



LONDON BOROUGH OF LAMBETH

Sustainable Growth & Opportunity Directorate

**Appendix 3(1) to Statement of Case
Section 106 planning obligations - CIL Compliance Statement**

**Town and Country Planning Appeals (Determination by Inspectors)
(Hearing Procedure) (England) Rules 2000**

Appeal by Anthology Kennington Stage
relating to

Woodlands Nursing Home, 1 Dugard Way, LONDON, SE11 4TH

Appeal Reference: APP/N5660/W/20/3248960

LB Lambeth Reference: 19/02696/FUL

- 1.1 This statement addresses the planning obligations sought by the Council in association with the appeal scheme. This statement is provided without prejudice to the Council's case.
- 1.2 Paragraph 56 of the NPPF and Regulation 122 of the Community Infrastructure Levy ('CIL') Regulations 2010, as amended, sets out the tests for the use of planning obligations. Obligations should only be sought when they meet the following tests and the obligations are:
 - 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.
- 1.3 The table below assesses each planning obligation against Regulation 122.
- 1.4 The council will assist the Appellant in production of a section 106 agreement ahead of the Inquiry event.

Obligation	Justification (Compliance with Regulation 122)		
	Test 1 – necessity	Test 2 – directly related to the proposed development	Test 3 – fair and reasonable in terms of scale and kind
<i>Affordable housing</i>			
<p>Provision of affordable housing on site on-site at 50% in accordance with the council's preferred tenure mix of 70% social/low cost rented and 30% intermediate.</p>	<p>The provision of affordable housing is necessary for the proposal to comply with the of LLP (2015) Policy H2, MALP (2016) Policy 3.13, and emerging policies DRLLP (2020) Policy H2 and IPLP (2019) Policies H4 and H5.</p> <p>In absence of a planning obligation to secure the provision of an adequate affordable housing (both in proportion of overall units and in tenure), the proposed development would fail to meet identified need for different types of housing.</p>	<p>The provision of affordable housing as a proportion of the housing proposed ensures that this obligation would be directly related to the development.</p>	<p>The level of affordable housing sought would meet the minimum threshold of 50% for affordable housing on public land set by the current and draft London Plans and the current and draft Local Plans. Meeting this threshold qualifies the development for the 'Fast Track' route and is therefore considered fair and reasonable as it is the level of affordable housing sought by the Development Plan.</p> <p>Should a level of affordable housing be agreed that would be below the threshold, it would be agreed following thorough testing of the scheme's viability to ensure that the level of affordable housing is fair and reasonable</p>

<p>Affordable housing – Early viability review mechanism. should the scheme not be implemented within 24 months of decision.</p>	<p>The provision of affordable housing is required for the proposal to comply with the provisions of LLP (2015) Policy H2, MALP (2016) Policy 3.13, and emerging policies DRLLP (2020) Policy H2 and IPLP (2019) Policies H4 and H5.. These policies require the council to take into account the specific circumstances of individual sites, including development viability.</p> <p>An early stage / implementation review mechanism is required to incentivise timely delivery of the housing by requiring a viability review if an agreed level of progress on the development is not achieved within 24 months. If a review is triggered, it ensures that affordable housing contributions are increased if viability improves over time. Should the review identify any surplus, this is to be split 80/20 in favour of the council, in accordance with the Lambeth Development Viability SPD (2017, para. 6.7).</p>	<p>The provision of affordable housing as a proportion of the housing proposed means the obligation is directly related to the proposed development.</p>	<p>24 months is considered to be a reasonable period of time to implement the permission. The review that would be triggered would be based on the scheme’s viability in accordance with Policy H2. Through viability testing, any additional affordable housing would secured would be fair and reasonable in scale and kind. Together these measures are fair and reasonable to incentivise delivery.</p>
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<p>Affordable housing – late stage review triggered when 75 per cent of homes are sold or let</p>	<p>Should a level of affordable housing be agreed that would not qualify the development for the 'Fast Track' route and would therefore be viability tested, IPLP Policy H5 (F) states that 'Viability Tested Route' schemes will be subject to a late stage review. This is supported by the approach in the Mayor's Affordable Housing and Viability SPG.</p> <p>A late stage review is required to ensure that affordable housing contributions are increased if viability has improved over time. Without this planning obligation the proposed development could fail to meet the policy requirements in relation to housing needs.</p>	<p>The provision of affordable housing as a proportion of the housing proposed means the obligation is directly related to the proposed development.</p>	<p>The review would be based on a financial viability assessment of the development and any increase in affordable housing contributions would only be due if the review shows that it would be financially viable. This ensures that it would be fair and reasonable.</p>
<p><i>Transport and highways</i></p>			
<p>Residential units 'parking permit free' within the existing Controlled Parking Zone.</p>	<p>LLP Policy D4 states that planning obligations will be sought for, <i>inter alia</i>, permit restrictions required to ensure appropriate mitigation for impact of the development. Local Plan Policy T7 seeks permit free development to be provided.</p> <p>This planning obligation is necessary to ensure that it is provided and observed for the duration.</p>	<p>The need to prevent occupiers of the proposed development from applying for parking permits within the existing CPZ is directly related to the proposed development.</p>	<p>The prevention of future occupiers of the development (save for occupiers with particular access requirements) from obtaining CPZ parking permits is fair and reasonable in scale and kind.</p>
<p>Provision of free car club membership per household for three-years</p>	<p>LLP Policy D4 states that planning obligations will be sought for, <i>inter alia</i>, car club provision required to ensure that development provides appropriate mitigation made necessary by the development. Local Plan Policy T7 seeks for car club memberships to be provided.</p> <p>This planning obligation is necessary to ensure the provision is made available on first occupation. The car club provisions are in accordance with Development Plan policy requirements which seek to promote uptake of sustainable modes of transport and reduce reliance on private cars.</p>	<p>The proposed development is likely to generate additional trips therefore the mitigation is directly related to this development</p>	<p>Funded membership would be secured for each new residential unit of the development. The length of membership is considered reasonable to encourage take up of car club facilities in accordance with policy. This is therefore reasonably related in scale and kind</p>

3 years free cycle hire membership for residential unit	<p>LLP Policy T3 requires measures to make cycling a more attractive form of travel. The promotion of cycle hire membership, reinforcing its role as an integral part of London's cycling infrastructure and public transport network, is consistent with the goals of the Mayor's Transport Strategy (2018).</p> <p>The proposed uses would generate trips. The site is located in reasonably close proximity to the 'Cycle Superhighway 6' (CS6) (at St Georges Road) and associated improvements to infrastructure for cyclists. This planning obligation is necessary to secure infrastructure that would encourage up-take of cycle use and promote sustainable patterns of travel.</p> <p>This planning obligation is necessary in order to meet the policy requirement.</p>	The development will generate additional trips therefore it is directly related.	The quantity of cycle hire membership and availability of cycle hire keys is commensurate with Development Plan policy requirements. The length of the membership is considered sufficient to encourage take up of cycle hire facilities. The obligation is therefore reasonably related in scale and kind.
Travel plan framework and monitoring over a five-year period.	LLP T1 seeks to promote a sustainable pattern of development in the borough. Under part (c), travel plans are required to accompany all major planning applications to promote sustainable travel and minimise the number of trips by car. This planning obligation is necessary to ensure a travel plan is provided.	The need to promote sustainable modes of travel, and to minimise the number of trips by car, is in direct relation to travel demands generated by the proposed development.	The travel would cover only this development and a five year period is required to monitor and influence long term travel behaviour. This obligation is therefore fair and reasonable in terms of scale and kind.
<i>Financial contributions</i>			
Carbon offset contribution	<p>LLP Policy EN4 requires development to meet sustainable design standards which are integral to the design, construction and operation of the development.</p> <p>MALP Policy 5.2 and IPLP Policy SI 2 states that, where clearly demonstrated that required zero-carbon target cannot be fully</p>	The contribution is directly related to the amount of carbon emissions generated by this development.	The measures required within the Final Energy Statement and the quantity of carbon offset contribution are directly informed by Development Plan Policy for major development and are therefore fair and reasonable in scale and kind.

	<p>achieved on-site, any shortfall in carbon reductions should be off-set by cash contribution to the borough's fund.</p> <p>A final energy statement and carbon offset contribution are necessary for this policy to be met.</p>		
Employment and skills contributions	<p>LLP Policy ED14 requires requires the provision of planning obligations to ensure development maximises local employment opportunities and help address skills deficits in the local population. A financial contribution is required to implement the employment and skills plan. Without this planning obligation this policy would not be met, therefore it is necessary.</p>	<p>The proposed development provides employment and skills opportunities both during and after construction therefore the provisions of Policy ED14 are directly related.</p>	<p>The measures set out within the Employment and Skills Plan meet the requirements within the Development Plan and the Employment and Skills SPD and are therefore fair and reasonable in scale and kind.</p>
Contribution towards Northern Line Ticket Hall (NLTH improvements) at Elephant and Castle Underground Station	<p>Please refer to paras 10.7.9 – 10.7.12 of the officer report.</p>	<p>Please refer to paras 10.7.9 – 10.7.12 of the officer report.</p>	<p>Please refer to paras 10.7.9 – 10.7.12 of the officer report.</p>
Contribution to a TfL Cycle Docking Station	<p>LLP Policy D4 (b)(v) states that planning obligations will be sought for cycling improvements. LLP Policy T1 seeks to promote a sustainable pattern of development, reducing dependence on the private car. LLP Policy T3 seeks to improve conditions for people to cycle.</p> <p>The proposed uses would generate trips. The site is located in reasonably close proximity to the 'Cycle Superhighway 6' (CS6) (at St Georges Road). This planning obligation is necessary to secure infrastructure that would encourage cycle use.</p>	<p>The need for the cycle hire dock arises from the trips generated by this development its uses, its proximity to the CS6 and local road improvements where there is potential to increase the cycle modal share. Provision (of which TfL identified a local shortfall) would be enhanced in the immediate area of the site. The planning obligation is directly related to the proposed development.</p>	<p>The provision of a contribution to improve cycle hire facilities is reasonable given the size of the development, and in accordance with TfL's recommendation.</p>
TfL 'Legible London' Signage	<p>LLP Policy D4 states that planning obligations will be sought for, <i>inter alia</i>, local walking and cycling improvements. LLP T1 states that Lambeth will improve conditions for pedestrians. LLP Q6 seeks to ensure new public realm development improves legibility. Maintaining and expanding 'Legible London' signage would support the goals of the Mayor's Transport Strategy (2018).</p> <p>The inclusion of Legible London signage would secure improvements in legibility and improve way-finding to/from the proposed development. This would improve conditions for pedestrians and ensure the public realm is legible.</p>	<p>This obligation would fund two new signs and three 'local map' updates in the local area. These will aid way-finding to this particular site.</p>	<p>The obligation seeks to improve way-finding to/from the development by integrating consistent public signage within the site. Funding would also ensure established, local signage is updated to reflect the presence of this development. The number of sign and map updates are reasonable to make an improvement to wayfinding. This is fair and reasonable in scale/kind.</p>

<p>Low traffic neighbourhoods</p>	<p>The <i>Lambeth Transport Strategy</i> (2019) aims to reduce danger from motor traffic and in doing so to promote uptake of walking and cycling as safer and more attractive modes, consistent with the aims of LLP Policy T1, T7.</p> <p>DRLLP Policy T1 states that the council will promote a sustainable pattern of development in the borough, minimising the need to travel, maximising trips made by sustainable modes and reducing dependence on the private car in accordance with the <i>Lambeth Transport Strategy and Implementation Plan</i> (2019, TSIP).</p> <p>The council's programme of implementing Low-traffic neighbourhoods (LTN) is a key part of the TSIP. The purpose of LTNs is to deliver traffic reductions to facilitate walking and cycling by implementing point closures/modal filters/one way systems which will reduce vehicular permeability of a neighbourhood and deter through traffic.</p>	<p>A high increase in walking trips is anticipated to be associated with the development, as well as servicing vehicle trips. The financial contribution to this programme is directly related as a means of mitigation, by way of improvements to walking and cycling environment in the vicinity of the site.</p>	<p>£264,000 is sought, which would provide four 'modal filters', which would reduce traffic in the immediate area and mitigate the impact of additional pedestrian, cycling and servicing trips generated by this development. This is fair and reasonable in scale and kind.</p>
<p><i>Employment and Skills</i></p>			
<p>Employment and Skills Plan</p>	<p>LLP Policy ED14 requires the provision of planning obligations to cover procedures to ensure small and medium sized local enterprises have access to tender opportunities for the procurement of goods and services generated by the development both during and after construction.</p> <p>Without the planning obligation, this policy cannot be met.</p>	<p>The proposed development provides employment and skills opportunities both during and after construction therefore the provisions of Policy ED14 are directly related.</p>	<p>The measures set out within the Employment and Skills Plan meet the requirements within the Development Plan and the Employment and Skills SPD and are therefore fair and reasonable in scale and kind.</p>
<p><i>Energy Strategy</i></p>			
<p>Final energy statement for future energy network connection</p>	<p>LLP Policy EN4 requires development to meet sustainable design standards which are integral to the design, construction and operation of the development.</p> <p>MALP Policy 5.2 and IPLP Policy SI 2 state that major developments should be net carbon-neutral, achieved by making the fullest reductions in carbon emissions on-site and in accordance with the defined energy hierarchy.</p> <p>A final energy statement is necessary to ensure a sustainable development in the long term, with adequate regard for future-proofing where this may further mitigate its environmental impact. The obligation is therefore required in order for the development to fully accord with these policies.</p>	<p>The energy strategy and future connection would cover this development only and seek to reduce carbon emissions generated by this development.</p>	<p>The measures required within the Final Energy Statement are required by the Development Plan and are therefore fair and reasonable in scale and kind.</p>

Although they cannot be considered as planning obligations, S106 monitoring fees are still enforceable pursuant to S111 of the Local Government Act 1972, S2 Local Government Act 2000 and, more recently, S1 of the Localism Act 2011.

CIL Amendment Regulations (no.2) 2019 includes a provision allowing local planning authorities to charge a fee through S106 to help meet the cost of monitoring and reporting on developer contributions, with effect from 1 September 2019.

To calculate the amount of S106 monitoring fee to charge, officers estimate the amount of S106 monitoring hours required for each agreement and then apply the cost of the S106 monitoring team for each S106 monitoring hour. The 5% we apply to total S106 (financial) contributions is a cap - the maximum that we will charge. If the estimated cost for monitoring is less than the 5%, we go for the lesser value. In this instance, the calculated monitoring fee estimate exceeds 5% of the total monitoring fee, therefore the 5% maximum has been included.

Abbreviations -

LLP (2015)	Lambeth Local Plan
MALP (2016)	Minor Alterations to London Plan
DRLLP (2020)	Draft Review of Lambeth Local Plan
IPLP (2019)	'Intend to Publish' London Plan