / number employees per sq m), multiplied by employees resident in Harrow (28%), multiplied by employees in Harrow requiring training and support (20%), multiplied by the cost of training and support per person (£2615).

### Use of Local Suppliers

**15.21** The Council is committed to maximising the benefits of local investment for local economy. It therefore wishes to encourage developers to consider the use of local companies and suppliers during the construction of major schemes. This will help achieve a multiplier effect for the local economy, to this end the Council will work with developers and their contractors to achieve the procurement of goods and services from companies and organisation based in the Borough up to an agreed percentage of the total value of the contract.

**15.22** The Council's Economic Development Team can support the development of local supply chains through its extensive local network of traders associations, Chamber of Commerce, Federation of Small Businesses, Large Employers Network, banks, and Harrow in Business. In addition, the on-line Harrow Business Directory hosts over 1,000 Harrow businesses and the monthly email Business newsletter sent to local businesses includes details of events and contract opportunities.

**15.23** Where the value of a scheme exceeds £5 million a Local Procurement Plan will be included within the Local Employment Agreement. The Local Procurement Plan will be based on a agreed target (typically 20%) of the value of qualifying supplies and services to be provided from companies and organisations based in the Borough.

**15.24** As part of the local supply chain obligation the Council will expect developers to brief sub-contractors on the requirements of the Local Procurement Plan and ensure that cooperation is agreed as a prerequisite to accepting sub-contract tenders and include a written statement in contracts with sub-contractors encouraging them to work with local businesses.

**15.25** The Local Procurement Plan will also establish the requirements for monitoring information to be provided with reference to contracting activity and the outcomes with regard to local businesses.

**15.26** The developer will be expected to collaborate with the Council to ensure that the local supply chain benefits from the end use of the development wherever possible. The Economic Development team can work with the developer and its named contractors, to promote tender opportunities to local businesses and business membership organizations, organise 'Meet the Buyer' events to outline the procurement processes of the developer and or main contractor.

**15.27** In exceptional circumstances, where a developer is not able to provide such opportunities as part of the development proposal, the Council may accept a commuted sum payment to enable adequate alternative services or opportunities to be provided in the locality. In this circumstance, the Council would seek a sum to reflect what percentage of local supply may be viable and achievable in the local economy. The sum will be based against benchmarks for similar scale projects and the standard costs for the delivery of such opportunities elsewhere in the borough. In determining the figure regard will be had to the 20% value target.

### **Scheme by scheme approach**

**15.28** The Council recognises that employment and enterprise opportunities will vary according to the nature and location of developments in question. This may mean that some opportunities are given greater weight than others within the agreed Local Employment Agreement. The Agreement will have due regard for economic viability but the onus is on the developer to provide justification as to why it may not be possible to deliver against the benchmarks set out above. The Council is also willing to negotiate different ratios and rates on larger construction schemes defined as £30 million in construction contract value.

## **Chapter 16 Sustainable Design and Construction**

### **Introduction**

**16.1** There are a number of different policies and regulations which influence the standards of sustainability in new developments and this is an area of policy that is constantly evolving.

### **Policy context**

**16.2** Alongside the policies and requirements of the London Plan, the sustainability standards the Council expects from development in Harrow are set out in Policy DM12, and the Council's Sustainability Checklist within its Sustainable Building Design SPD: These provide detail on the appropriate standards for different types of development including BREEAM, the Code for Sustainable Homes and Ecohomes as well as standards relating to energy efficiency, decentralised energy networks and renewable energy. For major developments the Council will require developers to pay for independent assessment of their sustainability information and reports to ensure compliance with the Council's policies. Meeting the requirements for sustainable design and construction is often achieved in the detailed design or construction phases. Normally, requirements for sustainable design will be dealt with using conditions, but in some circumstances, a s106 agreement may be required to secure the highest environmental standards of development.

### **Development types from which Obligations will be sought**

**16.3** All development proposed for minor and major developments

### Types of obligations

**16.4** The following features may be specified through further details required to be submitted as part of a s106 Agreement if they cannot be implemented through the approved design or satisfactorily secured through conditions:

- energy efficient design measures;
- renewable energy facilities;
- waste and recycling storage facilities;
- water retention and recycling facilities;
- heating or cooling systems;
- internal water consumption levels; and
- the proportion of materials used from sustainable sources.

**16.5** Some proposals may generate a requirement for inclusion of a management plan in the s106 agreement, depending on the scale, nature and location of the scheme.

**16.6** A s106 agreement may also be used by the Council to require the developer to carry out and submit a post-construction review to ensure that the development has met the criteria which were approved earlier as part of the pre construction estimate assessment where relevant. The Council may not permit occupation of the development until a satisfactory post-construction review has been provided and any issues identified in that review have been satisfactorily addressed

### Form in which obligations should be made

**16.7** The preference is for developments to meet targets set out in the adopted Local Plan or London Plan on-site. Where required targets cannot be met, developers may be required to contribute to a CO2 offset fund which will go towards the funding of off-site CO2 reduction measures in the locality.

## Chapter 17 Decentralised Energy Networks

### Introduction

**17.1** The London Plan calls for borough Local Plans to maximize the opportunities for providing heating and cooling networks that are supplied by decentralised energy. Harrow Core Strategy requires decentralised energy supply systems to be sought wherever appropriate. Harrow's Heat Map identifies a number of opportunities, based on current and proposed development heat loads, to establish localized networks, with the greatest opportunity identified within the Heart of Harrow, and promoted by the Council through its AAP.

### Policy context

**17.2** London Plan Policy 5.5 and Core Policy CS1T seek to promote and secure opportunities for decentralised energy provision. These policies are further supported by London Plan Policy 5.6 and Policies DM13 and AAP10, which require new development proposals to prioritise connection to existing or proposed decentralised energy networks, where feasible.

**17.3** Development types from which Obligations will be sought

**17.4** Major developments near to a planned or potential future network should make provision for a connection to the network should one be established, unless developers can demonstrate it is not technically feasible or financially viable.

### **Types of obligations**

**17.5** Where appropriate s106 agreements may be used to secure the following:

- the installation of CHP/CCHP and the generation and use of energy;
- details that ensure the plant and its operation is energy efficient with regards to operating hours, compatibility with the need (amount and timing) for heat, and requirements for a heat store;
- details that ensure the design of the heating system is compatible with any nearby existing or planned decentralised energy networks (e.g. in accordance with the London Development Agency Document 'Consumer Connection to a Large CHP District Heating System' where appropriate) the export of heat, cooling and/or electricity;
- development's use of heat, cooling and or electricity from a decentralised energy network;
- provision of sufficient space for future plant, heat exchanges, connection points to either generate, export and take heat, cooling and/or electricity;
- details of how the development (or each phase of a development) will connect to a planned decentralised energy network and how energy demands will be met prior to the any connection with a decentralised energy network and a financial contribution towards a future local decentralised energy network.

### **Form in which obligations should be made**

**17.6** The preferred form for securing the obligation is through developer provision of the identified works both on and off-site. However, where connection to a network is required, a financial contribution, paid to the Council or its agent, may be acceptable to carry out any identified off-site works. The level of any financial contributions will be determined on the basis of the cost of works required.

## **Chapter 18 Flood Risk**

### **Introduction**

**18.1** In accordance with the NPPF and the Local Plan, development proposals within Areas at Risk from Flooding as identified in the Strategic Flood Risk Assessment will be required to demonstrate that they comply with guidance set out in PPS 25 Flooding, and the Local Plan. In particular this ensures that the developer carries out the necessary works and that future maintenance commitments are met. They may also apply planning conditions which would require completion of the necessary works before the rest of the development can proceed.

### **Development types from which Obligations will be sought**

**18.2** Development proposed on any site located in and identified in the Strategic Flood Risk Assessment, or where it is considered that the impact of a proposal would result in increased flood risk downstream.

### Types of obligations

**18.3** Flood risk mitigation measures such as Sustainable Drainage Systems (SUDS) are normally implemented through the approved design or satisfactorily secured through conditions. It is anticipated that from April 2014 the Council will have responsibilities under the Flood and Water Management Act to establish a SUDS Approval Body to approve and where appropriate adopt and maintain SUDS. When these responsibilities are enacted the Council where applicable will require a commuted sum which would go towards the long term maintenance of the SUDS. This will ensure functional drainage of the SUDS scheme over the life of the development. The commuted sum would exclude fees set by the Council towards administering an application and inspection which will be required separately.

**18.4** For some new development, it may be necessary to provide surface water storage and infiltration to limit and reduce both the peak rate of discharge from the site and the total volume discharged from the site. There may be circumstances where it is appropriate for infiltration attenuation storage to be provided outside the development site, if necessary through the use of a s106 agreement. Additionally, where the surface water system is provided solely to serve any particular development, the construction and ongoing maintenance costs should be fully funded by the developer. S106 agreements may be appropriate to secure this.

## Chapter 19 Biodiversity

### Introduction

**19.1** Sites that are protected for their semi-natural characteristics, open spaces and suburban gardens support the co-existence of a diverse range of habitats and species that contribute to the natural environment and quality of life in Harrow. The National Planning Policy Framework (2012) establishes a set of principles for conserving and enhancing biodiversity when determining planning applications. Policy 7.19 of the London Plan (2011) gives effect to the London-wide Biodiversity Action Plan and requires development proposals to make a positive contribution to the protection, enhancement, creation and management of biodiversity. Together with the policies in the Harrow Local Plan (outlined below), the provisions of Harrow's Biodiversity Action Plan (2008) and the Green Grid, development over the plan period is expected to safeguard and improve the Borough's biodiversity for future generations.

### Policy Context

**19.2** Local Plan policies DM20 and AAP12 seek to conserve and enhance the natural environment through ensuring new development proposals minimise impacts on biodiversity and provide net gains in biodiversity where possible.

### Development types from which Obligations will be sought

**19.3** There are no overall minimum development threshold below which obligations will not be sought. Proposals from householder to major development, in urban or suburban locations, including commercial developments, have the ability to incorporate features within their design that can create habitats for wildlife, and such opportunities should be explored and, where possible, provided.

**Form in which contributions should be made**

**19.4** 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. Compensatory measures are expected to be provided on site as part of the overall development proposal.

**19.5** 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. The appropriate level of contribution will be considered on a case by case basis.

**19.6** A commuted sum may be requested where additional monitoring or survey work is considered necessary to confirm that relevant environmental measures have been implemented successfully as part of a scheme. Some developments may result in increased activity and affect the value of areas of nature conservation adjacent to or within the site. In certain circumstances s106 agreements may be appropriate to restrict types and hours of activities and development rights. They may also be used to control access so as not to damage or harm existing features and to make provision for the long-term maintenance of directly affected sites.

**Appendix 1 Child and Occupancy Yields**

**Child Yield**

Affordable Housing

	multiplier 0-4	multiplier 5-10	multiplier 11-15	multiplier 16-17	Summary multiplier 0-15
<b>1 bed</b>	0.2	0	0	0	0.2
<b>2 bed</b>	0.64	0.23	0.08	0.05	0.95
<b>3 bed</b>	0.62	0.74	0.47	0.17	1.83
<b>4 bed</b>	0.41	1.22	1.29	0.37	2.93
<b>5 bed</b>	0.57	1.66	1.76	0.51	3.99
<b>6 bed</b>	0.75	2.22	2.35	0.68	5.32

Private Housing

	multiplier 0-4	multiplier 5-10	multiplier 11-15	multiplier 16-17	Summary multiplier 0-15
<b>1 bed</b>	0.03	0.01	0.01		0.06



<b>2 bed</b>	0.17	0.08	0.03		0.29
<b>2 bed houses</b>	0.26	0.15	0.13		0.52
<b>3 bed</b>	0.31	0.21	0.13		0.66
<b>4 bed</b>	0.41	0.41	0.31		1.13

### Occupancy Yield

No of New Housing Units	Standard Occupancy (HUDU Default Figures for LB Harrow)
Studio/1 bedroom	1.4
2 bedrooms	2
3 bedrooms	2.8
4+ bedrooms	3.5

## Appendix 2 Mix of Units for Affordable Housing

### Social/Affordable Rent housing

The priority is for 2 bedrooms and family sized housing (i.e. 3 bedroom+) and therefore the following target mix and occupancy levels will be applied and updated periodically where appropriate:

- 1 bed 2 person – 12%
- 2 bed 4 person – 48%
- 3 bed 5-6 persons– 28%
- 4 bed 6-8- persons -7%
- 5 bed 9-10 persons – 5%

The Council's approach is to seek to achieve this mix on every development site, except on sites capable of providing a higher proportion of family housing.

### Intermediate housing

- 1 bed – 20%
- 2 bed – 50%
- 3 bed – 20%
- 4 bed – 10%

### Affordability levels for intermediate housing

With regard to affordable intermediate housing, the following income ranges represent an indication of what is considered appropriate in Harrow, based on incomes of recent successful purchasers of intermediate properties in Harrow:

1 bed – Target household income £18,000

2 bed – Target household income £27,000

3 bed – Target household income £33,000

4 bed – Target household income £40,000

In considering what is affordable to intermediate households the Council regards that no more than 40% of a net household’s annual income should be allocated towards housing costs (including service charges).

### Appendix 3 Schedule of Inputs Required for Viability Appraisal

Input Ref	Item	Description	Preferred Source
<b>Costs</b>			
1.	Base Build Cost	Building costs for each specific type of building exclusive of abnormal costs. Contingency information if applicable.	Quantity Surveyors Cost Plan for proposals.
2.	Abnormal Costs	Cost over and above the normal associated base build costs.	Quantity Surveyors Cost Plan for Proposals.  Relevant specialists report.
3.	Infrastructure Costs	Cost of associated infrastructure/services to be provided to enable the development if appropriate.	Quantity Surveyors Cost Plan for Proposals.  Relevant specialists report.
4.	Professional Fees	Planning, Engineers, Design, other consultant fees.	Industry norms or otherwise as set out within developer budget.
5	Finance	Interest rates, arrangement fees, land holding costs etc	Evidence from funder or otherwise industry norm.
6.	Planning Obligations/CIL	Other payments to the Local Authority/Mayor expected.	Confirmed with Planning Department
7.	Acquisition Cost	Legal fees, stamp duty, agent’s fees etc.	Contract Information, HMRC

8.	Marketing Costs	Costs associated with marketing and sales of private sales units.	Developer budget, Industry norms.
9.	Developer Return	Developer profit assumed on residential and commercial aspects of proposals	Developer's budget, Industry norms at date of application.
<b>Values</b>			
10.	Residential Values	Sales value of each different unit type on a unit and £m2 basis.	RICS local valuer
11.	Commercial Values	Capital value of any commercial provision with yield and rental information	RICS local valuer
12.	Affordable Housing Value	Details of assumptions in relation to rents and intermediate housing. Offers from preferred local Registered Providers should be sought prior to submission.  Assumptions in relation to receipt of grant funding from the GLA must also be set out.	Registered Provider  Harrow Housing Enabling team.
13.	Ground Rents	Capital value of ground rent investment on leasehold properties proposed	RICS local valuer, Industry norms.
<b>Benchmark Land Value</b>			
14.	Existing or Alternative Use Land Value	Value of land in its existing/permited alternative use (without hope value).	RICS valuer
15.	Acquisition Price	Price paid for the land (if already purchased). For comparable purposes only.	Land Registry

### Appendix 4 Off Site Calculator Appraisal User Notes and Principals

The National Planning Policy Framework (NPPF) is very clear that local plans should set policies to meet identified need for affordable housing on site, unless off site provision or a financial contribution of broadly equivalent value can be robustly justified.

The London Plan resonates with this, stating that “affordable housing provision is normally required on site. In exceptional circumstances it may be provided off-site or through cash in lieu contributions ring fenced, and if appropriate pooled, to secure efficient delivery of new affordable housing on identified sites elsewhere”.

The London Housing SPG (2012) makes it clear that in order to avoid incentivising off- site provision, agreements for this should be financially neutral in terms of the benefit to the applicant relative to onsite provision requirements.

Harrow Council expect affordable housing provision to be on site in almost all circumstances except where it can be demonstrated that it would be inappropriate to provide affordable housing units given the nature, scale or location of the development site or where it can be shown that off site provision would be advantageous to overall affordable housing provision in the borough.

Harrow’s approach to determining appropriate off site contributions seeks to establish the financial contribution the developer would make towards affordable housing provision were the units to be provided on the development site (on a nil grant basis). The basis of the calculation is as follows:

Market Value of the Sales units on site
Minus Developer Profit and Marketing Allowance
<b>Equals the cost of build, fees and land to develop the unit on site</b>
Minus grant free income from a registered provider (i.e. the anticipated affordable housing price)
<b>Equals the cost to the developer of subsidising affordable housing (i.e. the developer contribution towards affordable housing)</b>

This calculation ensures that off site contributions are financially neutral as well as being fair and reasonable as required by policy. The applicant should provide suitable evidence of the assumptions relied upon in any submission, similar to the requirements of the viability appraisal assumption requirement set out at Appendix 3

For ease of calculation an accompanying Excel spreadsheet with the above approach set out within is provided for users. Only the cells highlighted in yellow are required to be filled out.

The following information is required:

- Open Market Value of the units on site;
- Assumed Developer Return (to include Marketing costs);
- Assumed Social/Affordable Rent of each type of property (to be agreed with the Housing Enabling team);
- Assumed allowance for management, maintenance, voids and repairs of rented units (to be agreed with the Housing Enabling team);
- Assumed yield for Social/Affordable rents (to be agreed with the Housing Enabling team):

- In respect of any Shared Ownership units the assumed initial sale percentage and rent level on unsold equity (to be agreed with the Housing Enabling team).
- Anything highlighted as “to be agreed with the Housing Enabling team” already has a default assumption contained within the draft appraisal and changes to these can be discussed where appropriate following the submission of the appraisal.

The Housing Enabling team can be contacted by calling 020 8420 9228/9.

### Link to online version of calculator


### Example Off Site Calculation

**Fill in Yellow Cells**

Overall Unit Number: **25**

Affordable Percentage: **40%**

Site	Test Site
Address	Test Site
Application Ref	Test Site



**Target split**

Rented (Social/Affordable)			Profit/Prop	Net Cost of	Social/Afford	Mgt, Main, Voids Charge %	Yield	Capitalised Rent	Commuted Sum
Unit Type	No. Of Site	OMV	20.00%	on site Provision	Rent per week	18.00%	6.00%		
1 bed flat			£0.00	£0.00		£0.00	6.00%	£0.00	£0.00
2 bed flat	3	£215,000	£43,000.00	£172,000.00	£185	£33.30	6.00%	£131,473.33	£121,580.00
3 bed flat	3	£275,000	£55,000.00	£220,000.00	£200	£36.00	6.00%	£142,133.33	£233,600.00
2 bed house			£0.00	£0.00		£0.00	6.00%	£0.00	£0.00
3 bed house			£0.00	£0.00		£0.00	6.00%	£0.00	£0.00
4 bed house			£0.00	£0.00		£0.00	6.00%	£0.00	£0.00
5 bed house			£0.00	£0.00		£0.00	6.00%	£0.00	£0.00
<b>60%</b>	<b>Tot. Units</b>	<b>6</b>	<b>60%</b>					<b>Subtotal</b>	<b>£355,180.00</b>

Intermediate (assumed Shared Ownership)			Profit/Prop	Net Cost of	Equity Rent	Mgt Charge %	Yield	Capitalised Rent	Initial Sale	Commuted Sum
Unit Type	No. Of Site	OMV	20.00%	on site Provision	2.75%	6.50%	6.00%		40.00%	
1 bed flat	2	£180,000	£36,000.00	£144,000.00	£2,970.00	£193.05	6.00%	£46,282.50	£72,000.00	£51,435.00
2 bed flat	2	£215,000	£43,000.00	£172,000.00	£3,547.50	£230.59	6.00%	£55,281.88	£86,000.00	£61,436.25
3 bed flat			£0.00	£0.00	£0.00	£0.00	6.00%	£0.00	£0.00	£0.00
2 bed house			£0.00	£0.00	£0.00	£0.00	6.00%	£0.00	£0.00	£0.00
3 bed house			£0.00	£0.00	£0.00	£0.00	6.00%	£0.00	£0.00	£0.00
4 bed house			£0.00	£0.00	£0.00	£0.00	6.00%	£0.00	£0.00	£0.00
5 bed house			£0.00	£0.00	£0.00	£0.00	6.00%	£0.00	£0.00	£0.00
<b>40%</b>	<b>Tot. Units</b>	<b>4</b>	<b>40%</b>					<b>Subtotal</b>		<b>£112,871.25</b>

Affordable Units: <b>10</b>	Total Payment: <b>£468,051.25</b>
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Picture .1

## Appendix 5 Employment and Training Agreement

### Employment and Training Agreement

Site:

Owners:

This document forms the developer’s response to sections of the Section 106 Agreement between Harrow Council and the Owners

This development will consist of:

The length of construction is likely to be (insert xxxxxxxxxxxx)

**1. Objectives**

The objectives of this plan are to promote and recruit employees, contractors and subcontractors from within the Council’s geographical area during the construction of the Development

**2. Delivery - construction phase**

[insert here how the objectives in 2 above will be delivered during the construction of the building(s) using the sub-headings below]

- Recruitment Labour
- Procurement of goods and services
- Provision of apprenticeships (transfers from existing provision, new starts, completers)

Please complete the training template at the end of this document with details of the opportunities that will be created.

**3. Contact details**

Please include here contact details for the owner’s representative responsible for implementation of the deliver plan

Name .....

Telephone .....

E mail, .....

Address .....

**4. Employment and Training Template**

Table 1: Indicative Targets

Category	Targets
Work Experience 18+ yrs	Please complete

Apprentices – Starts (persons) <sup>0</sup>	Please complete
Apprentices - Existing (persons)	Please complete
Apprentices – Completions (persons)	Please complete
Jobs Created	Please complete
Construction weeks	Please complete

Table 2: Please include here details of planned training opportunities that will support this development and meet the targets provided in Table 1. You may want to use the template below.

Work Package	Work Experience 18+ yrs	Apprentices	Jobs Created	Construction weeks
Demolition/ Remediation				
Groundwork				
Build Out				
First Fix				
Second Fix				

### 5. Contractors and subcontractors

Please insert how the owners will promote and recruit contractors and sub-contractors in the area. This may include working with the Employment Advisor to deliver Meet the Buyer Events, accessing Harrow Council data on local suppliers, or advertising locally.

### 6. Monitoring and Reporting

The table below details the monitoring arrangements which will demonstrate progress to the council. Monitoring reports should be made on a quarterly basis from the commencement of development.