

APPENDIX A

PLANNING OBLIGATIONS SPD

July 2022



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1. Introduction



What is this SPD?

1.1. This Supplementary Planning Document (SPD) provides detailed guidance on the use of Section 106 (S106) planning obligations alongside the Community Infrastructure Levy (CIL). This SPD forms part of the Barking and Dagenham Local Plan framework, which guides the Council's decision making on planning applications.

Purpose of this SPD

1.2. The purpose of this document is to:

- Explain the Council's approach to using planning obligations to local residents, developers and the wider community;
- Establish the circumstances where planning obligations (requiring financial and non-financial contributions) will be sought and used;
- Explain how financial and non-financial planning obligations will mitigate the cumulative impacts of a development in the borough; and
- Clarify the approach to S106, CIL and the relationship between them.

Status of this SPD

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

1.4. The guidance in this SPD is consistent with the National Planning Policy Framework (NPPF) and policies in the Publication London Plan (2021) and should be read in conjunction with these documents.

1.5. The period for this SPD aligns with the draft Local Plan which is 2021 to 2037. There may be other obligations, not covered in this SPD, which may be required, and arise on a case-by-case basis to mitigate against specific site development impacts. These will be discussed in detail on a case-by-case basis.

Consultation

1.6. This draft SPD will be published for public consultation in July 2022.

2. Background

2.1. Barking and Dagenham's (draft) Local Plan outlines a target of 44,051 new homes in the borough over the course of the Local Plan Period. In addition to this table 4.1 of Policy H1 in the Publication London Plan (2021) sets an annual target of 1,994 new homes per year over the first ten years of the plan period. This level of growth will result in increased pressure on local infrastructure, services and facilities, creating demands for new provision.

2.2. The Council and developers have a responsibility, through the planning process, to ensure that any impact caused by development is mitigated and that the necessary infrastructure is provided. The Council's Infrastructure Delivery Plan (IDP) identifies key infrastructure requirements to unlock future regeneration, and the associated costs where known. This SPD should be read alongside the IDP as the key reference point for such planning obligations.

2.3. The Council expects new development to contribute to site specific and wider infrastructure needs through a combination of the following mechanisms:

- Planning obligations to secure developer contributions or works in kind, e.g. S106 agreements (generally site specific);
- Community Infrastructure Levy (strategic local and borough wide infrastructure);
- Planning conditions (site specific); and
- S278 highways agreements.



3. Policy and Legislative Context

National Policy Context

3.1. The Government’s guidance on planning obligations is contained in the National Planning Policy Framework (NPPF)(July 2021) paragraphs 55 - 58. The National Planning Practice Guidance provides further advice on the nature of planning obligations at paragraphs 001 to 006.

Regional Policy Context

3.2. The Mayor’s policy for planning obligations is set out in Policy DF1(D) ‘Delivery of the Plan and Planning Obligations’ of the Publication London Plan (2021). Key weight is given to the prioritisation of affordable housing and infrastructure through planning obligations and policy DF1(E) indicates how these Mayoral priorities should feed into each authority’s Community Infrastructure Levy Charging Schedule, to determine which infrastructure will be funded through CIL contributions.

Barking and Dagenham’s Local Plan

3.3. Chapter 11 of the draft Local Plan sets out policies guiding development to fulfil the strategic vision and strategy for the borough. Policy DMM1 sets out how the Council will deliver the provision of adequate and appropriate infrastructure for the Local Plan. Other relevant policies are outlined in **Appendix 1**.

Legislative Context

3.4. Section 106 of the Town and Country Planning Act 1990 (TCPA 1990) provides planning authorities with the ability to enter into agreements to obtain obligation(s) with a person interested in the land that is located within their area.

3.5. The Community Infrastructure Levy (CIL) was introduced in the Planning Act 2008, with further details set out in the Community Infrastructure Levy Regulations 2010. The purpose of CIL is to ensure that the provision of infrastructure to support the development of an area can be funded (wholly or partly) by levying a charge(s) on owners or developers of land when they secure planning permission for development that is subject to the levy.

3.6. Regulation 122 of the CIL Regulations (as amended) applies to determinations for the grant of planning permission and states that for a planning obligation to constitute a reason for granting planning permission it must be:

- a. Necessary to make the development acceptable in planning terms;
- b. Directly related to the development; and
- c. Fairly and reasonable related in scale and kind to the development.

3.7. LB Barking and Dagenham Council is required to publish an Annual Infrastructure Funding Statement to demonstrate how CIL contributions have been spent, the first of which was published in December 2020.



4. What are Planning Obligations?

4.1. Planning obligations enter the developer into a legal commitment to undertake specific works, provision of land/facilities, or providing a financial contribution towards the provision of a service or piece of infrastructure.

4.2. Section 106 planning obligations are used to address negative impacts of development and are designed to address additional burdens that new developments may place on local infrastructure. The agreement will vary depending on the nature of a development.

Types of Planning obligations – Standard Obligations

4.3. Some obligations are considered ‘standard obligations’ and are used as a starting point for drawing up a Section 106 agreement. Obligations are then added or subtracted from the list, depending on the nature and location of the scheme in accordance with statutory requirements.

4.4. The following ‘standard obligations’ apply to major developments (commercial/mixed use schemes of 1,000sqm or more, or sites providing 10 or more residential units). This includes, but is not exclusive to, the following areas:

- Affordable housing provision;
- Public realm;
- Highways works
- Parks, playspace and amenity areas
- Transport and parking restrictions;
- Health, education and other social and community infrastructure
- Employment, skills and suppliers;
- Sustainability, e.g. Carbon offset fund and district heating network;
- Air Quality; and
- Biodiversity

4.5. The Council may also seek to secure contributions where a development proposal is below the minimum threshold but creates an exceptionally large impact. The SPD does not cover all the planning obligations that may be sought. Larger development schemes may have wide ranging impacts which will require more significant measures to be put in place. These will be set out by the Council as and when necessary. Contributions for infrastructure such as education and health facilities will be assessed against the existing provision in the locality of the development.

4.6. The financial or non-financial contribution amount due for each obligation is calculated using the formulas and methodologies set out in this SPD or will be communicated throughout the application process. These formulas are based upon:

- An assessment of the scale and nature of the impacts of a development; and
- Needs and planning requirements applicable to development throughout the borough or in a particular part of the borough.



What is CIL?

4.8. The Community Infrastructure Levy (CIL) is a non-negotiable planning charge which is a tool to help the Council in delivering infrastructure to support development in their area. It was introduced to provide developers more certainty up front about how much money they will be expected to contribute towards local infrastructure needs.

4.9. CIL provides a standard charge (or charges) that can be levied on most new developments. It is based on the size and type of development and charged on the basis of '£ per m²' for developments that involve an increase of 100m² or more of gross internal floorspace, or creating a dwelling even where this is below 100m². Some developments are exempt, such as those incorporating social housing, developments by charities of buildings used for charitable purposes and self-build developments e.g new residential extensions or annexes.

4.10. CIL monies can be spent on, or contribute towards, new or improved infrastructure deemed necessary to deliver the Local Plan. Through the IDP, the Borough has identified several pieces of key infrastructure needed to support the successful delivery of the Local Plan objectives, which may benefit from CIL funding. These include strategic transport improvements listed in the Local Plan and Borough Transport Strategy¹, provision of several new schools and medical facilities to support 44,051 new dwellings and provision of additional green and blue infrastructure to combat climate change and deficiency in public open space.

4.11. There are two types of CIL charge payable in the borough: Borough CIL (Barking and Dagenham CIL) and Mayoral CIL.



Barking and Dagenham CIL

4.12. Barking and Dagenham's CIL became effective on 3rd April 2015. The borough's charging schedule can be viewed on the Council's website¹.

4.13. CIL generates funding to deliver infrastructure to support growth in the borough. CIL funding is split as follows:

- Strategic CIL 80%
- Neighbourhood CIL 15%
- Administration 5%

4.14. Strategic CIL is spent on infrastructure such as transport, education, cultural facilities, parks and health facilities. Required infrastructure is identified in the borough's Infrastructure Delivery Plan which will be updated on an annual basis.

4.15. Neighbourhood CIL must take into account the views of the communities where development is taking place and is spent on a range of projects to support development. This may be related to infrastructure, but it may also be used to address the demands that development places on an area.

Mayoral CIL

4.16. LBBD is a Collecting Authority for Mayoral CIL (MCIL) in the borough. The Mayor's CIL Charging Schedule can be viewed on the Greater London Authority website².

4.17. MCIL 1 was introduced in April 2012 to help finance the construction of Crossrail. In April 2019 MCIL2 came into force, superseding MCIL1 (for all planning consents from 1st April 2019 onwards) funding Crossrail 1 (the Elizabeth Line) and Crossrail 2. Barking and Dagenham is a 'Band 3 borough' and is assigned a charge of £25 per square metre (plus indexation) for MCIL 2.

¹ https://www.lbdd.gov.uk/sites/default/files/attachments/2021_10_07_Barking%20Borough-Wide%20Transport%20Strategy.pdf

Relationship Between CIL and Planning Obligations

4.18. CIL Regulations were updated in September 2019, changing the relationship between CIL and Section 106 obligations. These updates removed the pooling restrictions on Section 106 monies as well as the requirement for charging authorities to produce a list of possible projects or categories of infrastructure that CIL monies will be spent on (Regulation 123 list).

4.19. To improve transparency and accountability on the spending of CIL funds, local authorities are now required to produce an Infrastructure Funding Statement (IFS) on an annual basis, with Barking and Dagenham's first IFS published in December 2020. The Infrastructure Funding Statement is intended to be a more flexible tool in setting out infrastructure priorities and delivery and provide a framework for improving communication with local communities about delivery of Section 106 planning obligations. The IFS will report on how planning obligations have and intend to be spent in future years.

What are planning conditions?

4.20. 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. They may also be used as a mechanism for the provision of essential on-site design requirements. While they mainly relate to the proposed development and associated site, they can also be used to secure off-site provision in some circumstances. In order to speed up the delivery of development, the local authority will only impose conditions which are absolutely necessary and encourage developers to provide the necessary detail in their planning application to limit the number of conditions required.

4.21. Planning conditions may cover items such as the following:

- The submission of reserved matters;
- Controls over materials to be used;
- Controls over the occupation of new buildings or further stages of development until certain other action are completed;
- The requirement to undertake further investigations as work proceeds (e.g. archaeological investigation);
- 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.

Section 278 agreements

4.22. Works which are required to the public highway will often be secured through an agreement made under section 278 of the Highways Act 1980. Examples of these works include:

- New junctions (with and without traffic lights);
- Roundabouts;
- Right turn lanes;
- Improved facilities for pedestrians and cyclists;
- Improvements to existing junctions;
- Traffic calming measures;
- Traffic regulation orders

4.23. Requirements for S278 agreements will be negotiated separately, although the obligation for applicants to enter into a s278 agreement will form part of the s106 agreement itself. The Council encourages applicants to undertake discussions with its Transport Development Management Officers at the early stages of an application to identify any works on the public adopted highway network that will be necessary for planning permission to be granted.



5. What is the procedure for securing Planning Obligations?



CIL

5.1. The amount of CIL to be paid depends on the size and type of development. Not all development is CIL liable. Please speak to your case officer to clarify this.

The CIL process for CIL liable developments is as follows:

- A CIL Liability Notice is issued after planning permission is granted outlining the potential CIL charge;
- The developer must submit a Commencement Notice prior to commencement of development stating the proposed commencement date;
- A *CIL Demand Notice* is issued after notification of commencement and developer must pay within 60 days of commencement, in line with Regulation 69B of the Community Infrastructure Levy Regulations 2011 (as amended). If the total amount payable is over £100,00.00, the Council will allow payments by two instalments with the greater of £100,000 or half the total payment payable within 60 days of commencement of development and the balance payable within 240 day of commencement of development.

5.2. Further information is available at:

- [National Planning Policy Framework](#)
- [DLUHC](#)
- [Planning Portal](#)
- [Local Plan review | LBB](#)

Section 106 Agreements

The Council's role and approach to planning applications and obligations

5.3. The Council encourages applicants to undertake the correct process when negotiating, preparing and completing planning obligations to ensure applications and obligations are dealt with in a timely and efficient manner. They should:

- Engage in pre-application discussions as early as possible;
- Agree detailed heads of terms with the Council; and
- ensure all documents are submitted on time and in line with validation requirements.

Pre-application Advice

5.5. Applicants, agents and developers are encouraged to seek pre-application advice (fee applicable) prior to submission of a formal planning application. The pre-application process offers the opportunity to discuss with Planning and other Council officers, without prejudice, the acceptability of the proposed scheme. This will enable informed and detailed discussion on the types of obligations to be entered, both on-site or off-site, 'in kind' or financial contributions. If discussions for draft heads of terms fail to result in an agreement, the applicant will be invited to provide justification and alternatives for consideration. Please refer to the guidance note 'Charging for pre-application advice' for further details³. Please note that where planning applications meet the criteria for referral (Mayor of London or TfL), the applicant should engage with these bodies.

Application Stage

5.6. When draft heads of terms have been identified as part of the application, it is essential that they are submitted as part of the application, and as part of the validation process to avoid delays.

Thresholds

5.7. Appropriate thresholds have been set for each type of Section 106 obligation in order to provide clarity as to when particular contributions will be sought. In setting thresholds, the Council's intention has been to balance the objective of ensuring that new development makes a proportionate contribution to the requirements it will generate, so as not to overburden smaller developments which do not typically generate the economies of scale that larger schemes can realise.

5.8. The Council has sought to develop a simplified approach, so whilst different thresholds are applied in relation to the various types of S106 obligation, these have been kept to a minimum where practicable. The table in Appendix 1 below sets out examples for the delivery mechanism for securing mitigation, with reference to the associated Local Plan policies. This table is a guide only and mitigation for each individual application will be subject to specific details.

Monitoring

5.9. The Council will start managing and monitoring each S106 agreement from the moment it is signed. The requirement on the Council to monitor all aspects of S106 agreements carries a financial cost that constitutes an impact from new development. Accordingly, the Council will require as follows a flat monitoring fee as a financial contribution for each S106 agreement of:

- £500 for each standard Head of Terms
- £1500 for additional, more complex clauses
- Separate fees, commensurate with the scale of development, to monitor complex travel plans and employment and skills plans, if no co-ordinator is provided by the developer.
- An additional fee of £500 each for calculation and assessment of carbon offset obligations and air quality obligations.

5.10. All monitoring costs should be index-linked to the Building Cost Information Service BCIS All-in Tender Price Index from the date planning permission was granted to the date of actual payment, to ensure that the value of the obligation does not reduce over time due to inflation.

5.11 These monitoring fee excludes all legal costs associated with the preparation of S106 agreements. All planning obligations, whether financial or in-kind, require monitoring to ensure the obligation is fully complied with and in line with the trigger date as well as the relevant legal requirements.

Financial contributions

5.12. Upon receipt of a financial contribution, Monitoring Officers will notify the service area or organisation with the responsibility for delivery of the associated project. Some of these projects will be specific to the development, such as specific works in a park, or the public realm, and identified as such in the legal agreement. Others may be more generic, such as for carbon offset or air quality. Projects funded through CIL and S106 planning contributions will be selected through strategic objectives underpinned by Local and Regional requirements which identify the infrastructure needed within the Borough.

Non-financial obligations

5.13. The delivery of non-financial contributions, or obligations in-kind, will be monitored by the appropriate service areas responsible for project delivery within the Council. To ensure the smooth and efficient monitoring and collection process, Be First will:

- Monitor all 'trigger points' (stages of development) for delivery of obligations;
- Ensure that all obligations, financial and non-financial, identified in the Agreements appropriate to these triggers are secured;
- Manage initial receipt of monies

The Council will

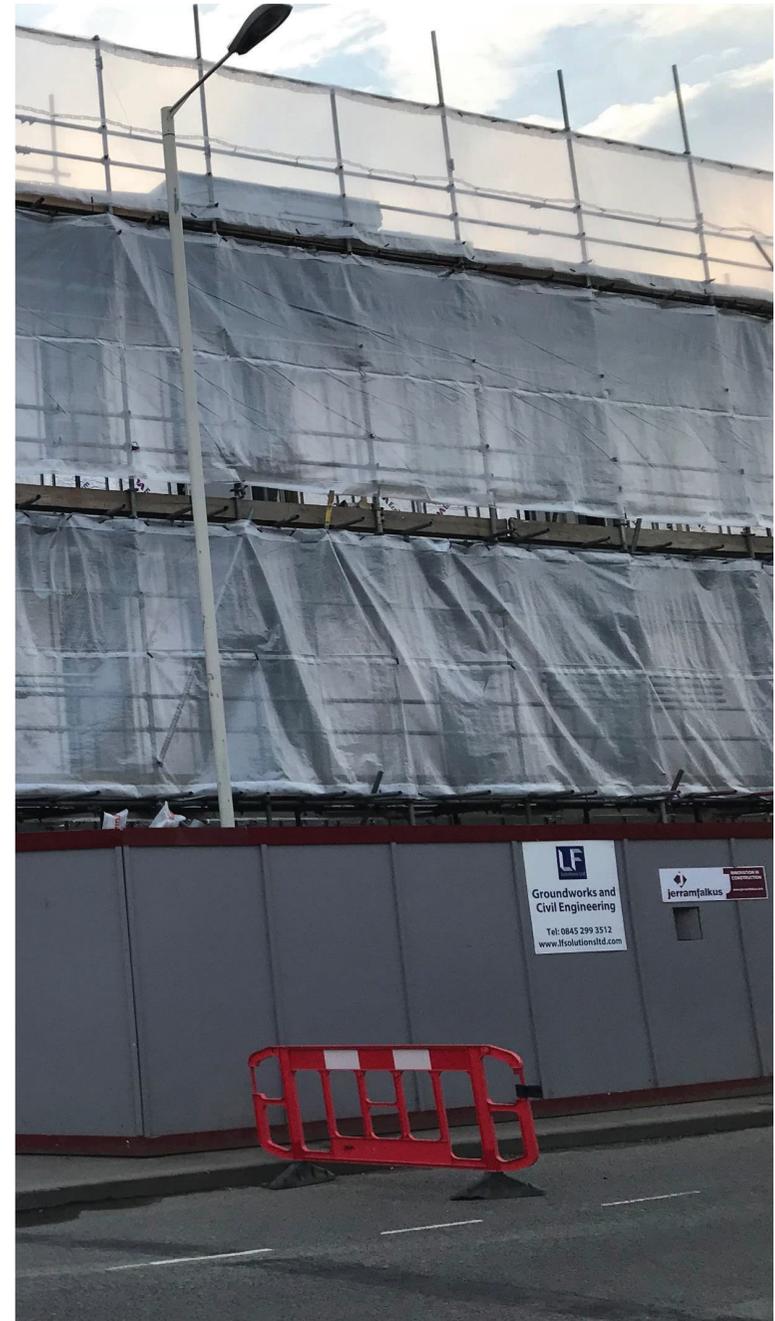
- Receive monies and the setting up and monitoring of the bespoke accounts relating to each mitigating project, as well as managing and accounting for the spending of S106 and CIL money and infrastructure delivery provision

S106 Trigger points

5.14. During the negotiation process, trigger points for each obligation will be agreed between the developer and the Council. There are established trigger points which are suitable for S106 agreements and triggers selected in each case will be based on the nature of the obligation and the stage at which the mitigation is required. The established trigger points are:

- Upon the date that the agreement is signed;
- Upon or prior to commencement of the development;
- Upon or prior to practical completion of the development;
- Upon or prior to occupation of the development.

5.15. Development may also be phased, so the trigger points may relate to specific construction phases of the development.



Payment of S106 and CIL contributions

5.16. Payment of S106 financial contributions should be paid in line with the trigger points above. This will enable mitigation and improvement works to commence during construction of the development and, where feasible, be co-ordinated with the completion of development. The payment process for CIL contributions is as follows:

- The developer must submit a Commencement Notice to Be First not less than 14 days prior to commencement of development stating the proposed commencement date;
- Upon receiving a notice of commencement, Be First will issue a Demand Notice and developer must pay within one month from the Demand Notice being sent.

5.17. Details of how to make a payment to the Council is provided within the Demand Notice. A payment form as standard will be appended to the agreement and any payments should be made using this form, following the instructions provided. The payment should be made through a BACS/CHAPS payment. Once received, the payment will be logged onto the Council's systems.

Index-linking payments, interest and enforcement of obligations

5.18. All S106 financial contributions should be index-linked to the Building Cost Information Service BCIS All-in Tender Price Index from the date planning permission was granted to the date of actual payment, to ensure that the value of the obligation does not reduce over time due to inflation. Should a payment not be made on the date payment is due, interest will be charged to disincentivise late payment. As a final recourse, where obligations are not subsequently complied with, the Council will take legal action against those in breach of a S106 agreement and enforce against non-payment of CIL.

Interest Bearing Accounts

5.19. In order to compensate for any loss of value of received S106 receipts arising from inflation, pending expenditure all monies received will be held in interest bearing accounts. Any interest accrued will be applied by the Council to s106 related projects.

5.20. Specific numerical information relating to prices, formulas and, subsequently, the level of contributions due will need to be updated on a regular basis in order that the document remains relevant. Area-based planning obligations strategies will also need to be reviewed as part of this process to ensure the tariffs are based on the most reliable and up to date evidence. The changes will be published in the Annual Monitoring Report. Any amendments to fee schedules will also be published on the Council's website.

5.21. Be First has a S106 Monitoring Officer who is responsible for monitoring legal agreements, managing the implementation of developer contributions and non-monetary heads of terms. Most s106 payments have to be spent within 5 years of receipt, or returned to the developer. Be First has an established process for recording and monitoring Section 106 Agreements and other relevant legal agreements, including a database with details of all agreements. The Inclusive Growth team of the Council are responsible for allocating CIL and s106 money, and monitoring spend.



6. Section 106 – Standard Obligations and Charges



6.1. This section sets out the standard obligations and associated charges which may be sought by the Council through Section 106 agreements. While this is intended to provide clarity and transparency to officers and developers alike, it should not be considered an exhaustive or complete list of planning obligations which might be required. Some developments may require additional, case-specific forms of mitigation to address all site-specific impacts and be acceptable in planning terms. This will be negotiated on a case-by-case basis.

6.2. There may be exceptional cases where on-site provision of obligations necessary to make a development acceptable cannot be delivered on-site, in which case the council will expect off-site contributions, whether as alternative provision or a commuted sum. This section is supported by the information included within **Appendix 1**.

Affordable Housing

Context

6.3. There is a significant shortage of affordable housing across London, with the GLA SHMA (2017) identifying that this comprises 65% of London's overall housing need. The shortage of access to affordable dwellings across all tenures is felt as strongly in Barking and Dagenham as anywhere across London, with the 2020 SHMA indicating a net annual requirement for affordable housing of 1,557 units per annum. In the period to 2029, the Borough's indicative housing delivery target is 29,287, averaging 2,928 per annum. Policy DMH 1 includes a 50% on-site affordable housing target, which could potentially deliver 14,644 affordable units up to 2029. This is slightly short of the projected demand, but it is considered proportionate as setting an affordable housing target level higher than this could deter new development coming forward.

6.4. Additionally, the Council will seek to maximise affordable housing delivery from all sources, including non-conventional housing such as some C2 class uses (such as student housing, or housing for vulnerable or older adults), as well as conventional residential developments (in Use Class C3). This is justified by the need for affordable homes in conjunction with the borough's challenging viability context.

6.5. S106 agreements are the most appropriate mechanism for securing affordable housing and the Council will use this mechanism to deliver it. Current CIL Regulations do not enable affordable housing to be allocated funding or to be delivered as infrastructure in-kind from CIL funding.



Indicative Section 106 requirements

6.6. Residential schemes of ten units or over should deliver the Local Plan strategic target of 50% of units as on-site affordable housing. The S106 agreement must also ensure that the affordable housing delivered is compliant with the policy requirements and acceptable under the terms of the planning application. This should be shown in a breakdown of numbers which demonstrate the development can meet the required mix of affordable housing tenures and the required mix of housing sizes within the affordable housing units, including family housing (3 bedroom dwellings and above).

6.7. Off-site provision will only be accepted in exceptional circumstances where it can be demonstrated that development viability cannot accommodate affordable housing on-site. This must be provided in the borough and, where possible, in the vicinity of the site.

6.8. Only in exceptional circumstances, when it is demonstrated to the Council's satisfaction that on-site delivery is unviable and off-site provision is not possible, will payment of a commuted sum to support the delivery and supply of affordable housing elsewhere in the borough be considered, as set out in paragraph 62 of the NPPF and paragraph 2.56 to 2.59 of the Mayor's Affordable Housing SPG. This will be calculated on a case-by-case basis and should be paid as soon as is practicably possible.

6.9. Where the required level of affordable housing provision does not meet the 50% target, this should be demonstrated via a viability assessment. The Council may appoint a suitably qualified independent third party to assess any financial information submitted related to development viability, the costs of which will be met by the developer. There will always be a review mechanism in place, so that viability can be re-assessed at the point of delivery, and additional payments towards affordable housing made where appropriate.

Carbon Offsetting

Context

6.10. To address the issue of climate change, both the London Plan and Barking and Dagenham Local Plan both seek to ensure that new proposals make the fullest contribution to standards which are designed to lead to zero carbon developments. Local Plan policy DMSI 2 outlines the borough's target of becoming Carbon Neutral by 2050 and states that proposals must submit a detailed Energy Assessment to demonstrate how the development has been designed in accordance with the energy hierarchy and the London Plan. The same policy also sets out that major developments should be designed to enable future connection to planned district energy networks, with a commitment to connect into this network once it is in place. This can be demonstrated either through a planning condition, with clear detail as to technical information required to discharge, or through a S106 agreement.

6.11. A Section 106 Agreement is considered to be the most suitable mechanism for securing financial contributions to offset carbon emissions, as the off-site mitigation of carbon emissions through a Carbon Offset fund is not determined to be infrastructure, as defined in the Planning Act (2008).

6.12. The requirement to off-set carbon emissions not mitigated on-site is related to the specific development and so cannot be effectively achieved through the CIL allocation process. The site specific nature of connections to a future decentralised energy network makes a S106 agreement the most appropriate mechanism. Non-site specific infrastructure required to operate the wider decentralised energy network may be funded through CIL.

Indicative Section 106 requirements

6.13. Off-site mitigation measures will be sought for all major residential and commercial developments that do not meet the on-site carbon reduction requirements outlined in London Plan policy SI2 which are at least 35% beyond Building Regulations.

6.14. If a developer can demonstrate off-site provision on an alternative site, where delivery can be ensured, this will be acceptable provided that this site is also within the borough. Otherwise, financial contributions will be required to the borough's Carbon Offset Fund. This will be calculated at the recommended GLA rate of £95 per tonne x 30 years = **£2850 per tonne**.

6.15. This will be subject to ongoing monitoring to ensure obligations are met. All, or part of the monitoring fee for this obligation may be spent to fund a technical assessment of the energy statement, to ensure that the stated outcomes are being met, and this will be inspected at practical completion

6.16. This funding will be spent on initiatives including, but not exclusively:

- Retrofit of social housing
- Retrofit of schools and civic buildings
- Implementation of a decentralised energy network
- Investment in renewable energy projects
- Low-carbon lighting projects
- Tree Planting
- Implementation of 5 nature reserves across the borough
- Low carbon transport, electric vehicle charging points, car clubs



Air Quality

Context

6.18. As identified in the Council's Air Quality Action Plan (AQAP), the entire borough of Barking & Dagenham has been declared an Air Quality Management Area (AQMA), which highlights pollution levels that exceed the Government's Air Quality Objectives. The Council will continue to seek planning obligations when it is identified during the planning process that the construction of a development or the operation of a certain use of a development will potentially harm or impact upon the surrounding environment (including introducing new receptors to an exceedance area).

6.19. The Council's AQAP sets out proposed measures to improve air quality within the Borough boundaries. Further review and assessments have confirmed earlier findings which identified road traffic as the main source of pollutants. The Council's review and assessment of air quality is periodically updated and the report of the latest review and assessment, including maps of predicted Nitrogen dioxide (NO₂) and Particulate Matter (PM₁₀) concentrations, can be downloaded from the Council's website.

6.20. Developments which may have a negative impact on air quality or are located in an area where the existing air quality is poor and therefore will have a further detrimental impact on the local environment, will require a contribution towards the implementation of the AQAP.

6.21. The following are identified as the primary ways in which a development may have a significant air quality impact:

- If the development is likely to cause a deterioration in local air quality (i.e. once completed it will increase pollutant concentrations);
- If the development is located in an area of poor air quality (i.e. it will expose future occupiers to unacceptable pollutant concentrations/new exposure);
- If the demolition/construction phase will have a significant impact on the local environment (e.g. through fugitive dust and exhaust emissions);
- If the development prevents implementation of measures in the AQAP; and
- If the Air Quality Assessment concludes that the Air Pollution Exposure Criteria is five per cent below the 2010 proposed objectives for each pollutant (APEC – from the London Council Planning Guidance).

6.22. A Section 106 Agreement is considered to be the most suitable mechanism for securing financial contributions towards air quality, where air quality neutral cannot be achieved on site.

Indicative Section 106 requirements

6.23. Contributions will be used towards monitoring of air quality and implementing the Air Quality Action Plan across the Borough. Payment will be required upon practical completion. Contributions will be determined on a case-by-case basis. Further guidance on Tariffs and specific Air Quality guidance is being reviewed and will form part of a Sustainability SPD planned for 2022/3.

6.24. The air quality monitoring costs relate to the purchase, service and maintenance of specialist monitoring equipment to be used to ensure the construction and operational phases of the development do not negatively impact on the local area. Funding will also be used to implement measures contained in the Council's AQAP, which will improve air quality. Local air pollution is not confined to a development, therefore Section 106 obligations will be used to mitigate residual emissions which have a wider impact on borough air quality.

6.25. This funding will be spent on, for example:

- Implementation of the actions contained within the Borough's Air Quality Action Plan; and
- Purchase, upkeep and maintenance of air pollution monitoring equipment.



Employment, skills and supply chain development

Context

6.26. The Council is committed to maximising the number and variety of jobs and apprenticeships available whilst improving the skills, training and employment opportunities for local residents as the borough grows in the coming years. By ensuring such opportunities for local people, the Council seeks to foster economic and social inclusion and combat deprivation, especially among the borough's younger population.

6.27. Policy SP5 affirms that new developments will generate employment, skills, training and supply chain opportunities during both the construction and end occupation phases and the Council will ensure that residents have ample access to such opportunities. This seeks to both meet the needs of the construction industry and the communities in which the Council works – addressing skills gaps through the creation of clear employment and training pathways that also enable local people to access good jobs in the construction industry, and building the capacity of local supply chains.

6.28. Access to jobs and training in construction developments should be provided to borough residents through the Construction team in the Council's established job brokerage service. Prior to and throughout the application process, developers will be expected to engage with designated Council officers who broker employment, training and supply chain opportunities to support delivery of the Employment, Skills and Supplier Plan, as well as contributing to monitoring.

6.29. The Planning Act (2008) does not define employment and training as infrastructure, it is not eligible to be allocated funding or to be delivered as infrastructure in-kind under the CIL Regulations. Therefore, Section 106 is the only appropriate mechanism for securing contributions towards employment and training.

Associated Section 106 requirements

6.30. Contributions to provide employment and training opportunities, both financial and/or non-financial and during both the construction and occupation stages, will be sought for all major residential and commercial developments via S106. This agreement will also set out monitoring targets and reporting arrangements, to ensure that the associated benefits are delivered.

Construction Phase

Employment and Skills Plan:

6.31. Applicants are required to submit an Employment and Skills Plan no less than 6 months prior to commencement on site to the Council's job brokerage team. This plan is to include but is not limited to a forecast of the estimated FTE workforce, the estimated duration of the development, number of vacancies, training opportunities and work experience placements that will be created over the lifetime of the development.

6.32. This must be accompanied by a method statement setting out how this will be delivered, including who in the organisation will be responsible for managing recruitment and training, how they will ensure compliance by trade contractors, how health and safety issues will be managed, and how they will engage with the council, community and key local training partners to meet their commitments on employment and training.

Employment during Construction:

6.33. Developers will be required to:

- Ensure that a minimum of 20% of the total jobs created (calculated on a full-time equivalent basis) during the construction phase are new jobs;
- Ensure that at least 25% of the total workforce (calculated on a full-time equivalent basis) during the construction phase are residents of Barking and Dagenham;
- Advertise all vacancies for jobs through the Council's job brokerage service – with notification for job vacancies made available exclusively through these services for a minimum of 10 days before being advertised more widely;
- Work with the Council to achieve the targets, including by providing a skill forecast for the development and highlighting any shortages to the Council's job brokerage service;
- Work to ensure that all construction workers on the development are directly employed and paid at least the London Living Wage. This would apply to the developer as well as sub-contractors.

Training during construction:

6.34. Developers will be required to provide at least one training opportunity for every 10 construction workers (calculated on a full-time equivalent basis) – including short courses, work experience, internships and other training related opportunities to support Barking and Dagenham residents to obtain and progress within employment. These training outputs must include the following opportunities for local residents:

- At least one apprenticeship for every 20 FTE workers, delivered at or progressing to at least a Level 3 qualification;
- At least 10 weeks work experience for every six months of the duration of the build;
- At least one educational workshop / visit per educational term for the duration of the construction phase to support local schools and careers services.

6.35. When delivering these, developers and their sub-contractors are asked to support our efforts to create clear routes into the sector for residents by using the council’s preferred local education and training providers where possible.

Financial contributions relating to employment and training:

6.36. There will be some exceptional circumstances where the above obligations cannot be met, such as where new developments are built off-site via Modern Methods of Construction (MMC), where there are lots of unfilled vacancies and a shortage of candidates, or, in some cases, where the length of a build doesn’t allow for an apprenticeship. In such cases, the Council will seek a financial contribution to generate alternative training, employment and local procurement opportunities elsewhere in the borough, using the following formulas:

The target number of jobs for LBBD residents (25% of FTE workforce) X £5,000 (average cost of supporting an unemployed borough resident into work)

AND

The target number of apprenticeship starts (1 in 20 of FTE workforce) X wage costs of a one-year apprenticeship paid at the London Living Wage rate

6.37. These contributions are only due when targets cannot be met. For example, if the development has an FTE workforce of 200, the targets will be to ensure 50 jobs and 10 apprenticeships are created and filled by residents of Barking and Dagenham. If the developer is unable to meet any of the employment targets, a financial contribution would be due of £250,000 (50 x £5,000). For apprenticeships, the cost would be calculated based on 10 (the target) X 1,820 (35 hours a week for 52 weeks) X the most recent hourly London Living Wage rate (as set by the Living Wage Foundation). If they can meet some of these obligations, the contribution will be calculated based on the shortfall against these targets.

6.38. In addition, all developers are asked to contribute financially towards training and employability support for local residents. This is towards the cost the council incurs within its employment and brokerage services to successfully train and support local candidates:

£4 (based on the HCA Employment Densities Guide, 2nd Edition 2010 or subsequent updated document) X sqm of the total new development floorspace (GIA)

6.39. For example, when applying the formula to a development consisting of 8,000 sqm of new floor space (GIA) - £4 x sqm (8,000) = £32,000 is obtained in contributions. In considering this requirement, due regard can be made to other site-specific requirements being addressed in the Section 106 Agreement, including CIL, and overall economic viability.



Supply chain development:

6.40. Developers are required to:

- Supply the Council's Construction Team with a full Procurement Plan identifying the different trades to be on site, the tender event schedule, and how they will achieve a minimum of 25% local supply chain. This includes but is not limited to: goods, materials and services;
- Ensure companies based in Barking and Dagenham will be given a genuine opportunity to tender for all contracts and sub-contracts arising from a development, ensuring feedback where possible when a business is unsuccessful;
- Submit a list of work packages being offered to competitive tender for the developer and all sub-contractors, including timeframes, values of packages and framework requirements;
- Provide details when a package is awarded including information about any local contractors that have tendered for work (both successful and unsuccessful, with reasons why);
- Participate in at least two events in each year of the development to promote opportunities to local suppliers and build their capacity, and/or contribute financially to the delivery of such activity to ensure local suppliers are able to access opportunities arising from the development.
- Provide support to local businesses through the council's Business Forum and meet the buyer events

Monitoring:

6.41. Once the development has commenced monitoring information must be submitted to the Council by the designated coordinator responsible for managing recruitment and training monthly for the first three months of the construction phase and quarterly thereafter. The Council's job brokerage service will advise and agree with developers what evidence will be acceptable as evidence of compliance.

6.42. This designated coordinator will attend with the Council regular site visits or meetings to ensure compliance with their commitments and discuss progress. These visits and meetings will take place quarterly. In cases where the Council has concerns about compliance, these visits and monitoring reports may be required monthly, and additional evidence may be required. Where there are no concerns, such visits and meetings will be held on a less regular basis at the Council's discretion. The designated coordinator is also encouraged to attend the Council's quarterly Construction Advisory Forum meetings, which enable us to identify common challenges developers face when meeting Section 106 employment, skills and supply chain commitments and coordinate efforts to resolve these across the sector.

6.43. Monitoring costs will be incurred of £1500 for a scheme of up to 149 units and £3000 for schemes exceeding 150 units or 1000sqm of commercial floorspace.

6.44. Confirmation that all obligations have been met – or appropriate compensation agreed – must be provided before the Council will approve a developer's application for discharge. Employment and training compensation will be calculated based on the shortfall against:

The target number of apprenticeship starts x wage costs of a one-year apprenticeship paid at the London Living Wage rate

The target number of jobs for LBB residents (25% of FTE workforce) x £5,000 (average cost of supporting an unemployed borough resident into work)

6.45. When assessing whether developers have used 'best endeavours' to meet their obligations, the Council will take into account the following: whether the developer has provided a designated coordinator to manage recruitment, training and supply chain commitments; whether this person has responded positively to requests for meetings, monitoring information and evidence as required; whether all vacancies have been advertised through the Council's job brokerage services; and whether any problems affecting the developer's ability to meet targets have been raised with the council's job brokerage services and alternative options agreed, such as appropriate financial compensation.

Occupation stage

Employment and Skills Plan:

6.46. Applicants are also expected, within their Employment and Skills Plan, to outline operational phase employment opportunities. End users are expected to meet with the job brokerage service prior to occupation to discuss their employment, skills and training plan, and to provide a skills forecast for the development and highlight any shortages to the council's job brokerage service.

6.47. End users are to ensure that:

- In retail use and hotels (A-class), a minimum of 25% of the estimated total jobs (FTE) are filled by residents of Barking and Dagenham
- In Business class floorspace (B-class), a minimum of 10% of the estimated total jobs (FTE) are filled by residents of Barking and Dagenham
- New apprenticeships are created for Barking and Dagenham residents – calculated on a case-by-case basis with the council based on the total FTE.
- All vacancies are advertised through the council's job brokerage service, with notification of job vacancies exclusively available to residents for a minimum of 10 days before being advertised more widely;
- End-users commit to pay at least the London Living Wage to their staff.

6.48. If the above obligations cannot be met, the Council will seek a financial contribution to support training, employment and local procurement at the occupation stage, using the following formula:

The target number of jobs for LBBD residents (10% or 25% of FTE workforce) x £5,000 (average cost of supporting an unemployed borough resident into work)

6.49. Monitoring costs for the above will be sought by the Council at a fixed fee of £1500 for a scheme of up to 149 units and £3000 for schemes exceeding 150 units or 1000sqm of floorspace.



Affordable workspace

Context

6.50. The Council has a target to deliver at least 20,000 new jobs as part of the forthcoming Local Plan, creating a wider employment base by focusing on growing a thriving and productive enterprise and small business economy, alongside new inwards business investment. It is important that the Council supports a diverse range of new and existing businesses to develop and grow and to do this, there is a defined need for flexible, affordable premises as outlined in Local Plan policy DME2. This will also provide a long-term economic benefit to the borough, with the Institute of Public Policy's 2016 study estimating that London's open and flexible workspaces host 31,000 people and generate £1.7billion in Gross Value Added.

6.51. All major mixed-use development within the borough will be required to make provision for affordable workspace to meet the needs of local start-ups, small-to-medium enterprises (SMEs) and creative industries, along with sectors which have a social value such as charities, voluntary and community organisations or social enterprises.

6.52. Planning obligations will be required to secure and maintain this supply of affordable workspace in new development. As such provision is, by nature, site-specific and the Planning Act (2008) does not define workspace as infrastructure, it is not eligible to be allocated funding or to be delivered as infrastructure in-kind under the CIL Regulations. Therefore, S106 is the most appropriate mechanism for securing contributions towards this.

Indicative Section 106 requirements

6.53. S106 will be used to secure the provision of affordable workspace where there is demonstratable need, at capped rental levels in perpetuity where it is provided, with at least 10% of floorspace being secured at rents maintained at least 20% below current market rates and with priority given to companies based in the borough.

6.54. Workspace to be fitted out to Category A prior to being leased. Leases of affordable workspace should be for a minimum of 15 years, with the first 12 months' rent-free.

6.55. Additionally, affordable workspace should be activated prior to occupation of residential units or remaining commercial floor space and, when positioned within a development, should be designed to be balanced with other commercial units in terms of visibility, to help accessibility.

6.56. The Council will require developers to provide a Workspace Management Plan to show how this will be delivered and that an annual return on delivery will be achieved. This will also include ensuring that the space provided is appropriate and affordable, taking into account rent paid – along with other fees such as service charges that an operator may levy. The Council will monitor and where necessary enforce this on an on-going basis.

6.57. Where a scheme involves the redevelopment of existing low-cost workspace provision, a requirement may be sought within the S106 agreement for existing occupants to be given the option of being accommodated in the new development where possible.

6.58. In the following circumstances, LBBDD will consider alternative options that will achieve equivalent value and impact via an off-site contribution to be agreed with Planning Officers, for example to existing facilities in the borough or provision of new facilities on another site:

- Where viability appraisals demonstrate that on site provision is not feasible;
- Where an area is already considered to be well served with affordable workspace, or where it is unlikely to work on the development site;

6.59. Any off-site contribution should be of an equivalent or greater value than the rental discount that would have otherwise been offered and will be spent on options including, but not limited to:

- provision of, or funding towards affordable workspace on another site within the borough
- include targeted subsidies for either businesses or workspace providers
- a fit-out capital programme or refurb capital programme.

Education, Healthcare and other Community Infrastructure

Context

6.60. As outlined in Local Plan policy DMS2, new developments must help to meet the increasing demands that they will place upon the borough's social infrastructure by contributing towards supporting the upgrading or enhancing of existing facilities or provision of new facilities. Social and Community Infrastructure includes, but is not limited to:

- Education
- Healthcare
- Community Facilities
- Sport and Leisure Facilities
- Libraries, museums and other cultural facilities
- Youth centres

6.61. The Council will work proactively with key local government delivery partners and borough officers on an ongoing basis to ensure that suitable levels of infrastructure development take place.

6.62. Overall, there is considered to be a cumulative impact of development on social and community infrastructure across the borough and as such, CIL will remain the primary mechanism for funding new education and healthcare facilities. However, where the impact of a development gives rise to a site-specific requirement for new or enhanced social or community infrastructure, this can be mitigated through developer contributions agreed through S106.

Indicative Section 106 requirements

6.63. S106 will be typically used where the development proposed creates a need for facilities that isn't met by existing infrastructure, and where provision of on-site facilities forms part of a Local Plan site allocation. These allocations are included within Appendix 2 of the Local Plan, where specific requirements are outlined. Provision should be specific to site allocations and agreed through S106 agreements, with engagement with relevant Council officers to ensure that infrastructure is appropriately located and designed to meet future needs and appropriate rental levels charged. S106 may also be used to secure provision of off-site social and community facilities if a development will lead to a loss of a social and community facility.

6.64. The exact requirements to be sought through Section 106 will vary with each development proposal depending on the proposed development, any site allocation, projected population growth (determined through the GLA Population Yield Calculator) and other factors such as current capacity and projected expansion or loss of facilities. However, further information can be found below:

Educational facilities

6.65. As a general rule any new homes will generate additional pupils an impact on delivery of adequate school places. The Borough Education team will review planning applications to ascertain whether the forecast numbers of homes would impact on school places. For larger developments as a guide 1,500 homes would generate a requirement in the locality for a new 3 form (630 pupils) entry primary school, 5,000 new homes would generate a demand for a new secondary school up to 10 form (1800 pupils).

6.66. Where there is no site allocation for new educational facilities, but where development comes forward which creates additional demand for school places, the Council may seek contributions through S106 for increased or improved education provision where this cannot be met through CIL, and where there are not sufficient places locally. This includes early years, primary, secondary, SEN, and further education.

6.67. The local education authority will not seek to secure additional places where it is known that there will be a long-term surplus, as schools receive revenue funding based on pupil numbers and low numbers can cause financial difficulties. Any funding secured through CIL or S106 identified for school provision will be used to improve the school facilities in the Borough to improve the offer to local children.

6.68. Financial Contributions received for education will also be used for day care nurseries and will fund the provision of additional early years childcare places for the benefit of local workers. This may be in the form of a start-up grant for a new childcare provider or a financial contribution to expand existing childcare provision at an existing facility in the vicinity of the development site.

Healthcare and Social Care

6.69. All major development will be expected to mitigate its impact on health infrastructure through a s106 financial contribution to expand existing capacity. The NHS Healthy Urban Development Unit (HUDU) "Planning Contribution Model for London" should be used to calculate the financial contribution. For developments including potential health facility sites this should be provided as a fully fitted out unit, in accordance with DHSC guidance at a market rental as confirmed by the district valuer for shell and core provision.

Community Facilities, sports facilities and cultural facilities

6.70. Where there is a requirement for on-site community facilities, sporting facilities or cultural facilities to form part of a development has been identified in a Local Plan site allocation, this may be secured through S106. New community facilities are required to be fully fitted out, with leases of at least 20 years.

6.71. S106 may also be used to secure provision of off-site social and community facilities (including faith spaces/places of worship) if a development will lead to a loss of such facilities and cannot be re-provided. Provision should be proportionate to the scale of the development, and should have regard to the existing local supply, as in some cases contributions may be more effectively used to upgrade existing community space instead of providing new floorspace or amenity space. This will be determined on a case-by-case basis in conjunction with the Council's Community Participation and Engagement team

Emergency Services Provision

6.72. Emergency Service infrastructure requirements are set out in the Council's Infrastructure Delivery Plan. This includes details on S106 infrastructure for policing which is not limited to buildings and could include equipment such as surveillance infrastructure, CCTV, staff set up costs, vehicles, mobile IT and Police National Database. The Metropolitan Police is currently preparing a formula to enable collection of financial contributions and this will be used when available by the Council.



Public realm and streetscape

Context

6.73. The Local Plan outlines the key ‘transformation areas’ where significant levels of development will take place over the Local Plan period. Many of these areas, such as Dagenham Dock, Thames Road and Castle Green, have very poor public realm and others where public realm is of a better quality, such as Barking Town Centre, are projected to see significant levels of growth within the Local Plan period which will place pressures on its streets and public spaces.

6.74. The Council will seek a contribution from developers towards a fund for public realm improvements relative to the development site:

- Barking Town Centre;
- Dagenham Dock, Beam Park and Ford Stamping Plant;
- Thames Road, River Road and Castle Green;
- Dagenham East and Dagenham Village;
- Becontree;
- Becontree Heath and Rush Green; and
- Chadwell Heath and Marks Gate

6.75. In some cases, where there is considered to be a cumulative impact of new development on the public realm on a borough-wide basis, CIL will be the preferred mechanism for funding this. However, for public realm upgrades required in specific areas as a result of local development, S106 is a suitable mechanism for securing financial contributions. These contributions will be used to source contributions to a Public Realm Fund ensure that this can be supported.

Indicative Section 106 requirements

Public realm fund

6.76. Major schemes of between 10 and 149 units will be required to make a financial contribution of £250 per unit and schemes of 150 units or more will be required to make financial contributions of £500 per unit to a public realm fund to mitigate the impact of large-scale development.

6.77. This funding will contribute towards public realm initiatives, determined on an area-by-area basis, such as:

- upgrading existing public realm, improving the quality of pavements and new walkways to improve permeability
- new pedestrian crossings
- improved public amenity spaces;
- the delivery of a network of *Green Links* and pedestrian-friendly streets which connect new communities with public green spaces, strategic cycle routes, and key destinations



Highways and sustainable transport

Context

6.78. The Local Plan's Transport Impact Assessment outlines the current pressures facing Barking and Dagenham's highways and transport network and highlights the reality that the levels of development proposed within the Local Plan will place significant additional stress on the Borough's transport infrastructure over the course of the local plan period. The Council will use planning obligations, both financial and non-financial, to not only mitigate these impacts, but ensure that the infrastructure needed to support the proposed levels of development, as identified in the Borough Wide Transport Strategy (2021) and Infrastructure Delivery Plan (2020), is supported by funding contributions from developments.

6.79. In doing so, the Council also seeks to strengthen its focus on sustainable modes of transport and supports the current Mayoral target of 75% of journeys being taken on foot, bicycle or public transport by 2041. Policy DMT1 outlines the borough's wider approach to making better connected neighbourhoods, with "high-quality, safe and attractive cycling and walking routes" (see Borough Cycling and Walking Strategy 2021) and active travel routes connecting developments to local amenities and green space and "reducing the dominance of vehicles on London's streets whether stationary or moving".

6.80. Strategic transport and connectivity infrastructure items required to support the wider growth of the borough and which are not mitigating site-specific developments will be funded largely through the borough's CIL receipts. Examples of these types of schemes are identified within the Infrastructure Delivery Plan, also included in **Figure 22** of the Local Plan.

6.81. The Council collects the Mayor of London's CIL which contributes to London-wide strategic schemes and is currently applied to costs associated with Crossrail. Policy SP8 outlines the borough's commitment to "work proactively with the GLA, TfL and other network operators to develop strategic transport plans which enhance growth by improving local connectivity across the borough and the wider London area".

6.82. However, where transport and connectivity measures are required to make a site acceptable in planning terms or are directly related to the site, these mitigations will be sought through S106 agreements to ensure that they are delivered at the right time and scale to mitigate the impacts of the development. It is expected that developers will submit a Transport Assessment which will help to determine the impact of a development and required mitigation measures.

6.83. On occasion, the site-specific impacts of a development on the nearby highways network may be better mitigated by a Section 278 agreement, which will be agreed between the developer, the Council and the Be First's Transport Development Management Team during the application stages and will be used to secure the measures required instead of a Section 106 Agreement.

Indicative Section 106 requirements

The following types of mitigation will be sought through S106 agreements:

Travel Plans

6.84. Travel Plans are a long-term management strategy for integrating and encouraging sustainable travel into a new development, based on evidence of the anticipated transport impacts of development travel, and to ensure that transport other than private motor car is used, to reduce the number of cars on the roads.

6.85. The Council will require a Travel Plan from all new major schemes of ten units or more, all major commercial development and any large scale social infrastructure with a high level of trip generation. It should outline how the plan will be managed, implemented and reviewed. Developers will need to meet the cost of publicising, implementing and monitoring the travel plan outcomes - including any financial penalties - until such time as the travel plan objectives are met.

6.86. Monitoring of the travel plan is to be undertaken on an annual basis for a minimum of 5 years or 5 years after all phases of a development are complete (whichever is longer). During this period, it may be appropriate to amend the Travel Plan, by agreement with the Council in the light of development circumstances. Each version of the travel plan should report on its effectiveness.

6.87. The Council will seek to agree a fixed monitoring fee, based on the scale of development. This will be charged at £2,500 for developments from 10-149 units and £5,000 for developments exceeding 150 residential units, commercial developments exceeding 1000sqm and large scale social infrastructure schemes of high trip generating characteristic.

Sustainable Transport

6.88. In some cases, other requirements may result from Transport Assessments. Additional requirements, to be agreed during the application process, may include contributions to the following:

- New Active Travel Zone (ATZ) routes;
- Public transport upgrades;
- CPZ, Car Clubs or other Car Pooling Schemes;
- Provision of new, or existing cycle facilities such as cycle lanes and parking;
- Sustainable travel incentives for new residents or employees (dependent on scheme)
- Contribution to Council's EV Charging Points installation programme; and
- Events Management Plans to be submitted on an annual basis for schemes which may attract traffic, due to events.

Parking

6.89. Many new schemes will require that future occupiers (both residential and business) are not allowed to be issued with car parking permits for residential or business parking schemes. If no schemes are actually in place surrounding a proposed development, it is expected that all major schemes of ten units and above and all commercial schemes of 1000m² floorspace or above will contribute to the extension of on-street parking controls, including implementation and enforcement of Controlled Parking Zones, in order to mitigate the impacts of development on parking conditions and the local highway network.

6.90. Legal agreements 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.



Parks, open space and playspace

Context

6.91. Barking and Dagenham has a large number of parks, green spaces and sports pitches which are of a high quality and provide a benefit in terms of enhancing both the local environment and also the health and wellbeing of residents. Local Plan policy DMNE1 is key in protecting and expanding this network of open space and green infrastructure across the borough and ensuring that the levels of this key amenity are sustained and enhanced and remain accessible to all residents, where practical, in line with the increase in future development and proposed population growth.

6.92. On-site provision of children's play space is also important for the wellbeing and development of physical and social skills in children and plays an important role in improving health and reducing health inequalities. Policy DMNE1 reflects the requirements in London Plan policy S4 for provision of new, well-designed play space on site per young person, with projected demand to be calculated through the GLA population yield calculator.

6.93. Major schemes will be expected to make a financial contribution towards the provision of public open space in the borough, especially where there is a deficiency of public open space, or to make on-site amenity space and public realm publicly accessible. Additionally, obligations will be sought through S106 to make financial contributions where playspace cannot be provided on-site to the levels required in the London Plan, to improve nearby play areas and public open space.



Indicative Section 106 requirements

Parks and blue and green infrastructure:

6.94. Contributions will be sought towards the enhancement of the borough's parks and blue and green space, as well as the implementation of new or existing green infrastructure such as parks and pocket parks and planting of new trees where appropriate, enhancing the borough's green grid network. A financial contribution towards off-site provision of infrastructure elsewhere or a commuted sum may be accepted if this cannot be provided on, or near to, the development site.

6.95. Additionally, where residential development is proposed and the Council has identified a deficiency in public open space, financial contributions will be expected towards provision at a rate of £1,000 per 10m² deficiency.

Playspace:

6.96. In the exceptional (and only exceptional) circumstance where sufficient play space cannot be provided on site, a financial contribution will be required.



Nature and biodiversity

Context

6.97. The significant levels of development envisaged during the Local Plan period will place increasing pressures upon the quality of the natural environment in the borough. The NPPF outlines the Council's responsibility to ensure that the borough's natural environment is conserved and enhanced as development takes place and to ensure that opportunities are taken to protect biodiversity, wildlife and habitat connectivity. Tied into this is the increasing importance of mitigating the impacts of climate change. Significant harm to biodiversity and the borough's blue and green infrastructure resulting from a development proposal should be avoided.

6.98. Policy DMNE3 outlines the requirement of developers to manage impacts on biodiversity and aim to secure biodiversity net gain, as well as minimising the impacts of development on biodiversity and nature in accordance with the mitigation hierarchy set out in London Plan Policy G6.

6.99. Policy DMNE4 outlines the requirement for developments within the vicinity of the borough's blue infrastructure to protect and enhance the character of its waterways as well as improve water quality and biodiversity where possible.

6.100. Some larger scale biodiversity projects will be funded through CIL where there is a direct infrastructure requirement to support future development, or for schemes identified within the Green Infrastructure and Biodiversity Strategy. However, in many cases site specific measures relating to biodiversity will be needed to make a development acceptable in planning terms. Section 106 Agreements are the most appropriate means by which to seek this type of planning obligation to ensure that they are delivered at the right time and scale to mitigate the impact of the development.



Indicative Section 106 requirements

6.101. All major schemes of ten or more units and all commercial developments exceeding 1000m² of floorspace will be expected to demonstrate an equivalent contribution to 10% biodiversity net gain off site using the DEFRA metric, to be agreed with Officers.

6.102. If direct off-site provision cannot be agreed, a commuted sum to contribute to a Biodiversity Fund at a rate of £5,000 for every per cent below 10% net gain in line with the DEFRA metric, will be required to support measures including, but not limited to:

- securing, reinstating or enhancing existing habitat features;
- creating five new nature reserves across the borough;
- habitat creation;
- wildlife corridors; and
- maintenance and enhancement of amenity associated with rivers, lakes and waterways, as well as riparian equipment

6.103. For larger schemes, a commuted sum to contribute to green and blue infrastructure may be sought in addition to direct off-site provision.

6.104. Where sought, 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.



7. Summary and further information

7.1. The obligations listed in Chapter 6 above should not be considered to be exhaustive and other obligations may be sought depending on the development site and nature of the proposal. The precise requirements which the Council will seek will be determined through engagement with Council officers.

7.2. As such, the Council encourages applicants to engage in discussions with planning officers at the pre-application stage, to further discuss the specific contributions which will be sought.

Appendix 1

| Indicative Planning Obligation Checklist | | Residential development of 10 + units | Commercial Development of 1000sqm or more | Large scale social infrastructure of high trip generating characteristic | Large scale schemes (typically 150 units or more/GLA referable schemes) |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|-------------------------------------------|--------------------------------------------------------------------------|-------------------------------------------------------------------------|
| LOCAL PLAN POLICY | Affordable Housing | | | | |
| DMH 1: Affordable housing | Affordable housing on site or, if acceptable, off site or a financial contribution in place of this. 50% on-site affordable housing, split 50:50 between social and intermediate housing. This includes all residential developments incorporated under Use Class C2, such as housing for older and more vulnerable residents. | X | | | X |
| | Transport and Public Realm | | | | |
| DMT 1: Making better connected neighbourhoods | Highways works or payments to address any impacts of the specific development To be agreed with Be First's Transport Development Management Team and the Council, through S278 Agreements as well as S106 Agreements. | X | X | X | X |
| DMT 1: Making better connected neighbourhoods | Other sustainable transport requirements arising from Transport Assessments Sustainable transport requirements involving financial and non-financial contributions, may result from Transport Assessments. | X | X | X | X |
| DMT 1: Making better connected neighbourhoods | Car free / parking restrictions and controlled parking zones Contributions required towards the extension of on-street parking controls, including implementation and enforcement of Controlled Parking Zones, to mitigate the impacts of development on parking conditions and the local highway network. | X | X | X | X |
| DMT 1: Making better connected neighbourhoods | Travel Plans and contributions towards associated monitoring costs Travel Plans are a long-term management strategy for integrating and encouraging sustainable travel into all new major schemes. Travel Plans are monitored, with costs met by the developer. | X | X | X | X |
| DMNE 1: Parks, open spaces and play space | Financial contributions towards a public realm fund to address impacts in Local Plan sub areas | X | X | | X |
| DMSI 4: Air quality | Financial contributions will be sought for a Public Realm Fund, to develop/improve public realm in all Transformation Areas. | | | | X |

| | Environment | | | | |
|-------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|
| DMSI 2: Energy, heat and carbon emissions | <p>Carbon offset payment, where policy requirements are not met on site</p> <p>Where on-site reduction of at least 35% beyond Building Regulations is not met, a payment to LBBD's Carbon Offset Fund will be required.</p> <p>Proposals of 1-9 units which cannot achieve zero carbon will also be required to contribute to the Carbon Offset Fund.</p> | X | X | | X |
| DMSI 2: Energy, heat and carbon emissions | <p>Connecting to existing or capability to connect to future district energy networks</p> <p>Large scale residential and commercial schemes will be expected to demonstrate their capability to connect to existing or future district energy networks.</p> | | | X | X |
| DMSI 4: Air quality | <p>Financial contributions towards Air Quality</p> <p>Contributions will be sought towards the Borough's Air Quality Fund, to support measures outlined in the Air Quality Action Plan.</p> | X | X | X | X |
| DMNE 3: Nature conservation and biodiversity | <p>Measures or payment to increase biodiversity where net gain is not feasible on site.</p> <p>All major schemes will be expected to demonstrate an equivalent contribution to 10% biodiversity net gain off site using the DEFRA metric, to be agreed with Officers.</p> <p>A commuted sum to contribute to future schemes such as habitat creation, wildlife corridors and urban nature reserves may be agreed if direct off-site provision cannot be agreed.</p> | X | X | X | X |
| DMNE 1: Parks, open spaces and play space | <p>Financial contributions towards play space provision where not provided on site</p> <p>New major developments must provide play space per child as per Publication London Plan Policy S4. Projected demand to be calculated through the GLA population yield calculator.</p> | X | X | | X |
| DMNE 1: Parks, open spaces and play space DMNE4: Water Environment | <p>Financial contributions to new or existing green and blue infrastructure and ecological resilience</p> <p>For larger schemes, contributions will be sought towards new or existing green infrastructure such as parks and pocket parks, enhancing the borough's green grid network as well as towards planting of new trees.</p> <p>Where residential development is proposed and a deficiency in public open space has been identified, financial contributions will be expected towards enhancing existing open space, including lakes and rivers where appropriate.</p> <p>For larger schemes in the vicinity of the borough's blue infrastructure, contributions towards the maintenance and development of amenity associated with rivers and waterways will be required.</p> | X | X | | X |

| | | Employment and Training | | | |
|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|---|---|---|
| SP5: Promoting inclusive economic growth | Construction phase employment and procurement targets and contributions towards associated monitoring costs Obligations include an Employment and Skills Plan, including recruitment and procurement targets, apprenticeships and monitoring costs If these obligations cannot be met, the Council will seek a financial contribution to support training, employment and local procurement at the occupation stage. | X | X | | X |
| SP5: Promoting inclusive economic growth | Occupation stage employment and procurement targets and contributions towards associated monitoring costs Obligations include an Employment and Skills Plan, including recruitment and procurement targets, apprenticeships and monitoring costs If these obligations cannot be met, the Council will seek a financial contribution to support training, employment and local procurement at the occupation stage. | X | X | | X |
| DME 2: Providing flexible, affordable workspace | Affordable workspace where required by policy or a payment in lieu (applied flexibly in line with the policy) Planning obligations will be used to secure affordable floor space in perpetuity where there is demonstratable need, and determine other elements such as leases, fit outs and other costs such as service charges. A Workspace Management Plan will be required to show how this will be delivered and an annual return on delivery will be achieved. Off-site contributions and/or provision elsewhere in the borough may be considered in some circumstances, as outlined in the document. | | X | | X |
| | | Education, Health and Community Facilities | | | |
| DMS 2: Planning for new facilities | Delivery of on-site social infrastructure to mitigate the specific impacts of development <i>Appendix 2</i> of the Local Plan includes site allocations with specific requirements for on-site social infrastructure. Exact requirements will vary depending on the site allocation, projected population growth (determined through the GLA Population Yield Calculator) and other factors such as current capacity and projected expansion or loss of facilities. | X | X | X | X |
| | | Monitoring Fees | | | |
| DMM 1: Planning Obligations (Section 106) | S106 Monitoring fees The Council will seek flat Section 106 monitoring fees of £500 per <i>principal clause or heads of terms up to 50 units</i> , with £1,500 for more complex clauses. In addition, monitoring fees will be sought to monitor complex travel plans and employment and skills plans, if no co-ordinator is provided by the developer. An additional £500 fee will be charged for calculation and assessment of carbon offset and air quality obligations. | X | X | | X |