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DATE: 11 November 2010

To: Members of the  
**DEVELOPMENT CONTROL COMMITTEE**

Councillor Alexa Michael (Chairman)

Councillor Charles Joel (Vice-Chairman)

Councillors Reg Adams, Douglas Auld, Eric Bosshard, Katy Boughey,  
Lydia Buttinger, Peter Dean, Simon Fawthrop, Peter Fookes, Will Harmer, John Ince,  
Russell Jackson, Paul Lynch, Anne Manning, Russell Mellor and Richard Scoates

A meeting of the Development Control Committee will be held at Bromley Civic  
Centre on **TUESDAY 23 NOVEMBER 2010 AT 7.30 PM**

MARK BOWEN  
Director of Legal, Democratic and  
Customer Services.

Public speaking on planning application reports is a feature at meetings of the Development Control Committee and Plans Sub-Committees. It is also possible for the public to speak on Contravention Reports and Tree Preservation Orders at Plans Sub-Committees. Members of the public wishing to speak will need to have already written to the Council expressing their view on the particular matter and have indicated their wish to do so to Democratic Services **by no later than 10.00 a.m.** on the working day before the date of the meeting.

The inclusion of public contributions, and their conduct, will be at the discretion of the Chairman. Such contributions will normally be limited to two speakers per proposal, one for and one against, each with three minutes to put their point across.

For further details, please telephone **020 8313 4745**.

## A G E N D A

**1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS**

**2 DECLARATIONS OF INTEREST**

**3 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON  
14 OCTOBER 2010 (Pages 3-12)**

**4 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

To hear questions received in writing by the Legal, Democratic and Customer Services Department by 5pm on Wednesday 17 November 2010 and to respond.

- 5 **TEMPLATE FOR REPORTS TO DEVELOPMENT CONTROL COMMITTEE**  
(Pages 13-18)
- 6 **INTERNAL AUDIT AND VALUE FOR MONEY REPORTING - BUILDING CONTROL PILOT** (Pages 19-36)
- 7 **PLANNING APPEALS MONITORING - 2010** (Pages 37-40)
- 8 **PLANNING APPEALS - COSTS 2010** (Pages 41-48)
- 9 **CONSULTATION ON PROPOSED NEW TREE PRESERVATION ORDER REGULATIONS** (Pages 49-54)
- 10 **CONSULTATION ON PLANNING FOR SCHOOLS DEVELOPMENT** (Pages 55-62)
- 11 **LOCAL REQUIREMENTS FOR THE VALIDATION OF PLANNING APPLICATIONS**  
(Pages 63-72)
- 12 **SUPPLEMENTARY PLANNING DOCUMENT (SPD) ON PLANNING OBLIGATIONS**  
(Pages 73-176)
- 13 **PERMITTED DEVELOPMENT AT BIGGIN HILL AIRPORT** (Pages 177-196)

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## DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held on 14 October 2010

### Present:

Councillor Alexa Michael (Chairman)  
Councillor Charles Joel (Vice-Chairman)  
Councillors Douglas Auld, Nicholas Bennett J.P., Eric Bosshard,  
Katy Boughy, Lydia Buttinger, John Canvin, Simon Fawthrop,  
Peter Fookes, John Ince, Russell Jackson, Anne Manning,  
Russell Mellor and Richard Scoates

### 35 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS

Apologies for absence were received from Councillors Reg Adams, Peter Dean and Paul Lynch. Councillors John Canvin and Nicholas Bennett JP attended as alternates for Councillors Adams and Dean respectively.

### 36 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 37 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 31 AUGUST 2010

Minute 32 (Appendix 1, page 39, paragraphs 4 and 5) - The Mayor of London's Statement on the London Plan Targets

It was reported that Appendix 1 had not been submitted for the consideration of amendments. In light of this information, the proposed amendment to Chapter Three - Policy 3.3: Housing supply, was retracted.

Subject to the above, Members **RESOLVED** that the **Minutes of the meeting held on 31 August 2010 be confirmed and signed as a correct record.**

### 38 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

### 39 TRAFFIC AND PARKING INFORMATION

The Chairman referred to ongoing concerns by Members that traffic and parking comments were not always included in reports or reported verbally at meetings.

A presentation was then given by Mr Iain Forbes, Head of Transport Strategy and Mr Duncan Gray, Development Manager, to advise Members of the Highways Authority's role in development control.

The Highways Authority considers planning applications and advises the Planning Authority of any traffic and parking issues which may arise.

Mr Forbes gave an overview of the subject matters which are considered in standard planning applications and reported that 90% of assessments are completed with transport comments returned within a two week period. A wider range of matters are considered on major applications which could take longer to complete.

Progress had been achieved in meeting the concerns alluded to by the Chairman at the start of the presentation. The following improvements had been initiated:

- No formal screening of applications;
- Planners to provide early notice of applications likely to go forward as full reports;
- Highways Planning to give those applications priority;
- Comments to be provided via email direct to the case officer.

A question and answer session followed.

Discussion took place concerning Public Transport Accessibility Levels (PTALs). Mr Forbes explained that parking places were set by the London Plan which raised the issue of PTALs not being very effective in Outer London. Parking standards had been through a consultation process and if the Authority were to go too far beyond what was laid down in the standards and a refused application then went to appeal, the Authority stood to have costs substantial costs awarded against it. The Authority discusses and encourages developers to provide more car parking spaces.

It was noted that parking provision around transport hubs was lacking. Mr Forbes reported that this was dealt with through parking controls. He commented that next year's funding from Transport for London (TfL) would allow for the expansion of the car park at New Beckenham Railway Station.

One Member commented that it was important for the Highways Authority to be aware of any objections in planning applications. Mr Forbes agreed and stated that he would welcome a summary of this type of information as objections were not seen at the present time.

Mr Forbes commented that whilst ideally officers would like to visit every site, due to time constraints this was not always possible.

The Chairman thanked Mr Forbes and Mr Gray for an interesting and informative presentation and commented that the Authority must continue to push and lobby for more favourable national and London wide parking policies.

**It was agreed that:**

- 1) Bromley Council should continue to lobby for a more realistic parking policy nationally; and**
- 2) Planning case officers should provide transport officers with a regular summary of objections to planning applications as valuable information can be found here. Transport officers should then explore further if appropriate.**

#### **40 PLANNING BUDGET MONITORING REPORT 2010/11**

##### **REPORT DRR10/00103**

Members considered an update on the latest budget monitoring position for the Planning Division for 2010/11 based on expenditure and activity levels up to 31 August 2010. The latest projections indicated an underspend of £30,000.

Clarification was sought on the large increase in connection with the statement breakdown for Renewal employees (Appendix 1, page 19). The Chief Planner confirmed this was due to Property Services and the Town Centre Regeneration Unit (Strategy and Renewal) being transferred to the Department; the original budget figure did not take account of this. Both sections had brought their own individual budgets with them.

The Chief Planner agreed to provide further information of the variation between the 2009/10 actuals and the budget figures for 2010/11 in respect of Land Charges and renewal.

Councillor Ince queried the reason for the shortfall in planning fees and was informed that, due to the present economic situation, major applications were not forthcoming.

**RESOLVED that the report be noted.**

#### **41 SECTION 106 AGREEMENTS: UPDATE**

##### **REPORT LDCS10182**

Members considered an update on Section 106 Agreements together with a document outlining the financial position of unspent balances of Section 106 funds relating to housing, in particular the latest balance of £2.3m as at 30 June 2010.

Councillor Fawthrop alluded to the expired application relating to Beckenham Hospital (page 39). He enquired whether the monies received had been spent or lost. The Chief Planner responded that he was not aware of any money being lost.

Councillor Bennett JP queried how the Authority ensures that money due from legal agreements is received and whether time limits are applied. Members were informed that if a permitted scheme were to expire, then any legal agreement attached to that scheme would also expire. As soon as development begins, the agreement is brought into the schedule. Some payments are made in stages and are continually monitored. A permitted scheme is active for three years before expiry.

It was agreed that a report be submitted to a future meeting of the Committee to advise Members of developments which were still active but had not yet started.

Members were informed that money received as a result of a S106 agreement was generally used to accommodate shortfalls within the vicinity of the development concerned.

With reference to paragraph 4.8 on page 29 of the report, Councillor Fookes enquired about the current position of the proposed Community Infrastructure Levy (CIL). The Chief Planner informed Members that an introduction date of 2014 had been set; S106 agreement procedures would remain effective until that time.

Members were informed that if, due to economic climate changes, a scheme became unviable, the developer would be required to pay for the Authority to obtain its own independent viability assessment, the outcome of which could lead to the removal of a legal agreement contribution.

**RESOLVED that:**

- 1) a report incorporating a list of Section 106 agreements where developments are 'live' but not yet started be submitted to a future meeting of the Development Control Committee; and**
- 2) the report and its appendices be noted.**

**42 CRYSTAL PALACE PARK MASTERPLAN - UPDATE  
REGARDING THE SECRETARY OF STATE'S CONSIDERATION**

**REPORT DRR10/00097**

The Secretary of State for Communities and Local Government (SoS) was minded to grant planning permission for the Crystal Palace Park Masterplan, subject to revised conditions and a revised Section 106 Agreement. Members

were requested to note the report which informed Members of the content of the letter from the SoS and outlined the subsequent steps which need to be taken by the Council and the London Development Agency (LDA).

A supplementary updating report on the Crystal Palace Park Masterplan was circulated to Members.

Members were reminded that the London Development Agency (LDA) had been given the task of overseeing the Masterplan and scheme; this was not an application to be considered by the Council. Until the final decision was announced, the Chief Planner was not able to comment on either development matters or funding issues.

Councillor Joel asked if the Council would be duty bound to find an alternative site for the Caravan Club. The Chief Planner responded that this would also be the responsibility of the LDA. The Masterplan anticipated that the site would become available in 2019.

Members were informed that the period of time given for submissions and comments to the Secretary of State had been extended to 04.11.10 and the Secretary of State would issue his final decision on or before 13.12.10.

**RESOLVED that the report be noted.**

**43           CONSULTATION BY DEPARTMENT OF COMMUNITIES AND  
              LOCAL GOVERNMENT REGARDING CHANGES TO  
              ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS**

**REPORT DRR10/00096**

The Department of Communities and Local Government (CLG) sought comments on proposed amendments to the Town and Country Planning (Environmental Impact Assessment) Regulations which were required by two recent High Court and European Court judgements, with some other minor changes. Members considered the report, together with the Council's proposed responses.

Councillor Bosshard sought clarification on the amendment to the threshold and criteria for wind farms (paragraph 4, page 52). The Chief Planner commented that this alluded to the size of area and the number of wind farms involved, with the objective that the use of wind farms be supported and encouraged to become more acceptable.

Referring to the same paragraph, the Chairman voiced concern at the removal of the criminal offence provision whereby an applicant is required to publicise an environmental statement. The Chief Planner reported that it would become a civil offence rather than a criminal offence but did not remove the need to publicise a statement.

**RESOLVED that a copy of the report including the responses in the appendix be forwarded to the Department of Communities and Local Government.**

**44 ALL LONDON GREEN GRID**

**REPORT DRR10/00108**

Members considered the Design for London proposal to extend the East London Green Grid to the whole of London. This would provide an opportunity to identify, protect and manage green space and enhance green infrastructure jobs and skills training. The All London Green Grid would support the development and implementation of the London Plan policy, the preparation of Supplementary Planning Guidance (SPG) to the London Plan, produce a delivery strategy and guide the production of the LB Bromley Local Development Framework.

The Head of Strategy and Renewal gave an overview of the report and emphasised to Members that the framework was worth pursuing.

Councillor Mrs Manning was pleased to note the appointment of Alister Hayes, a London Borough of Bromley employee, as Chairman of the steering group for the London's Downlands Area.

Referring to paragraph 3.6 (page 57), Councillor Mrs Manning commented that the objectives therein may not easily be achieved in Bromley due to the fact that people lived in the north of the borough and the majority of green space was situated to the south making accessibility difficult.

**RESOLVED that the proposed All London Green Grid through the production of a Borough-wide framework that can form a basis for external funding be supported.**

**45 DEFERRAL OF WORLD HERITAGE BID**

**REPORT DRR10/00107**

The report informed Members of UNESCO's decision to defer the Darwin Landscape Laboratory World Heritage nomination. The report also contained guidance on the way forward for the Darwin Partnership as co-ordinated and led by Bromley Council.

The Head of Strategy and Renewal informed Members that resubmitting a future bid within the next 5-10 years would be subject to UNESCO's work on their criteria and a decision by the Government to resubmit the site subject to Bromley support. It was emphasised that good work had been achieved and that the partnership should continue because successful local project delivery



had been achieved through external sources such as the Heritage and Lottery Fund. It was intended that the site be kept on the Tentative List for World Heritage status as this would add weight to protective policies in future.

Referring to the final bullet point note in paragraph 3.3 (page 63), it was reported that the Authority did not agree with the view that a nomination should not include the name of an individual in the title and emphasised that signage will contain the name Darwin. Councillor Mellor concluded that any future nomination would immediately fail on that basis. It was reported that any future bid would be formulated upon guidelines applied at that time.

The Chairman stated that the most important factor to bear in mind was the site's contribution to science, not the physical merits or beauty of the immediate area.

Darwin Ward Member, Councillor Scoates was very supportive of the recommendations and conveyed his gratitude to Alister Hayes for his significant contribution to the project.

**RESOLVED that:**

- 1. gratitude be conveyed to the parties involved in the Darwin Partnership for their significant and excellent contributions both to the World Heritage bid and to the local delivery of projects;**
- 2. the Darwin Partnership be retained in place as being the most effective means of protecting, managing and promoting the area;**
- 3. the continuation of Darwin's Landscape Laboratory on the UK's new Tentative List for World Heritage status be supported;**
- 4. applications for external funds for local initiatives and projects be continued; and**
- 5. ways to protect the site through the UDP and forthcoming Local Development Framework be sought.**

**46 2009 DRAFT REPLACEMENT LONDON PLAN HOUSING SPG  
EiP DRAFT**

**REPORT DRR10/00106**

The Draft Replacement London Plan was currently undergoing an Examination in Public (EiP). An EiP draft Supplementary Planning Guidance (SPG) on housing had been produced to provide guidance on how to implement the policies in the Draft Replacement London Plan (DRLP).

The report advised Members of the formal consultation of the Draft Replacement London Plan Housing SPG (EiP Draft) and to agree the Council's formal response in respect of the consultation.

The Chairman emphasised the need to continue to seek a reduction in the housing supply target. She also commented on the importance of keeping policies consistent when dealing with issues of garden land development. With reference to the density matrix, the Chairman stated that she would prefer to see a maximum density rather than a minimum density.

Councillor Fawthrop proposed (and the Committee agreed) to include in the response how regrettable it was that a two-tier system had been created whereby London still had to adhere to housing targets whilst the remainder of the country did not.

**RESOLVED that the report be endorsed as the basis of the Council's response to the GLA's consultation, with the addition of the following paragraph:**

**'It is regrettable that a two-tier system has been created whereby London still has to adhere to housing targets whilst the remainder of the country does not'.**

**47 THE IMPACT OF THE CONSTRAINTS IMPOSED BY GREEN BELT AND METROPOLITAN OPEN LAND DESIGNATIONS**

**REPORT DRR10/00109**

The Chairman had requested the report to enable Members to discuss the impact of the constraints imposed by Green Belt and Metropolitan Open Land designations without reference to a particular planning application.

The Chairman was disappointed to note that no mention had been made in the report of the issues concerning the increasing population of school children and the need for schools to expand. She suggested that one solution to this problem might be for schools to build upwards instead of outwards. To obtain a better understanding of this issue, the Chairman requested that a statistical report (with input from CYP) on the current situation of Bromley schools and any constraints placed on them, be submitted to a future meeting of the Committee.

Councillor Ince voiced his concern in cases where development on Green Belt or Metropolitan Open Land had been permitted due to 'very special circumstances', more commonly applied to school applications. The Chief Planner explained that prior to 1995, national policy permitted schools to be located in Green Belt and Metropolitan Open Land and therefore special circumstances apply when those schools built prior to 1995 apply for further development.

Councillor Mellor commented that prior to 1995, those schools not located on Green Belt land had larger playing fields and emphasised that Urban Open Space should be treated as equally important.

**RESOLVED that a statistical report (with input from CYP) on the current situation of Bromley schools and any constraints placed on them be submitted to a future meeting of the Development Control Committee.**

**48           MINOR ALTERATIONS TO THE CONSULTATION DRAFT  
REPLACEMENT LONDON PLAN: GYPSIES AND TRAVELLERS  
(INCLUDING TRAVELLING SHOW PEOPLE) AND  
AGGREGATES**

**REPORT DRR10/00104**

In September 2010, the London Mayor published two minor alterations to the consultation draft replacement London Plan concerning gypsies and travellers (including travelling show people) and aggregates. Members were requested to consider and agree to the Council's response to the London Mayor.

During consultation on the draft London Plan, Bromley had consistently and successfully argued for reductions in Bromley targets in respect of gypsy and traveller pitch provision. The Chairman was pleased to note the deletion of Policy 3.9 and the borough targets therein. Bromley will now be responsible for determining the right level of site provision within the borough.

With reference to paragraph 3.9 (page 78), Councillor Bosshard emphasised the need for Bromley to act quickly when enforcement action was needed. Councillor Bennett JP praised the Council for the quick action it had taken on previous occasions and commented that problems with slow enforcement action generally occurred when land was privately owned.

**RESOLVED that the response to the London Mayor on the minor alteration to the draft Replacement London Plan be agreed.**

**49           THE SETTING OF HERITAGE ASSETS: ENGLISH HERITAGE  
GUIDANCE**

**REPORT DRR10/00105**

English Heritage released a draft guidance document entitled 'The Setting of Heritage Assets' for consultation. The consultation questions asked by English Heritage in response to the document were set out in Appendix 1 together with the Council's proposed response. Members were requested to note the details of the consultation document and agree the responses to the consultation questions.

**RESOLVED that the details of the consultation document be noted and the responses to the consultation questions in Appendix 1 be agreed.**

The Meeting ended at 9.05 pm

Chairman

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Report No.  
DRR10/00124

London Borough of Bromley

PART 1 - PUBLIC

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**Decision Maker:**      **Development Control Committee**

**Date:**                      **23<sup>rd</sup> November 2010**

**Decision Type:**      Non-Urgent                      Non-Executive                      Non-Key

**Title:**                      **TEMPLATE FOR REPORTS TO DEVELOPMENT CONTROL COMMITTEE**

**Contact Officer:**      Peter Martin, Head of Strategy and Renewal  
Tel: 020 8313 4548      E-mail: peter.martin@bromley.gov.uk

**Chief Officer:**              Bob McQuillan

**Ward:**                      N/A

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1.      Reason for report

Comments made at the Development Control Committee meeting on 14<sup>th</sup> October 2010 have given rise to the need to consider the most appropriate use of the Council's standard report template for use in reports to Development Control Committee.

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2.      **RECOMMENDATION(S)**

Members views are asked to consider the best use of the standard template in the light of suggestions made in paras 3.5 to 3.18 of this report

### Corporate Policy

1. Policy Status: N/A.
  2. BBB Priority: N/A.
- 

### Financial

1. Cost of proposal: No cost
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: Planning Division
  4. Total current budget for this head: £N/A
  5. Source of funding: N/A
- 

### Staff

1. Number of staff (current and additional): 106ftes
  2. If from existing staff resources, number of staff hours: N/A
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### Legal

1. Legal Requirement: No statutory requirement or Government guidance.
  2. Call-in: Call-in is not applicable.
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

- 3.1 Following comments made at the last DCC meeting concerning the use of the Council's standard template for use in reports, the author of this report attended a useful course for managers on the Council's guidelines for reports and the use of the template. Many of the issues concerning the use of the template have been clarified but some difficulties remain regarding reports to DCC.
- 3.2 The purpose of the template is to assist those Members who may not be attending the Committee and may only have the first page delivered to them. The template should give them enough information for them to judge whether it is necessary for them to request the whole of the report and perhaps attend the meeting or request further information.
- 3.3 It is accepted that the template is not applicable to planning applications (the green sheets). Other reports to DCC (the white sheets) typically cover :
- a) Consultation on policy or regulatory changes proposed by government, government agency (eg English Heritage), or by the Mayor (eg consultations on the draft London Plan);
  - b) Matters arising from previous planning decisions (eg Crystal Palace Masterplan);
  - c) Procedural matters (eg on section 106 agreements);
  - d) Monitoring of planning activities (eg enforcement reports);
  - e) Budget monitoring or staffing reports;
  - f) Proposals to engage with frameworks or partnerships (eg the 'Green Grid')
- 3.4 None of the examples given above give rise to additional Council expenditure. Indeed it is not the role of DCC to deal with Council expenditure on any type of proposal. Hence there are difficulties with the headings in the template under 'Financial' and 'Staff' as these seem to relate mainly to projects where there is a clear staff and financial input. The other headings in the template are straightforward. The headings are itemised below with reference to the Council's 'Guidance Note for Report Authors' with suggestions on how they might be addressed in typical future reports to DCC.

#### **Corporate Policy**

##### **2. Policy Status:**

- 3.5 In most consultative reports to DCC this is '*New policy*' or '*Existing policy*' (*being amended*) as appropriate.

##### **2. BBB Priority:**

- 3.6 In most reports to DCC this is '*Quality environment*' and or '*Thriving town centres*'

#### **Financial**

##### **'1. Cost of proposal:'**

- 3.7 The bulk of reports to DCC do not cover matters that will result in any additional cost to the Council. It is suggested therefore that the clearest answer to give in such cases (bearing in mind the interests of those Members who may only be reading the first page of the reports) is '*No additional cost to the Council arising from the decisions recommended in this report*'.

##### **'2. Ongoing costs:'**

- 3.8 It would be appropriate to indicate here whether the issue being discussed is likely to continue (as in the case of the Crystal Palace Masterplan) or is a 'one off' (as in the case of a consultation on a change in regulation). Either '*None*' or '*Staff involvement likely to continue*', as appropriate.

**‘3. Budget head/performance centre:’**

3.9 In almost all cases for reports to DCC this is the *Planning Division Budget*

**‘4. Total current budget for this head:’**

3.10 The total budget for the Planning Division (£3.8m)

**‘5. Source of funding:’**

3.11 *Existing revenue budgets* (in most cases)

**Staff:**

**‘1. Number of staff (current and additional):’**

3.12 This should refer to the number of staff who currently provide the service. It has been usual to put in the total number of staff in the Planning Division (103.89ftes) in this box. Alternatively, the number of staff involved in writing the report (usually 1) or the number of staff in the section concerned could be appropriate; however, the latter could be misleading without some explanation. It is suggested that the number of people directly involved in writing the report is most appropriate.

3.13 Reports to DCC rarely, if at all, make recommendations that be concerned does not have a remit over staffing budgets and therefore in almost all cases there would not be any additional (or change in) staff.

**‘2. If from existing staff resource, number of staff hours:’**

3.14 The guidelines state that it is not necessary to quantify the time spent in preparing the report. This would be in any event be difficult to calculate and misleading to Members since the intention is to give an estimate of costs of providing a new service; hence ‘N/A’ is going to be the best answer in most reports to DCC where consultations or views are being given on policies and proposals external to the Council, where writing the report is part of the author’s normal work and there are no additional staff costs to the Council.

**Legal:**

**1. Legal requirement:**

3.15 This box should be used to indicate whether there is a mandatory or discretionary requirement. Most reports to DCC arise from a statutory requirement and in such cases the legislation eg *Planning and Compulsory Purchase Act 2004* (in the case of reports regarding the Local Development Framework) or the *Town and Country Planning Act 1990* (in most other cases) should be noted in the adjoining box.

**2. Call-in**

3.16 Call-in only applies to Executive decisions; thus in all reports to DCC ‘*Non-applicable*’ should be selected.

**Customer Impact:**

**1. Estimated number of users/ beneficiaries (current and projected):**

3.17 This is difficult to predict when making comments on guidance that might affect the Borough as a whole generally. A typical response might be ‘*All residents of the Borough as well as those who make planning applications for development in the Borough*’.

**Ward Councillor views:**

**2. Have Ward Councillors been asked for comment:**

**3. Summary of Ward Councillor comments:**

3.18 These headings are self explanatory but are often not applicable where there are Borough-wide issues being considered.



<b>Non-Applicable Sections:</b>	Policy, Financial, Personnel and Legal Implications
Background Documents: (Access via Contact Officer)	Guidance Note for Report Authors, LBB, October 2010 Committee Report Writing Checklist

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# Agenda Item 6

Report No.  
LDCS10178

London Borough of Bromley

PART 1 - PUBLIC

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**Decision Maker:**      **Development Control Committee  
Renewal and Recreation PDS Committee**

**Date:**                    **23 November 2010  
7 December 2010**

**Decision Type:**      Non-Urgent                    Non-Executive                    Non-Key

**Title:**                    **INTERNAL AUDIT AND VALUE FOR MONEY REPORTING -  
BUILDING CONTROL PILOT**

**Contact Officer:**      Graham Walton, Democratic Services Manager  
Tel: 020 8461 7743 E-mail: graham.walton@bromley.gov.uk

**Chief Officer:**        Mark Bowen, Director of Legal, Democratic and Customer Services

**Ward:**                    N/A

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1. Reason for report

- 1.1 The Audit Sub-Committee at its meeting on 16<sup>th</sup> September 2010 approved an approach to Value for Money (VfM) reporting by Internal Audit. In developing this approach, the Sub-Committee considered pilot VfM work on Building Control and requested that the Development Control and Renewal and Recreation PDS Committees consider this. The VfM assessment gave the Building Control service a score of 3, that VfM requirements were substantially met, (with the highest available score being 4).
- 

2. **RECOMMENDATION(S)**

**Members are requested to note the approach to Value for Money reporting endorsed by the Audit Sub-Committee and consider in particular the pilot work on Building Control.**

### Corporate Policy

1. Policy Status: Existing policy.
  2. BBB Priority: Excellent Council.
- 

### Financial

1. Cost of proposal: N/A
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: Building Control
  4. Total current budget for this head: £167,340 (Cr)
  5. Source of funding: N/A
- 

### Staff

1. Number of staff (current and additional):
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: No statutory requirement or Government guidance.
  2. Call-in: Call-in is not applicable.
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

- 3.1 The Audit Sub-Committee received a series of reports at its meetings on 23<sup>rd</sup> March, 10<sup>th</sup> June and 16<sup>th</sup> September 2010 setting out an approach being developed by Internal Audit to Value for Money (VfM) reporting. The concluding report to the September meeting is attached as Appendix 1 - this includes an update on pilot work carried out in two areas – Building Control (pages 8-9 and appendices D, E and F – the other appendices have been omitted) and Homecare. The Sub-Committee referred these pilots to the relevant Committees for their consideration – Development Control and Renewal and Recreation PDS for Building Control and Adult and Community PDS for Homecare.
- 3.2 The VfM methodology includes a scoring matrix to be used by Internal Audit in the course of their audit work for reviewing VfM risks and controls, with a rating of 1-4 (4 being the best score.) This is set out in detail in section 3 of the 16<sup>th</sup> September report – the Sub-Committee approved this with the addition of a row in the matrix for the name or source of the benchmark. Where lower scores are recorded the matter is referred to the Organisational Improvement Team who will assist the service concerned. It should be noted that a low score does not necessarily indicate a service offering poor VfM, but it may indicate that there are not robust systems in place to substantiate good VfM.
- 3.3 In the pilot scheme, the Building Control service scored an overall 3, equating to VfM arrangements being substantially met.
- 3.4 The draft minute of the Audit Sub-Committee's meeting on 16<sup>th</sup> September is set out below -

#### 20 INTERNAL AUDIT AND VALUE FOR MONEY REPORTING Report DR10076

The Sub-Committee had received reports on Value for Money (VfM) reporting at its previous meetings on 23<sup>rd</sup> March and 10<sup>th</sup> June 2010, and had called for these to be referred to the Improvement and Efficiency Sub-Committee. The Sub-Committee received a further update covering the work carried out in two pilot areas (Building Control and Homecare), benchmarking sites, the practicality of using this data and referral to the Organisational Improvement Team.

The report suggested a number of ways that VfM could be achieved; these were listed at paragraph 3.6, and Members proposed that a further point could be added to this list – asking fundamental questions, and seeking radically different ways of providing services. The Sub-Committee emphasised the importance of enabling managers to review their services; Internal Audit would be working with the Organisational Improvement Team to ensure that guidance would be available for this.

RESOLVED that

- (1) The report on Internal Audit's VfM approach to the case studies be noted and the suggested methodology to be adopted be agreed, including the scoring rating and the referral process to the Organisational Improvement Team.
- (2) It is noted that Internal Audit are currently reviewing the wider remit issues around VFM work and will report back as appropriate.
- (3) The reporting requirements to this Sub-Committee on VfM work undertaken for audits completed be agreed.
- (4) The VfM control matrix be amended with the addition of a row for the name or source of the benchmark.
- (5) The pilot VfM work on Building Control be referred to the Development Control Committee and the Renewal and Recreation Committee for consideration.

- (6) The pilot VfM work on Home Care be referred to the Adult and Community PDS Committee for consideration.

#### 4. FINANCIAL IMPLICATIONS

- 4.1 The additional work involved in undertaking VfM assessments will be contained within the existing Audit budget. All VfM studies may result in efficiency and economy savings.

<b>Non-Applicable Sections:</b>	Policy, Legal, Personnel – see attached report.
Background Documents: (Access via Contact Officer)	See attached reports. Reports to Audit Sub-Committee on 23 <sup>rd</sup> March and 10 <sup>th</sup> June 2010 – “Internal Audit and Value for Money Reporting”

PART 1 - PUBLIC

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**Decision Maker:**      **Audit Sub Committee**

**Date:**                      **16<sup>th</sup> September 2010**

**Decision Type:**      Non-Urgent                      Non-Executive                      Non-Key

**Title:**                      **INTERNAL AUDIT AND VALUE FOR MONEY REPORTING**

**Contact Officer:**      Mark Gibson, Assistant Director Resources (Audit and Technical)  
Tel: 020 8313 4295      E-mail: mark.gibson@bromley.gov.uk

**Chief Officer:**              Paul Dale, Director of Resources and Deputy Chief Executive

**Ward:**                      All

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1.      Reason for report

This is a follow up report requested by Members of the Audit Sub Committee to update them on our practical approach on Value for Money work carried out in two areas i.e. Building Control, Renewal and Recreation, Adult and Community Services including the VfM scoring for these areas. The report also explores benchmarking sites, elaborates on the practicality of using this data and the referral process to the Organisational Improvement Team under the Chief Executive's Office.

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2.      **RECOMMENDATION(S)**

- (a) **Members are asked to note the report and comment on Internal Audit's VfM approach to the case studies and agree the suggested methodology to be adopted, including the scoring rating and a referral process to the Organisational Improvement Team.**
- (b) **Members to note that Internal Audit are currently reviewing the wider remit issues around VFM work and will report back as appropriate.**
- (c) **Members to agree the reporting requirements to this committee on VfM work undertaken for audits completed.**

### Corporate Policy

1. Policy Status: Existing policy.
  2. BBB Priority: Excellent Council.
- 

### Financial

1. Cost of proposal: N/A
  2. Ongoing costs: Recurring cost.
  3. Budget head/performance centre: Internal Audit
  4. Total current budget for this head: £587,520 excluding the benefit fraud partnership costs.
  5. Source of funding: N/A
- 

### Staff

1. Number of staff (current and additional): 10 FTE
  2. If from existing staff resources, number of staff hours: 380 days per quarter
- 

### Legal

1. Legal Requirement: Statutory requirement. Accounts and Audit Regs 2006
  2. Call-in: Call-in is not applicable.
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 180 including Chief Officers, Head Teachers/Governors
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: None



### **3. COMMENTARY**

- 3.1** We had previously submitted two reports on VfM to this committee – March 2010 and June 2010. Given the increase in scrutiny over Council budgets and therefore the need to achieve further efficiency savings the need to demonstrate VfM is seen as crucial. There is a need to ensure that all areas in this authority are making maximum use of their resources to provide maximum benefit in services.
- 3.2** Audit coverage of VfM is seen as the best way of ascertaining if an organisation is providing a high standard of service at low cost that ultimately benefits the Council tax payers and residents of Bromley.
- 3.3** Members expressed at the last Audit Sub meeting for a methodology to be adopted that could be used by auditors to assess and report on the VfM arrangements and in particular commenting on benchmark data that was available. The availability of potential benchmarking data and its use is expanded upon later on in this report.
- 3.4** Although VfM has traditionally covered the Es' i.e. economy (minimising cost of resources); efficiency (performing tasks well); and effectiveness (the extent to which objectives are met), it is primarily focussed on economy.
- 3.5** Economy tends to be the easiest area to tackle. In general reviews tend to be either input-based or output-based or a combination of the two depending on whether the review is concentrating on, respectively, economy, effectiveness or efficiency.

#### **Input-based review**

This involves a review of the inputs relating to a particular activity and is largely comprised of statistical analysis and comparisons including the use of performance measures to evaluate economy and efficiency.

#### **Output-based review**

This looks at what the function actually produces as an output. A review of policy objectives, the activities required to achieve the objectives and the use of output or performance indicators to measure the effectiveness of the policies

- 3.6** As previously reported VfM can be achieved in a number of ways, for example:
- through benchmarking an activity against similar activities in other organisations
  - by using performance indicators
  - through conducting VfM studies (possibly in conjunction with other institutions)
  - by seeking out and then adopting recognised good practice where this can be adapted to the institution's circumstances
  - through internal audit work. Although internal audit has a primary responsibility for assessing the internal control system, the auditor is frequently well placed to assess and comment on VfM in the areas reviewed. This should be reported in individual audit reports and in the internal audit annual report
  - through retaining both documents that show how an activity has been planned to build in VfM, and evidence of the good practices adopted

- by examining the results or outcomes of an activity.
- by management leading a culture which puts VfM at its core and which rewards efficient, value based behaviours.

**3.7** On discussions with other Boroughs it has transpired that there is not much progress made by individual audit sections on VfM – they indicated that they were not sufficiently skilled or had resources to undertake this type of work. Some Boroughs tended to rely on work performed by our External Auditors. We therefore had to design a simple but effective way of measuring VfM in addition to our normal audit role of testing systems of internal control.

**3.8** We concluded that the audit methodology adopted would need to take into account the service sections' own benchmarking arrangements, customer/client satisfaction surveys, complaints, any external assessments, budgetary control and any VfM benchmarking that has already been conducted by the Organisational Improvement Team.

**3.9** At the last meeting of this cycle Members suggested key questions that auditors could ask. These were:

- Has the service used evidence such as the IPF Statistical Review to identify those Councils which have either -  
(a) Cheaper unit cost; or  
(b) Reported a better outcome?
- If not, what other sources of comparison has the service used?
- Which Councils with a “better” performance has the service contacted?
- Has the service made (or is proposing to make) any changes from what it has learnt from other Councils?
- Which private sector entities have been identified as possible comparators?
- Has the service applied steps in the third and fourth points above?

**3.10** A simplified scoring matrix for reviewing VfM risks and controls has been drawn up and scored on a scale of 1 – 4. Members were keen to pilot this in a service that was due to be audited. We have therefore looked at a couple of areas – Building Control that falls under the Planning Section in Renewal and Recreation and Homecare that falls under Adult and Community Services.

The overriding principle is the requirement that it is the section's responsibility to ensure VfM studies are being actioned.

- 1- would equate to not met in any areas of VfM arrangements (although this no way indicates that a poor service is being provided or that customers are dissatisfied at the quality level of service – it just reflects that there are no VfM arrangements in place); where there is a score of 1, the audit will attempt to research availability of benchmarking data, highlight such shortcomings in the audit report to management and refer the matter to the Organisational Improvement Team of the Chief Executive who would pick it up in a review of the service.
- 2 -would equate to VfM arrangements partially met where there are some aspects of VfM in place but these are not robust enough to reach an informed decision that the service is achieving VfM. (e.g. data submitted for benchmarking is not accurate enough or cannot be substantiated or customer satisfaction surveys have not taken place, although there may be a benchmarking exercise that was completed; or that the service is operating at high unit costs in comparison with other Boroughs costs although providing a satisfactory service). The matter would then be referred to the Organisational Improvement Team who would pick it up in a review of the service.

- 3-would equate to VfM arrangements being substantially met (e.g. benchmarking is complete with figures substantiated; benchmarking shows that the section is generally performing well in comparison with other Authorities; however the mark down could for instance relate to customer surveys not being carried out to ascertain quality of service)
- 4 would equate to VfM arrangements being fully met (e.g. the service is benchmarked; benchmarking figures are substantiated; benchmarking shows good performance; areas of good practice in other Authorities have been adopted; good customer satisfaction returns; the service operates within budget).

**3.11** VfM control matrix has been designed to reflect benchmarking, customer focus, budgetary control. We have therefore come up with a matrix that reflects these key elements:

<b>Key VfM Requirements</b>	<b>Not Met-1</b>	<b>Partially Met-2</b>	<b>Substantially Met-3</b>	<b>Fully Met</b>	<b>Comments</b>	<b>Action</b>
<b>Benchmarking</b>						
1. Has a benchmarking exercise carried out recently?						
2. Methodology Correct-verified by audit						
3. Benchmarking figures supplied by service are correct?						
4. How does the service compare?						
5. Is there liaison with authorities who are performing well?						
6. Any improvements made to the service?						
<b>External Assessment</b>						
7. Recent external assessments?						
<b>Customer Satisfaction</b>						
8. Have customer views been sought?						
9. Feedback – satisfaction with service?						
<b>Budget</b>						
10. Is the service within budget?						
11. If not are there any variances - e.g. income not being maximised?						

**3.12** As indicated in paragraph 3.10 above, we have discussed our approach with the Organisational Improvement Team, Chief Executives. We have agreed that where a section has come up short in the VfM scoring say 1 or 2, we refer this to the Organisational Improvement Team who may then take this forward with the section concerned.

### **3.13 Research of Benchmarking Sites**

**3.14** Improvement and Efficiency (I&E) plans are available internally and should cover all services – the exceptions and guidance do require benchmarking of cost and performance, as well as the ‘value’ based look at whether the functions are statutory, high local priority or even necessary.

**3.15** Local Government Improvement and Development (formerly IDeA) is also used as a benchmarking tool by the Organisational Improvement Team.

**3.16** There are a number of benchmarking sites that are available to us for comparative benchmarking data and these are detailed below. Bromley’s Internal Audit service is part of a benchmarking group. Our peers are the London Borough of Bexley and Brighton & Hove City Council.

### **3.17 VfM Audit Commission Profile Tool 2008/09**

The comparator group chosen for the profile is made up of the IPF statistical neighbours which compares Authorities with similar demographic and deprivation profiles.

The authorities in the group with London Borough of Bromley are :

- London Borough of Redbridge
- London Borough of Ealing
- London Borough of Kingston Upon Thames
- London Borough of Harrow
- London Borough of Bexley
- London Borough of Sutton
- London Borough of Richmond Upon Thames
- London Borough of Hounslow
- London Borough of Enfield
- London Borough of Merton
- London Borough of Croydon
- London Borough of Wandsworth
- London Borough of Havering
- London Borough of Enfield
- London Borough of Barnet
- London Borough of Hillingdon

The data is compared across the following areas with various sub sets within these categories.

- Adult Social Care
- Children & Young People
- Cultural Services
- Environmental Services
- Housing & Benefits Services
- Sustainable Economy

Following the recent announcement that the Audit Commission has been disbanded this site may no longer be a viable option

### **3.18 CIPFA VfM Toolkit Audit Commission Profile Toolkit 2009/10**

CIPFA has launched this new tool that ‘will enable Councils to track costs and performance of their services, compare that to their peers and provide access to data

early enough to be useful in planning budgets and identifying efficiencies for the coming year’.

‘The Value for Money (VfM) Toolkit was originally developed by Somerset County Council on behalf of the Society of County Treasurers, but has now been expanded to include District and Unitary functions as well as becoming fully interactive online service’.

This tool will be free to all Authorities and Bromley has already provided this data within the timescale and are now waiting for the launch in September 2010.

This site can be accessed via the link <http://www.cipfastats.net>. It should be noted that there are comparisons up to 2008-9 and reports can be published across a number of areas/comparator groups.

### **3.19 Cipfa statistical information 2008/09 and some 2009/10 data**

Within the CIPFA, it is possible to produce Interactive Statistical Reports and it is here that you can refine the criteria and build your benchmarking data by selecting between comparator groups, grouping or creating your own sets. This could be all neighbouring Boroughs to Bromley for example.

There are various reports that can be produced for comparative data. An example of one appears elsewhere within this report. Appendix A shows Social Care actual statistics for 2008/09 (last available data). Whilst this is a useful tool, it may not give up to date information and may not be comparing like with like. The appendix shows that Homecare in-house provision for Bromley was one of the highest in London 2008/09 for income collectible of £3.628 million and one of the lowest in terms of gross cost per client per week at £112.53. This information is however based on August 2008 data. Similarly the website may not necessarily give information at a given service level e.g. for building control we would not be able to drill down further than planning costs.

### **3.20 National Audit Office – Value for Money Handbook – Guidance**

The National Audit office published a Value for Money Handbook which is ‘a guide for building quality into VfM examinations’. This provides a far more strategic approach to VfM compared to the other models detailed within this report. This is a guide to undertaking VfM reviews from start to finish.

### **3.21 LAPS( Local Area Performance Solution)**

This provides comparative performance and expenditure data from London Boroughs across a range of service areas. This is a pan London and expenditure data from London Boroughs across a range of services indicators. It centres on the collection of quarterly performance data and cross –correlation with expenditure data to perform a Value for Money analysis.

Performance and expenditure data from each London Borough is indexed against the mean for London which produces an indicative score. Average performance or level of expenditure becomes 100, so any score above 100 indicates above average performance/expenditure and anything below 100 indicates below average performance/expenditure.

Examples of data that can be extracted are shown as Appendices B Social Care Adults, C- Social Care Children and D- Planning and Economic Development. Here again as with Cipfa statistical information benchmarking is shown at departmental level rather than at service level.

### **3.22 Building Control- review of VfM arrangements.**

### **3.23 Benchmarking**

**3.24** Building Control is a section that operates under Planning within Renewal and Recreation. The 2010/11 budget shows a net surplus of £167,340 before recharges, with expected expenditure of £1,089,380 and expected income of £1,256,720.

**3.25** Benchmarking is undertaken by the Building Control department, in comparison with all other London Authorities, as undertaken by the LDSA (London District Surveyors Association), who represent similar comparators in terms of size, location and who carry out a similar type and volume of work. Benchmarking is undertaken against 14 key performance indicators including the following areas: cost of service, customer service, work level of staff and time taken to respond. In addition information is collected against a total of 64 indicators.

**3.26** Through this benchmarking it was highlighted that performance for Bromley overall has dropped for the Service from 3<sup>rd</sup> in April 2007 to 10<sup>th</sup> in 2009. Figures for after this for 2009/10 have yet to be compiled and published. Several reasons were attributable to this drop in performance, but mainly they included the loss of key staff, with the result that staff left in post, have an increased workload, with a resultant affect on quality of work completed.

**3.27** It is worth pointing out from the benchmarking exercise (see appendix E) that the only areas Bromley really falls down in (i.e. are in the bottom 20 performing Councils) are for % plans vetted & response in 15 days (22<sup>nd</sup>), net cost of charge earning service per head of population (21<sup>st</sup>) and charge income per application (24). Bromley is however 1<sup>st</sup> in the percentage of decisions responded to in statutory time and the response time for all amendments. Bromley is also in the top 25% for the following indicators: 3<sup>rd</sup> for the 'Quality' of service, 4<sup>th</sup> for the number of site visits per technical officer and 7<sup>th</sup> for the completion of certificates and % of live sites visited in last 3 months. The overall cost of Building Control for Bromley is also considerably under the mean cost for London (£1.309million against a mean of £1.585million).

**3.28** Additional Benchmarking is undertaken by the Audit Commission, for Sustainable economy. This includes the whole of Planning, of which Building Control is a part. It is worth pointing out that by comparison to other similar London Authorities, Bromley spends the 6<sup>th</sup> (of 16) highest amount per person on sustainable economy.

**3.29** From undertaking the Benchmarking Bromley has improved various aspects, such as increased use of partnerships with LAPC services and making applications forms more efficient.

### **3.30 Customer Satisfaction Questionnaires**

**3.31** Customer satisfaction questionnaires are issued to customers. Of the 1893 issued in 2009 27.52% were returned. The results of this were mainly positive 86.86% of all completed surveys resulting in either a satisfied or very satisfied overall opinion of the

service, with 2.61% opinion unknown or 3.01% were either unsatisfied or very unsatisfied. 96% of completed surveys said they would consider using the service again. Management have indicated that this process could be improved by reaching a wider audience to include home owners as well as the builders, architects and other professional people.

### **3.32 External Assessment**

**3.33** A recent audit of this service resulted in a substantial assurance opinion. The service is not subject to external assessment.

### **3.34 Budget**

**3.35** During the course of the audit it was recognised that the predicted budget and actual budget for 2009-10 were massively varied. This was as a result of the poor state of the economy which resulted in a significant deficit in the amount of income expected, than what was actually obtained (£832,148.36 collected against a predicted £1,228,500). This was offset by vacancies held in the team, which saved £229,528.11, other savings in expenditure £33,644.91 and savings within planning overall which resulted in an overall neutral budget for Planning.

**3.36** This year so far, as per last year, Building Control has received less income than expected. The figure of £348,928.21 has been received against an expected amount of £523,620.00 that was not considered to be realistic due to the economic downturn, (thus a deficit of £174,691.79). This has again been countered by saving in expenditure of £162,715 so far. A report is going to the Executive committee on 1<sup>st</sup> September 2010, explaining why there was a deficit and also why the predicted budget was inaccurate.

**3.37** According to the *CIPFA guidance* on setting the charges, which regulates how charges are set, they can only be set to cover costs. Bromley's charges will be benchmarked against the neighbouring authority's charges, to ensure they are not set inappropriately (see appendix F). It should also be noted from this benchmarking that, the other authorities also increased their charges for 2009/10.

**3.38** Management have benefitted from the benchmarking exercise in respect of information flow resulting in improving application forms. They are also currently seeking to increase partnership working arrangements with architects, builders etc that would benefit both parties.

**3.39** Having discussed our findings with management and based on the control matrix above, a score rating of 3 i.e. substantially met was appropriate for the VfM arrangements for this service. This score of 3 is based on:

- benchmarking marked as an overall 3 given comparison with other Boroughs and that the section still perceives that improvements can be made;
- customer surveys a rating of 3 as management have indicated that these surveys need a wider audience;
- external assessment- in the absence of an external assessment we would rate this area as a 3 based on our substantial assurance opinion;
- budget as 3 given the volatility of income generated and pressures of running a deficit.

### **3.40 Homecare**

#### **3.41 Benchmarking**

**3.42** Homecare is the in-house service that provides care to vulnerable clients enabling them to live independently within their own homes. It operates through a trading account. The service operates a 24 hour/365 days service. The original controllable budget was set at £482,000 credit (an excess of income over expenditure). The latest outcome suggests that this will be considerably less.

**3.43** A recent internal benchmarking exercise by management compared the unit costs of the in-house service to other private sector providers. The average hourly cost for an hour of private sector care was calculated at £13 and the chargeable unit cost for the in-house care team was calculated at £22.23. To calculate unit costs for the in-house service a basic hourly rate of £8.86 was used to which on costs, direct and indirect overheads were added as well as an allowance for Saturday and Sunday rates.

**3.44** To calculate an hourly cost of care from private providers, eleven block providers were selected and hourly costs were calculated using rates for half hour, three quarter hour and a full hour's care resulting in figures of £17.80, £14.82 and £13.

**3.45** The basis for the calculations appears to be reasonable. Direct overheads for the service includes officers pay, indirect employee costs, premises, transport, supplies and services, third party payments and insurance. Indirect costs are internal and external recharges.

**3.46** There is no evidence that the cost of the in-house service provision was compared with other Local Authority costs. Internal audit accessed the Institute of Public Finance (IPF) Statistical Review and compared statistics for 2008-09. (see Appendix G). Figures for 2009/10 are not available.

**3.47** This suggests that the overall cost of provision by Bromley was the lowest; further interrogation of these statistics would have to be done to establish that like for like information was being compared and all relevant factors were taken into consideration especially around recharging costs. It appears that LB Bexley and LB Merton are considerably more expensive.

**3.48** Management are currently reviewing the service including VfM and have made a proposal which is going to Members and consultation with staff on closure of the service.

#### **3.49 Customer Satisfaction Questionnaires**

**3.50** The last report dated April 2010 titled 'Quality Monitoring of Domiciliary Services' to ASC PDS mentioned that there were 96 complaints from clients. About 36% related to the Home Care in-house provision. In addition 200 clients (70%) were canvassed about the quality of care. The issues raised in both were addressed.

#### **3.51 External assessment**



**3.52** The in-house team has a current Care Quality Commission star rating of 2 (good) after the last inspection visit in June 2009.

**3.53 Budget**

**3.54** There are monthly monitoring reports. There are financial pressures in the service as indicated in the latest projections for July 2010. There is a projected drop in income estimated to be £1.254 million as it is unable to deliver on the hours that it was contracted to do. This is partly offset by a drop in expenditure of £0.835 million. The service is projecting a £0.419million deficit that will partly be offset by using agency staff at a lower rate.

**3.55** Based on the findings above we would score the VfM arrangements as a 3 i.e. substantially met and is based on:

- Benchmarking exercise carried out by management is rated at 3. The internal comparison is probably the best method available given the difficulty in extracting up to date and like for like data from other Authorities. As a result of the unit costs management are reviewing the service.
- Customer service satisfaction would rate a 3 given that complaints are recorded, a detailed survey was carried out and issues raised by clients have been addressed as reported to ACS PDS.
- External assessment - there was an inspection visit last year that rated the service as good and therefore would score a 3 rating in our assessment.
- Budget - owing to the volatility of the budget and the potential deficit arising due to a shortfall in meeting the contracted hours we would give this area a rating of 2 – i.e. partially met.

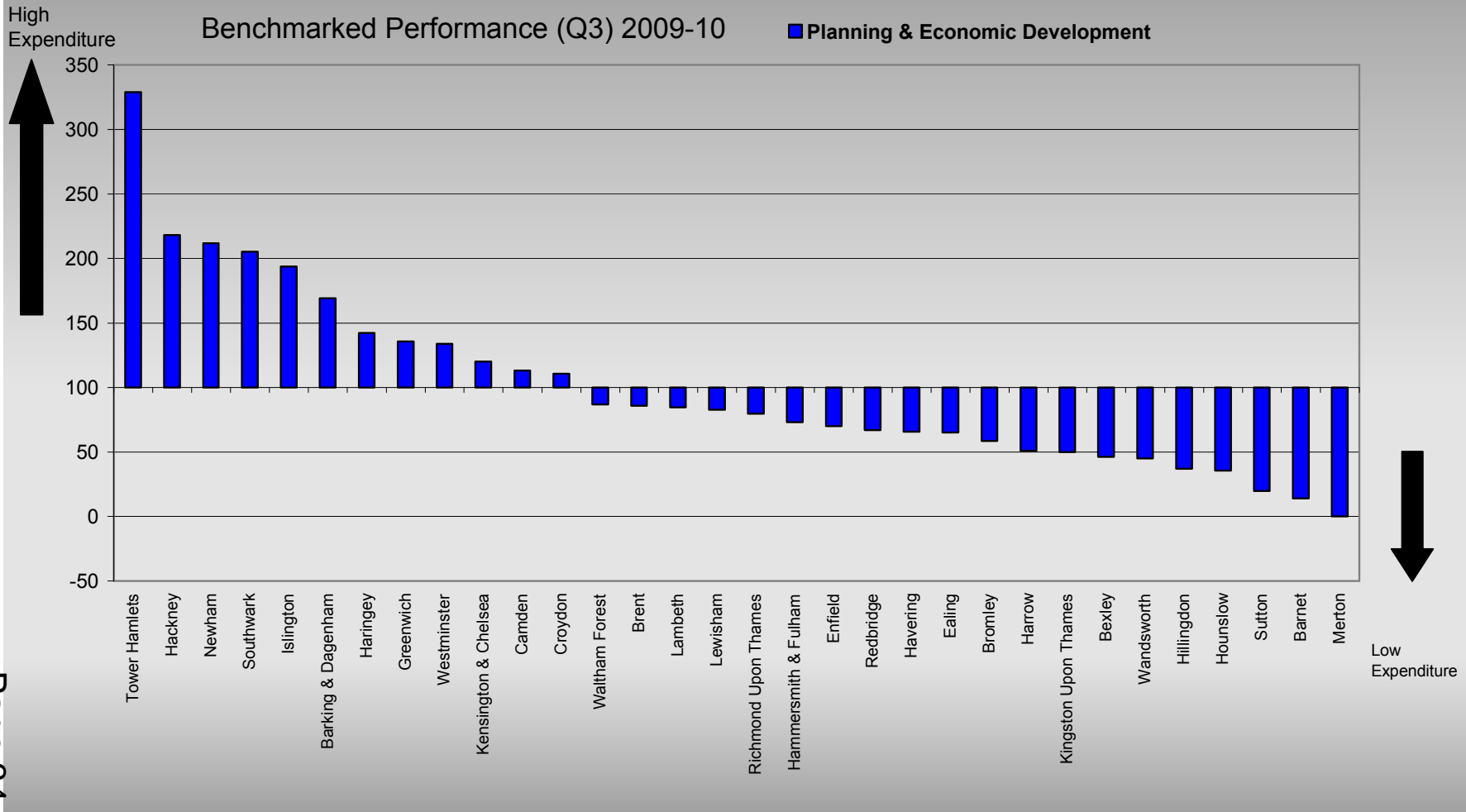
**FINANCIAL IMPLICATIONS**

**4.1** The additional work involved in undertaking the assessments will be contained within the existing Audit budget.

**4.2** All value for money studies may result in efficiency and economy savings.

<b>Non-Applicable Sections:</b>	<p><b>POLICY IMPLICATIONS</b></p> <p><b>LEGAL IMPLICATIONS</b></p> <p><b>PERSONNEL IMPLICATIONS</b></p>
Background Documents: (Access via Contact Officer)	CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom Various websites such as Cipfa stats, LAPS and NAO

# Expenditure Analysis by Service Area



Question No.	3	6	8	19	20	21	28	39	41	42	45	48	50	51	65		
Authority name	% apps ack in 3 days	% plans vetted & response in 15 days	% decisions in statutory time limits	Phone answering	Completion certificates	Corp complaint response time- no. Complaints	15 day response time for post incl amendments	Net cost of charge earning service per head of population (36)-	No of apps per fee earning tech staff	Charge income per application (38)/(30)	Cost(x£1000) of bc per staff member	% live sites visited in last 3 months	No of site visits per application{(32)/(30)}	No of site visits per tech off 32/((33+33a)*37)	Quality score	TOTAL SCORE	OVERALL RANKING
Bar & Dag	24	15	18	7	16	18	10	19	3	20	24	13	19	15	16	493	21
Barnet	22	17	23	22	25	20	21	7	8	16	18	21	25	25	23	610	25
Belfast	13	21	20	22	18	11	21	25	16	12	2	15	11	20	17	533	22
Bexley	1	1	1	11	8	20	1	22	1	22	25	4	13	7	5	263	6
Brent	1	1	1	18	19	18	1	10	14	10	5	11	10	16	1	236	5
Bromley	15	22	1	11	7	11	1	21	9	24	11	7	9	4	3	297	10
Camden	26	25	26	22	25	26	21	26	26	26	26	21	25	25	26	763	26
City of London	16	23	1	11	19	1	10	1	25	1	15	1	1	17	5	281	8
Croydon	10	14	1	9	16	14	10	17	7	21	17	13	21	10	17	405	17
Ealing	14	5	1	1	14	20	14	18	13	13	19	17	12	9	12	370	15
Enfield	11	9	18	1	1	1	1	16	11	15	9	21	14	12	5	321	11
Greenwich	26	25	26	22	25	26	21	26	26	26	26	21	25	25	26	763	26
Hackney	25	24	24	22	23	25	21	24	20	11	6	1	15	21	24	587	24
Ham & Fulham	11	8	1	11	9	14	16	9	19	7	21	4	16	22	12	348	13
Haringey	20	10	1	1	1	9	20	12	2	25	16	21	22	3	17	384	16
Harrow	1	6	1	20	9	14	10	4	12	14	3	11	6	2	12	233	4
Havering	21	15	1	10	22	1	1	23	6	23	13	6	17	5	17	364	14
Hillingdon	26	25	26	22	25	26	21	26	26	26	26	21	25	25	26	763	26
Hounslow	26	25	26	22	25	26	21	26	26	26	26	21	25	25	26	763	26
Islington	1	12	20	16	14	1	17	2	17	6	4	10	4	8	1	287	9
Kensington	1	1	1	19	12	1	1	20	18	8	10	1	7	18	5	228	3
Kingston	26	25	26	22	25	26	21	26	26	26	26	21	25	25	26	763	26
Lambeth	26	25	26	22	25	26	21	26	26	26	26	21	25	25	26	763	26
Lewisham	26	25	26	22	25	26	21	26	26	26	26	21	25	25	26	763	26
Merton	1	1	1	16	1	1	1	3	23	4	1	21	3	14	5	179	1
Newham	18	17	25	7	1	1	19	13	21	5	14	19	8	19	25	490	20
Redbridge	1	7	1	21	1	11	1	11	4	19	8	19	5	1	5	218	2
Richmond	1	13	1	1	1	9	1	5	10	18	7	18	20	11	12	267	7
Southwark	19	25	22	1	21	1	21	8	15	9	12	21	24	23	17	547	23
Sutton	26	25	26	22	25	26	21	26	26	26	26	21	25	25	26	763	26
Tower Hamlets	17	19	17	22	24	20	18	6	24	2	20	16	2	13	17	482	19
Wal Forest	1	19	1	1	13	20	15	14	5	17	22	8	18	6	3	342	12
Wandsworth	26	25	26	22	25	26	21	26	26	26	26	21	25	25	26	763	26
Westminster	23	11	1	15	11	14	21	15	22	3	23	9	23	24	5	425	18
Weighting	1	3	3	1	2	1	3	3	1	1	2	3	2	2	3		
Sort order	0	0	0	0	0	1	0	1	0	0	1	0	0	0	0		

**BUILDING CHARGE NOTICES**

Charges comparison of neighbouring boroughs Feb 2009 excluding VAT

	<b>sch1</b>	<b>sch2&lt;10</b>	<b>10 to 40</b>	<b>40 to 60</b>	<b>sch3&lt;2000</b>
<b>Bexley</b>	425	280	430	580	224
<b>Dartford</b>	612.92	347.37	525.46	703.68	169.44
<b>Lewisham</b>	391	255	400	530	130
<b>Greenwich</b>	450	232.63	341.77	446.78	110.25
<b>Sevenoaks</b>	492.26	261.09	414.53	534.76	121.55
<b>Croydon</b>				527.66	158.3
<b>Sutton</b>	565	340	490	640	202
<b>Average</b>	489	286	434	566	159
<b>Avg plus 10%</b>	538.3	314.62	476.99	622.74	175.3
<b>Bromley</b>	527	272.34	408.51	536.17	170
<b>Bromley Proposed 09/10</b>	610	315	455	595	195
<b>Actual 09/10 Charges</b>	610	315	455	595	195

All charges are for full building charge notices.

Sch 1 charges are for new dwellings, where estimated cost is unknown

Schl 2 charges are for extensions and small buildings, the figures representing the size in m2 of the extension

Schl 3 are for new dwellings over 300m2, where the estimated cost of the work is known. i.e. 2000 =£2000

# Agenda Item 7

Report No.  
DRR10/00132

London Borough of Bromley

PART 1 - PUBLIC

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**Decision Maker:**      **Development Control Committee**

**Date:**                      **23 November 2010**

**Decision Type:**      Non-Urgent                      Non-Executive                      Non-Key

**Title:**                      **PLANNING APPEALS MONITORING - 2010**

**Contact Officer:**      Tim Bloomfield, Development Control Manager  
Tel: 020 8313 4687      E-mail: tim.bloomfield@bromley.gov.uk

**Chief Officer:**              Chief Planner

**Ward:**                      All

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1.      Reason for report

1.1      The Chairman requested a report on the monitoring of planning appeals in 2010 including an assessment of the Householder Appeal Service (HAS) which has been in operation since April 2009. Reference is also made to a pilot study concerning a proposed change in procedure for conducting appeal site visits for written representation appeals.

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2.      **RECOMMENDATION(S)**

2.1      Members note the report.

### Corporate Policy

1. Policy Status: <please select>.
  2. BBB Priority: <please select>.
- 

### Financial

1. Cost of proposal: <please select>
  2. Ongoing costs: <please select>.
  3. Budget head/performance centre:
  4. Total current budget for this head: £
  5. Source of funding:
- 

### Staff

1. Number of staff (current and additional):
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: <please select>
  2. Call-in: <please select>
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? <please select>
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

- 3.1 In the period January to September 2010 208 new appeals were lodged. This represents an anticipated total figure of approximately 250 appeals in 2010 compared with 300 in 2009. Over the same period 195 appeal decisions were received of which 100 were dismissed and 79 allowed.
- 3.2 The proportion of appeals dismissed is subject to wide fluctuations ranging from 38% in January to 71% in June 2010. However, the statistics for individual months can be unreliable as indicators of performance and the average figure for 2010 to date is approximately 56%, which is marginally below the national average.
- 3.3 With regard to appeal procedure, the written representations method continued to be the most popular with 53% of all appeals being determined in this way. The number of hearings has fallen to 11% whilst only 1% of appeals were dealt with by local inquiries. This may be reflection of the longer timescales for inquiries, as well as the significantly higher costs involved and this trend is likely to continue until the economic climate improves.

#### **'Fast Track' Appeals**

- 3.4 A significant recent trend is an increase in the proportion of 'fast track' appeals which now accounts for 35% of all appeals. The Householder Appeals System (HAS) was introduced in April 2009 in an effort to streamline procedures for householder appeals. The 'fast track' procedure has generally been successful in speeding up the timescale for smaller scale, more straightforward householder appeals.
- 3.5 The average timescale for a 'fast track' appeal is currently around 8 weeks compared with 16-18 weeks for a conventional written representation appeal. This represents a significant reduction in timescale and has assisted in relieving some of the pressures on an overburdened appeals system.
- 3.6 In the period January – October 2010 Bromley received 76 'fast track' appeals of which 25 were allowed (33%) and 46 dismissed (61%). Experience over the first 18 months of operation indicates that the significantly shorter timescale has not had any marked effect on performance levels. The proportion of appeals allowed and dismissed is largely unchanged since the new procedures were introduced.
- 3.7 There were some initial concerns about the fairness and openness of the 'fast track' system, particularly as the Council is no longer required to submit a written statement and the lack of Council representation at appeal site visits. However, in practice the new system appears to be working reasonably well and has undoubtedly resulted in substantial time savings. However there has been some negative feedback from local residents regarding insufficient opportunity to comment on an appeal, exclusion from the site visit and lack of consultation on the procedure adopted. In cases which are recommended for permission but are subsequently refused, there is insufficient opportunity to make representations in support of the reasons for refusal.
- 3.8 It is understood that a review of the HAS appeals procedure may be carried out by PINS and representations will be made to the Planning Inspectorate at the appropriate time.

### **Appeal Site Visits – Proposed Changes**

- 3.9 The Council has been invited by the Planning Inspectorate to take part in a Pilot Study to establish whether the Inspector site visit procedure under the ‘fast track’ system could be extended to other written representation appeals. In practice this would avoid the need for a Council officer to attend site visits for all written representation appeals, as is the case with ‘fast track’ appeals.
- 3.10 Under the current procedure the Planning Inspector visits the appeal site accompanied by a representative from each of the main parties for reasons of probity, to ensure that fair play is seen by all to be done. No discussion of the planning merits takes place although the parties may point out particular features on the appeal site or request that the Inspector views the site from a particular vantage point.
- 3.11 Initial concerns about lack of representation at ‘fast track’ appeal site visits have proved to be largely unjustified in practice and the Planning Inspectorate has maintained its core principles of openness, fairness and impartiality. Before extending the procedure to all written reps appeals a 3 month Pilot Scheme is taking place from November 2010 to January 2011. This will enable the proposed change in procedure to be assessed before a decision is made as to whether the new procedure should be permanently adopted.

<b>Non-Applicable Sections:</b>	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	[Title of document and date]

TCB/October 2010



Report No.  
DRR10/00133

## London Borough of Bromley

### PART 1 - PUBLIC

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**Decision Maker:** Development Control Committee

**Date:** 23 November 2010

**Decision Type:** Non-Urgent Non-Executive Non-Key

**Title:** **PLANNING APPEALS - COSTS 2010**

**Contact Officer:** Tim Bloomfield, Development Control Manager  
Tel: 020 8313 4687 E-mail: tim.bloomfield@bromley.gov.uk

**Chief Officer:** Chief Planner

**Ward:** All

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1. Reason for report

This report provides an update on the award of costs in planning appeals in 2010. 30 claims for costs were received in the period January - October 2010 of which 12 have been allowed and 15 dismissed and 3 are awaiting decisions. To date 4 costs claims have been paid totalling approx £10,000-00 and a further 5 claims have been received and are awaiting settlement. There have been no costs awarded in the Council's favour.

2. **RECOMMENDATION(S)**

2.1 Members note the report.

### Corporate Policy

1. Policy Status: <please select>.
  2. BBB Priority: <please select>.
- 

### Financial

1. Cost of proposal: <please select>
  2. Ongoing costs: <please select>.
  3. Budget head/performance centre:
  4. Total current budget for this head: £
  5. Source of funding:
- 

### Staff

1. Number of staff (current and additional):
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: <please select>
  2. Call-in: <please select>
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? <please select>
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

- 3.1 In the period January to October 2010 there have been a total of 30 claims for costs relating to planning appeals. The Planning Inspectorate has determined 27 costs claims against the Council of which 12 have been allowed and 15 dismissed. There have been no awards of costs against appellants.
- 3.2 In the period to October 2010 4 claims for costs have been paid with 5 claims currently under consideration. There are a further 7 cases where costs awards have been made but are awaiting submission of claims. The total amount paid to date is approximately £10,000 although there are a number of large claims currently awaiting settlement. Members are notified of all costs decisions together with all appeal decisions on a weekly basis. A list of all costs decisions received in 2010 to date is attached (Appendix 1).
- 3.3 Costs could previously be claimed only at local inquiries or hearings but the Regulations now enable claims to be made in written representation cases and there have been 17 such claims so far this year. 6 claims have been allowed and 11 dismissed under the new procedure. Although fewer appeals have been received in 2010 the number of costs claims is likely to increase as the proportion of written representation cases continues to rise.
- 3.4 In planning and enforcement appeals the main parties are normally expected to meet their own expenses irrespective of the outcome. Costs may be awarded on the grounds of 'unreasonable behaviour' resulting in unnecessary or wasted expense. Policy guidance is provided in the Costs Circular (CLG Circular 03/09) and applications for costs are assessed in the context of this guidance.
- 3.5 The most common reason for awarding costs against the Council is lack of sufficient evidence to substantiate a reason for refusal. Inspectors have been critical of the Council's failure to produce convincing and credible supporting evidence to sustain objections to a proposed development. Similarly the Inspector may conclude that there was insufficient evidence to take enforcement action. Withdrawal of an enforcement notice may suggest that it should not have been issued in the first place. Submission of a late statement or failure to produce a statement at all may also be examples of unreasonable behaviour when awarding costs.
- 3.6 In a recent costs decision an Inspector was critical of the Council's inability to produce convincing evidence in support of a parking objection when the proposal met the relevant parking standard in the adopted UDP. In another case the Inspector concluded that in refusing permission the Council had failed to demonstrate that there were sustainable reasons when officers had recommended permission which amounted to unreasonable behaviour. In another case, costs were awarded when the Council failed to provide sufficient supporting evidence resulting in an adjournment of the hearing which incurred the appellant in additional costs.

<b>Non-Applicable Sections:</b>	
Background Documents: (Access via Contact Officer)	

TCB/October 2010

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FILE	ADDRESS	DESCRIPTION	DECISION	PERMISSION RECOMMENDED BY OFFICER [Yes/No]	Cost Claim	Summary
09/00559	<b>Hearing</b> Land at Ethel Terrace, Rushmore Hill, Orpington	Construction of a new two storey detached dwelling	Award of costs against Council fails 04.01.2010	Members views	n/a	n/a
09/01502	<b>Written rep</b> 5-7 Petersham Drive, Orpington	Erection of 7 four bedroom terraced dwellings with 7 car parking spaces	Award of costs against Council fails 16.02.10	no	N/A	N/A
09/00703	<b>Written rep</b> 68a High Street, Penge	Demolition of existing single storey building at 68A High Street and construction of four storey side extension to 68 High Street to provide new retail shop at ground floor level with 3 studio flats above	Partial award of costs against Council allowed 11.02.10	no	£750 Paid 26.4.10	No sufficient evidence to justify refusal re daylight/sunlight ground
09/02642	<b>Fast track</b> 64 Great Thrift, Petts Wood	Side boundary fence and gates max height 2m fronting Silverdale Road	Award of costs against Council allowed 06.05.10	yes	Awaiting claim	Members failed to demonstrate they had reasonable planning grounds for taking a decision contrary to recommendation of professional officers and failed to produce relevant evidence on appeal to support decision to refuse.
09/02574	<b>Written Rep</b> 64 Great Thrift, Petts Wood	Single storey building at rear for use as triple garage and store	Award of costs against Council fails 15.09.10	yes	n/a	n/a
08/02489	<b>Public Inq</b> land adj. 1 Vinsons Cottage, Hockenden Lane, Swanley	Change of use to retain caravans, with associated works and retention of stables with barn with associated paddock.	Award of costs against Council allowed 02.02.10	No		Extended inquiry due to additional information not submitted prior to inquiry.
09/01248	<b>Written Rep</b> 14 Morland Road, SE20	Three storey block comprising 2 two bedroom flats and 1 one bedroom flat and cycle store at rear	Award of costs against Council allowed 27.07.10	Yes	Awaiting claim	Council not provided sufficient evidence to substantiate reason for refusal.
09/01173	<b>Written Rep</b> 12 Hillcrest Road, Biggin Hill	Swimming pool CERTIFICATE OF LAWFULNESS FOR A PROPOSED DEVELOPMENT	Award of costs against Council not allowed 07.09.10	n/a	n/a	n/a
09/01303	<b>Written Rep</b> 16-22 Gravel Road, Bromley	Erection of 5 two storey detached houses (1x4 bedroom and 4x5 bedroom) with attached garages/parking spaces and bin store	Award of costs against Council fails 16.02.10	Members views	n/a	n/a

09/01918	<b>Hearing</b> 113 Foxgrove Road, Beckenham	Construction of a part two/three storey block with accommodation in roofspace to provide 1 one bedroom and 5 two bedroom flats with 6 car parking spaces at front and cycle and refuse stores.	Award of costs against Council fails 08.02.10	yes	n/a	n/a
09/00847	<b>Hearing</b> 121 Widmore Road, Bromley	Demolition of existing rear extension, erection of three storey rear extension and conversion of existing building into six 2 bedroom and one 1 bedroom flats with three parking spaces, refuse store and cycle store.	Award of costs against Council fails 17.02.10	Yes	n/a	n/a
09/02250	<b>Hearing</b> Garage Compound Trenholme Terrace, Anerley, SE20	Demolition of existing garages and erection of 4 storey block comprising 8 two bedroom flats and part three storey/single storey block comprising 1 two bedroom flat and 9 car ports	Award of costs against Council allowed in part 23.02.10	Yes	£1,425.00	No sufficient evidence to indicate how proposal would harm character of area. Evidence submitted re: height of building being incompatible inadequate. Council failed to explain why a differing view was taken re security when an identical scheme had no problem with security and in which case could be dealt with conditions.
09/01736	<b>Written Rep</b> 33 Manor Way, Beckenham	Part single storey part two storey four bedroom detached house at land adjacent to No. 33 along with a new vehicle access and parking/turning area to serve existing house and single storey pergola structure to side of No. 33.	Award of costs against Council fails 23.03.10	Members views requested	n/a	n/a
09/02851		Detached dwelling on land adjacent to No. 33 together with new vehicle access and parking/turning area to serve existing house. OUTLINE		Members views requested	n/a	
ENF 09/00457	<b>Written Rep</b> 277 Pickhurst Lane, West Wickham	Appeal against the enforcement notice issued for the unauthorised erection of a building used as a play house	Award of costs against Council fails 25.03.10	n/a	n/a	n/a
09/00852	<b>Written rep</b> 44 Napier Road, Bromley	Demolition of existing building and erection of two storey block with accommodation in roof space comprising 3 one bedroom and 1 two bedroom units	Award of costs against Council fails 8.4.10	yes	n/a	n/a

09/02071	<b>Written Rep</b> Land West Of Broom Bank Woodland Shire Lane Orpington Kent	Land West Of Broom Bank Woodland Shire Lane Orpington Kent	In prog			
09/02470	<b>Hearing</b> r/o 7 Willow Vale, Chislehurst	Demolition of existing garage and conservatory and construction of 2No. houses with garages, new access way and new garage for No.36 Empress Drive	Award of costs against Council allowed 12.05.10	Yes subject to legal agreement	£6,000 paid	Council failed to support specific technical evidence to suggest overdevelopment. None of reasons for refusal properly substantiated by evidence.
08/00911	<b>Written Rep</b> 14 Masefield View, Orpington	Erection of a dormer	Award of costs against Council fails 18.06.10	yes	n/a	n/a
08/04250	<b>Hearing</b> 47 Homesdale Road, Bromley	Demolition of existing office building and construction of 28 apartments with associated parking	Award of costs against Council allowed 11.06.10	Yes subject to legal agreement	£893.50 paid	Council failed to supply evidence re impact on parking provision
09/01823	<b>Written Rep</b> 6 Kendall Avenue, Beckenham	Demolition of existing hall and erection of a terrace of 4 four bedroom houses with dormer windows at rear	Award of costs against Council allowed 11.10.10	Yes	Await claim	Council failed to supply evidence re off-street parking
09/02079	<b>Written Rep x 4</b> 101 Queensway, Petts Wood, Orpington	Two/Three storey rear extension comprising 3 one bedroom flats and additional ground floor retail space.	Award of Costs against Council fails 29.06.10	No	n/a	n/a
09/02166		Three storey rear extension comprising 2 one bedroom flats and additional ground floor retail space.				
09/02080		Single storey ground floor extension to retail shop with balastrading above.				
09/01178		One/three storey rear extension comprising 1 one bedroom flat and additional ground floor retail space				
09/01423	<b>Written Rep</b> Coopers Technology College, Hawkwood Lane, Chislehurst	Erection of static canopy structure and snack bar to provide shade, protection and light refreshments to students	Award of costs against Council fails 22.07.10	Members views	n/a	n/a
ENF 09/00469	<b>Written Rep</b> 358 Crofton Road, Orpington	unauthorised erection of a conservatory extension at the rear of the premises - Council withdrew enforcement notice due to errors – invited new applications	Award of costs against Council allowed 20.10.10	n/a	Await claim	Council issued an incorrect notice which had to be withdrawn at appeal stage.

09/02919	<b>Hearing</b> 135/137 Albemarle Road, Bromley	Demolition of 135 and 137 Albemarle Road and erection of four storey block comprising 8 one bedroom and 10 two bedroom flats and rear two storey block comprising 2 two bedroom flats with 8 covered car parking spaces and bicycle parking and 12 external car parking spaces OUTLINE	Award of costs against Council fails 25.8.10	No	n/a	n/a
09/02437	<b>Hearing</b> 12 Elmerside Road, Beckenham	3 two bedroom terraced houses with access and associated parking on land at and adjacent to 12 Elmerside Road	Award of costs against Council allowed 31.08.10	Yes	Await claim	Unable to substantiate ground of refusal regarding character
09/02396	<b>Hearing</b> Denton Court, 60 Birch Row, Bromley	Demolition of existing sheltered housing accommodation and erection of two and three storey buildings comprising 12 two bedroom, 6 three bedroom and 2 four bedroom houses and 12 two bedroom flats (total 32 units) including 30 car parking spaces, cycle parking provision, refuse storage and new access courtyard area	Award of costs against Council part allowed part dismissed 26.08.10	Yes	Await claim	Lack of evidence to support T3
10/01252	<b>Written Rep</b> Land adj 66 Manor Way, Beckenham	Erection of a detached three bedroom dwelling with integral garage	Award of costs against Council allowed 1.11.10	yes	Await claim	No evidence re: residential development which previous appeal inspector found development acceptable
09/03373 09/00375	<b>Written Rep</b> 15 Chatsworth Parade, Petts Wood	Retention of front, erection of part 2/3 storey building, basement	Award of costs against Council fails 21.9.10		n/a	n/a
10/00269	<b>Hearing</b> 40 Selby Road, Penge	Single storey rear extension and conversion of existing house into 3 flats	Award of costs against Council fails 27.09.10	No	n/a	n/a
09/01963	<b>Fast track</b> Glenside, 96 Oaklands Lane, Biggin Hill	Excavation works and landscaping	In progress			



# Agenda Item 9

Report No.  
RR10/00131

London Borough of Bromley

PART 1 - PUBLIC

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Decision Maker: **Development Control Committee**

Date: **23<sup>rd</sup> November 2010**

Decision Type: Non-Urgent Non-Executive Non-Key

**TITLE: CONSULTATION ON PROPOSED NEW TREE PRESERVATION ORDER REGULATIONS**

Contact Officer: Coral Gibson, Principal Tree Officer  
Tel: 020 8313 4516 E-mail: coral.gibson@bromley.gov.uk

Chief Officer: Marc Hume

Ward: Borough Wide

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## 1. Reason for report

The Department of Communities and Local Government have issued a consultation document entitled "Tree Preservation Orders: Proposals for Streamlining". This report sets out the proposed alterations.

Appendix 1 of this report includes the consultation questions asked by Communities and Local Government Department. The consultation questions and answers are to be submitted to Central Government by the closing date of 20<sup>th</sup> December 2010.

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## 2. RECOMMENDATION(S)

Members are requested to note the details of the consultation document and agree the responses to the consultation questions which can be found in Appendix 1 of this report.

## Corporate Policy

Existing policy: UDP 2006

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## Financial

1. No cost to the Council arising from the decisions recommended in this report
  2. N/A
  3. Budget head Planning Division budget
  4. Total budget for this head £3.8m
- 

## Staff

1. Number of staff (current and additional) – 1
  2. If from existing staff resources, number of staff hours – N/A
- 

## Legal

1. Statutory requirement: Town and Country Planning Act 1990
  2. Call-in is not applicable:
- 

## Customer Impact

Estimated number of users/beneficiaries (current and projected) - All residents of the Borough as well as those making applications for works to trees with tree preservation orders.

### 3. COMMENTARY

- 3.1. As part of the government's pledge to cut red tape it has produced a consultation document to seek views on consolidating the legislation and to streamline the tree preservation order procedures. The aim is to reduce the administrative burden and make it a fairer system but the government have made clear their desire to ensure that tree protection remains as strong as before.
- 3.2. Tree Preservation Orders were first introduced in the 1940s and over time the TPO system has become cumbersome and fragmented. Regulatory requirements are spread across both primary and secondary legislation and the various TPO documents used since 1947. This labyrinth of regulation is hard for tree owners to understand, at times difficult to administer and is also inconsistent in safeguards that it provides for tree owners.
- 3.3. The proposals are as follows:
  - 3.3.1 To replace the existing 3 sets of regulations with 1 new set and also to include in those regulations provisions currently contained in both the Planning Act and the TPO documents themselves. By having all of the requirements in one set of regulations will eliminate confusion, make the system simpler and easier to administer.
  - 3.3.2 To introduce a new shorter and easier to understand model form of TPO. The current standard form of order has lengthened over the years to 12 pages and is not easy to understand. The proposal is for a new model order of only 2 pages and to automatically amend all existing orders by cancelling their contents except the schedule listing the protected trees and the accompanying map showing their locations. It is unclear how existing tree owners will be informed of these changes although in practice little will change as requirements to obtain consent for any work to trees will be unaffected.
  - 3.3.3 To give all new TPOs immediate effect. Currently an order only becomes effective if it contains a direction to that effect. This direction gives provisional protection for up to 6 months, with the order needing to be confirmed within that period. All new orders would have this immediate provisional protection with no need for a direction. Currently all new TPOs made by Bromley contain such a direction.
  - 3.3.4 To reduce requirements to publicise new orders. When making a TPO prior to 1999 local authorities only had to notify owners and occupiers of land where the tree was growing. Since 1999 all adjoining owners also had to be notified even if the tree was at some distance from their property. It is proposed that only owners and occupiers of land where the tree is growing and neighbours where trees overhang a boundary be notified. Currently, considerable expense is involved in notifying adjoining owners who are not directly affected by a tree. These changes will reduce the numbers of people who have to be notified about a new TPO resulting in some small savings in the costs of paper and postage.
  - 3.3.5 To clarify exemptions for making applications. Currently consent is not required for work where a tree is dead, dying or has become dangerous. The latter two exemptions can cause uncertainty, for example the term dying has been confused with diseased even where the disease may not be fatal, and this has sometimes resulted in the unnecessary loss of trees. It is proposed to remove this ambiguity by removing the exemptions for dying trees and limiting the

exemption for dangerous to only work that is urgently necessary in the interests of safety. This will remove ambiguity in respect of dying trees but confusion is likely as to the extent of work that may be necessary in the interests of safety. The amendments may result in an increase in the numbers of formal applications.

3.3.6 Adopting one system for the duration of consents and revocation of consents. TPOs made before 1999 contain a power for consents to be modified or revoked. This is rarely used and it is proposed that this power will be removed. Consent for work to a protected tree can last indefinitely unless a specific condition is imposed. Currently Bromley generally imposes a time period condition of two years. It is proposed to that a default period of one year be imposed, although Councils could vary the time period. In practice most tree work is done very soon after the grant of consent and the proposed changes will simplify processes and avoid confusion. It is also proposed that proposals for regular tree work over a stated period of time (for example 5 years) could be allowed by the imposition of specific conditions. This would remove the need for repeat applications but in practice allowing work over a 5 year period may be difficult to administer.

3.3.7 Using conditions rather than directions to secure replacement planting in woodlands. Currently where a woodland TPO exists and consent is granted for felling, replanting can only be required by the imposition of a direction. It is proposed to remove the need for directions and replace them with conditions. This would mean a unified system for granting consent.

3.3.8 Making all compensation provisions the same by closing the loophole which allowed local authorities to avoid compensation claims. Compensation may be payable for loss or damage as a result of a refusal of consent or the granting of consent subject to conditions. For TPOs made before 1999 an article 5 certificate can be issued stating that a tree is of outstanding or special amenity value. This means that the liability to pay compensation is removed. Such certificates cannot be issued for orders made after 1999. It is proposed to remove the power to issue certificates so that the system for compensation is unified. It is proposed that compensation could not be claimed for less than £500 and Councils would not be liable for loss of development value or loss or damage that was not reasonably foreseeable when the application was determined or for loss or damage reasonably foreseeable and attributable to a persons failure to take steps to avert loss or damage or to mitigate its effect. Compensation is usually only claimed where a tree is implicated in subsidence of a property. It such cases claims relate to the, often significant, additional costs involved in underpinning a property and are made on behalf of insurers. The removal of the provision to safeguard trees of significant amenity value may lead to additional loss of trees.

3.4. The proposed amendments are generally to be welcomed as they would mean that that TPO system would become more transparent and easier to administer. The main concerns are set out in the suggested responses in Appendix 1.

<b>Non-Applicable Sections:</b>	Policy Implications, Financial Implications, Legal Implications, Personnel Implications
Background Documents: (Access via Contact Officer)	Tree Preservation Order: Proposals for Streamlining; DCLG November 2010.

**Consultation Questions**  
***Responses in Italics***

1. Will the proposal to consolidate legislation and introduce one system for TPOs benefit tree owners and local planning authorities?

***Yes, consolidating the legislation into one system will make the system clearer for tree owners and easier for local authorities to administer.***

2. Will bringing all existing and future TPOs into the same shorter format be clearer for tree owners and help local planning authorities?

***Yes, having a shorter TPO document will be easier for owners of newly protected trees to understand. There are concerns about how owners of trees already protected will be informed of these changes. However in practice owners rarely rely on anything in the TPO document other than the schedule and map and providing there is sufficient publicity the simplification will make administration easier.***

3. Is the proposed provisional protection helpful to local planning authorities and, given the interests of tree owners, fair and reasonable?

***In practice most new TPOs are made with a direction for immediate effect. This has not resulted in any unfairness to tree owners as they have the right to object to the making of the order and immediate protection allows a period for reflection without risking the loss of a tree unnecessarily.***

4. Is the proposed minimum notification of new and varied TPOs targeting the right people?

***Yes.***

5. Are the proposals to remove the current exemption for work to dying trees and limiting work to dangerous trees useful clarification, and reasonable?

***These proposals are reasonable but in respect of work to dangerous trees, confusion may arise as to the extent of work that may be necessary in the interests of safety. The amendments may result in an increase in the numbers of applications.***

6. Do you agree that the power to vary and revoke consents for work under TPOs made before 2<sup>nd</sup> August 1999 should be removed.

***Yes.***

7. Is a default period of one year for the duration of consents reasonable?

***Yes***

8. Will the opportunity to consider repeated operations, or programmes of work, assist tree owners in their management of protected trees?

***The proposals may assist owners but could be difficult for local authorities to administer for example a five year period may be too long a period if single operations are time limited to one year. Consideration should also be given to limiting the number of times an operation could be repeated before a fresh application should be made to the local authority.***

9. Is the proposed change to secure planting of replacement trees in woodlands by conditions reasonable?

**Yes**

10. Are the proposed changes with regard to compensation fair and reasonable?

***Most compensation claims arise from alleged tree root related subsidence of properties. Householders are usually covered by insurance against such damage. Local authorities are currently financially squeezed and there can be occasions where trees may be unnecessarily lost because of fears of excessive claims. Rather than removing the right to impose Article 5 directions they should be extended to cover all TPOs but firm and clear advice given as to when it would be appropriate to use the power.***

11. Do you have any further comments to make about the draft regulations?

***The opportunity has not been taken to address for issue of area orders, particularly in respect of older TPOs which include areas and because of their age confusion as to what may be protected.***

12. Do you have any general comment of the outcomes predicted in the impact assessment, particularly about the costs and benefits?

***It is difficult to quantify the benefits of consolidating the system, but savings per local authority would be small.***

13. Are there any benefits to the “do nothing” option of not consolidating regulations and creating a unified system for TPOs?

**No**

Report No.  
RR/10/00134

## London Borough of Bromley

### PART 1 - PUBLIC

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**Decision Maker:** Development Control Committee

**Date:** 23<sup>rd</sup> November 2010

**Decision Type:** Urgent                                  Non-Executive                                  Non-Key

**Title:** **CONSULTATION ON PLANNING FOR SCHOOLS DEVELOPMENT**

**Contact Officer:** Bob McQuillan, Chief Planner  
Tel: 020 8313 4441 E-mail: bob.mcquillan@bromley.gov.uk

**Chief Officer:** Bob McQuillan

**Ward:** All

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1. Reason for report

‘Planning for Schools Development’ was published for consultation purposes in October 2010. The intention is to make it easier for promoters of new schools to find existing buildings that can be easily adapted for school use – and when they do so, to facilitate that change of use by removing any unnecessary red tape. A response is sought by 10<sup>th</sup> December 2010.

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2. **RECOMMENDATION(S)**

Members are asked to adopt and if appropriate add to the suggested response.

### Corporate Policy

1. Policy Status: N/A.
  2. BBB Priority: Quality Environment.
- 

### Financial

1. Cost of proposal: No cost to the Council arising out of decisions recommended in this report
  2. Ongoing costs: Non-recurring cost.
  3. Budget head/performance centre: Planning Division Budget
  4. Total current budget for this head: £3.8m
  5. Source of funding: Existing revenue budgets
- 

### Staff

1. Number of staff (current and additional): 1fte
  2. If from existing staff resources, number of staff hours: N/A
- 

### Legal

1. Legal Requirement: Statutory requirement. Changes are proposed to the Town and Country Planning (General Permitted Development) Order 1995 (as Amended)
  2. Call-in: Call-in is not applicable.
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All residents of the Borough
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:



### 3. COMMENTARY

- 3.1 This consultation looks at the changes proposed to the Town and Country Planning (General Permitted Development) Order 1995 (as Amended), which are aimed at freeing-up the planning system in relation to schools development.
- 3.2 The consultation indicates that the intention is to make it easier for promoters of new schools to find existing buildings that can be easily adapted for school use – and when they do so, to facilitate that change of use by removing any unnecessary red tape.
- 3.3 The changes proposed in this document relate to change of use planning permission only and so, they will affect only those developments that involve purely converting non-school buildings for school use. Where a schools development requires any additional work to an existing building or is a new build development, planning permission will be required in the normal way.
- 3.4 The current Use Classes Order places non-residential education and training centres within the D1 class alongside a number of other non residential institutional uses. There is no permitted change either to or from class D1 to another class.
- 3.5 The Use Classes Order is concerned about land use impacts. As such, these proposals relate to all changes of use to a school and not simply those buildings to be used for new free schools.
- 3.6 The consultation document identifies a number of key matters for consideration.  
“Paragraph 16. The Government is keen to free up the planning system. It wants to allow local people to make decisions about where their schools can operate and expects them to choose suitable buildings with appropriate access. It does not believe that it is necessary or desirable to regulate development where there is genuinely no need to do so and where it runs the risk of stifling important progress; in this case in the provision of new schools. Greater freedoms will also encourage the more efficient use of land and buildings within the planning system.  
17. The Government recognises that the planning system plays an important role in ensuring that development comes forward, is delivered at suitable locations, in a manner that benefits local communities and that adverse impacts can be successfully mitigated.  
The system also offers local people the opportunity to participate in the development process through the public consultation that accompanies planning applications.  
18. Planning officers are able to consider a variety of matters regarding schools development, such as the suitability of the proposed site to ensure that a school is not established at inappropriate or dangerous locations. They can also use planning controls to alleviate any concerns regarding traffic and road safety issues through the use of planning conditions or obligations. The Government is aware that by granting a permitted development right, a number of issues will not be routinely considered within the planning framework, which could affect a range of matters, as discussed below.  
19. However, it is our aim to ensure that all unnecessary regulation is removed from the system and that good quality proposals are not frustrated by the planning system. The free schools programme is intended to set up schools where there is community demand, and it is with this in mind that the Government wishes to ensure that there are no unnecessary or bureaucratic hurdles that could hold back local ambitions and that the planning system cannot be misused as a way of frustrating the creation of new schools.  
20. That does not mean that issues surrounding free schools development will not be considered. Before any school can be set up, the Government will consider a range of factors, including evidence of demand and plans for the proposed site and building.”
- 3.7 The consultation paper identifies three areas where there may be real concerns:-

The change of use of a building can have an impact on the amenity of its neighbours a school may have implications for local public transport services or raise issues of access and road

safety if noise is likely to be generated by the schools development, for instance through sports or music lessons, car parking or playground activities, it could affect existing sensitive premises such as nearby housing, particularly where there might be any increase in noise from the previous use.

3.8 The Government is inviting views on the following consultation options.

**“Option 1: Retain the current planning framework and make no changes to the planning system**

30. Under this option, no changes would be made to the current planning system. There is already a good stock of buildings, categorised alongside schools within the D1 use class, that could become schools without the need to apply for planning permission.

**Option 2: Give a permitted development right for *some* uses to convert to school use**

31. In considering the current classifications within the Use Classes Order, there are a number of other uses that could be seen to have similar impacts upon a local area as a school because they: generate a certain amount of daytime activity (i.e. people travelling to and from the location); run the risk of additional traffic and pressure on local parking; and create associated impacts relating to noise, litter and the need for public transport.

32. The Government therefore proposes that the following uses be given a permitted development right to convert to a school use:

- *A1 Shops* - Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices (but not sorting offices), pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafés.
- *A2 Financial and professional services* - Financial services such as banks and building societies, professional services (other than health and medical services) including estate and employment agencies and betting offices.
- *B1 Business* - Offices (other than those that fall within A2), research and development of products and processes, light industry appropriate in a residential area.
- *B8 Storage or distribution*.
- *C1 Hotels* - Hotels, boarding and guest houses where no significant element of care is provided (excludes hostels).
- *C2 Residential institutions* - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.
- *C2A Secure Residential Institution* - Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks.
- *D2 Assembly and leisure* - Cinemas, music and concert halls, bingo and dance halls (but not nightclubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used).

**Option 3: Give a permitted development right for *all* uses to convert to a school use**

33. The Government recognises that the impacts of a school on a neighbourhood may differ from those of other uses but wishes to create the freedom for innovative and creative schools development and to that end, is seeking to broaden the potential stock of available accommodation for schools as far as possible. This option would achieve that objective by extending the permitted development right for school use to all uses.

34. Clearly, there will always be some properties which, for different reasons, may be unsuitable for use as a school and we would expect school promoters to eliminate them from their consideration. We do not believe that we need to prescribe them.

The Government also recognises that there are some uses that would be impracticable to be used as a school - for instance a skating rink - without development that would trigger the need to apply for planning permission.

35. This option offers maximum flexibility for those intending to set up a school, in their search for premises. We wish to make it easier for school promoters to take advantage of existing properties that have much to offer without the need for costly new development. This would mean that, in addition to the uses set out in option 2, the Government is also considering giving a permitted development right to become a school to the following types of development:

- *A3 Restaurants and cafés* - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafés.
- *A4 Drinking establishments* - Public houses, wine bars or other drinking establishments (but not nightclubs).
- *A5 Hot food takeaways* - For the sale of hot food for consumption off the premises.
- *B2 General industrial* - Use for industrial process other than one falling within class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste).
- *C3 Dwellinghouses* - this class is formed of 3 parts:
  - C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
  - C3(b): up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
  - C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.
- *C4 Houses in multiple occupation* - small shared dwelling houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

36. This option proposes that the permitted development right will cover sui generis uses (sui generis uses are those uses which do not fall within a use class in the Use Classes Order such as casinos and nightclubs). An alternative would be for the permitted development right to apply to all uses falling within a class in the Use Classes Order.

#### **Option 4: Give a permitted development right, with attached conditions, to all uses to convert to a school use**

37. Option 4 seeks to offer the same freedoms to school providers as option 3, by extending the permitted development right to all uses (including sui generis uses), but would in addition provide safeguards within the planning system against any adverse impacts that might result from transport impacts. However, this option could result in an inbuilt delay - while the travel assessment is considered - which could impede school development.

38. The Government is inviting views as to whether conditions should be attached to require the school promoter to assess some of the impacts that could arise from its proposed development, specifically around transport impacts, and to submit that assessment for prior approval by the local planning authority before they can activate the permitted development right. The conditions could require the school promoter to assess important matters such as road safety and car parking, transport accessibility and traffic generation. The use of conditions will however build into the system unavoidable delay as the local planning authority considers the transport assessment.

## Consideration of options

39. The Government is seeking any views on whether the permitted development rights suggested under option 2 could have adverse and unintended consequences. For those further uses included under options 3 and 4, the Government would welcome views on whether other matters need to be considered as part of the permitted development right, and is seeking views on firstly, whether a permitted development right is appropriate for these uses and secondly, whether any such right should have conditions attached to it.

40. The Government would welcome views on which of these four options is most appropriate. The Government is not stating a preference at this stage on how these proposals should be implemented.

41. The Government would also welcome views about the desirability of the school co-existing in a dual use with another use. In some cases, for instance where a school operates in one floor of an office or in one unit of a retail complex, we think a dual use would be favourable. We recognise that in other circumstances, it would be highly undesirable - for example if a school were to occupy the function room of a pub or the upstairs of a fast food restaurant. In planning terms, it would be difficult to make a distinction between favourable and unfavourable dual uses and so the Government is inviting views on how best to address this matter.

3.9 The consultation questions and suggested responses are set out below:-

**Q1.** Do you think that the uses listed under option 2 should be given a permitted development right to convert to a school?

- A1 – shops
- A2 – financial and professional services
- B1 – business
- B8 – storage or distribution
- C1 – hotels
- C2 – residential institutions
- C2A – secure residential institutions
- D2 – assembly and leisure

### *Response*

*The Use Classes Order has grouped uses together which are similar in their impact in planning terms. Schools are not included in any of these use classes and therefore there should not be a permitted development right to convert. Members will recall the concerns which need to be considered when nursery and pre-school uses have been proposed in unsuitable premises.*

**Q2.** Do you think that the further uses listed under options 3 and 4 should be given a permitted development right to convert to a school?

- A3- restaurants and cafés
- A4 – drinking establishments
- A5 – hot food takeaways
- B2 – general industrial
- C3 – dwellinghouses
- C4 – houses in multiple occupation
- Sui generis uses

### *Response*

*The response to Q1 is equally appropriate with these uses.*

**Q3.** Should a use converting to a school for a temporary period retain the right to revert to the previous use if it does so within five years?

*Response*

*It is not considered that there is any merit in this proposal as it is difficult to foresee circumstances in which the commitment to convert to a school would be 5 years or less.*

**Q4.** Would allowing the following uses to convert to a school use without the need to apply for planning permission have any unintended consequences?

- A1 – shops
- A2 – financial and professional services
- B1 – business
- B8 – storage or distribution
- C1 – hotels
- C2 – residential institutions
- C2A – secure residential institutions
- D2 – assembly and leisure
- A3 – restaurants and cafés
- A4 – drinking establishments
- A5 – hot food takeaways
- B2 – general industrial
- C3 – dwellinghouses
- C4 – houses in multiple occupation
- Sui generis uses

*Response*

*The consultation paper identifies some of the planning concerns which come with school uses are introduced. All of these concerns could be relevant. The concerns identified in the consultation paper relate to the impact of such a change of use on local residents (amenity, parking problems & noise) and the transport system. However, in addition to these concerns the change of use to a school should require full consideration through the planning system to take account of the implications of the loss of the replaced uses and the appropriateness of the location for education.*

*Whilst the consultation talks about “building cohesive, functional neighbourhoods” in the context of meeting demand locally for school places (para 27), it fails to acknowledge the implications for those neighbourhoods relating to the loss of the replaced uses which it would be appropriate for planning applications to consider – Eg the impact on the vitality & viability of a town centre / loss of local shopping facility (A uses), Business Areas (B1, B2, B8), the availability of leisure & community uses D2 A4 leisure uses.*

*It also fails to consider whether some locations would be inappropriate locations for such a sensitive use as a school eg noise from adjacent activities in a Business Area.*

**Q5.** Should the local planning authority have to approve a transport assessment before the permitted development right can be activated for changes from some or all non D1 uses?

*Response*

*A transport assessment should be required but transport is only one of the material considerations and it would not be appropriate to consider it in isolation.*

**Q6.** Do you think that there are any other matters that the conditions should address?

*Response*

*The considerations which need to be addressed will be different in each case and could not be adequately dealt with in standard conditions attached to the Order.*

**Q7.** Should the compensation provisions contained in section 189 of the Planning Act 2008 be applied to change of use to a school, if a permitted development right is given?

*Response*

*If such a right is given it would be difficult not to apply the compensation provisions.*

**Q8.** The Government would like to permit schools to co-exist with certain dual uses, but not with others. Do you have views about whether and how this could be achieved?

*Response*

*No information is given on which uses the Government has in mind so it is not possible to comment.*

**Q9.** Which is your preferred option and why?

- Option 1
- Option 2
- Option 3
- Option 4

*Response*

*Option 1*

**Q10.** Do you think these proposals should be applied solely to new free schools or to all schools? Why?

*Response*

*There is no planning reason for the proposals to only one type of school.*

**Q11.** Are there any further comments or suggestions you wish to make?

*The consultation makes no mention of Green Belt - is the intention that permission would not be required for the change of use of a large house in the Green Belt?*

*The changes aim to assist in meeting a "local demand" for places. This refers to "demand" for a particular of type of school place rather than a shortage of places overall - is it appropriate to undermine policies designed to protect certain uses in certain locations for what is a demand/desire rather than a need?*

*This approach to free school would be inconsistent with the approach taken to other community "demands/desires" - eg Places of Worship?*

<b>Non-Applicable Sections:</b>	Policy, Financial, Legal and Personnel
Background Documents: (Access via Contact Officer)	Consultation on Planning for Schools Development October 2010

Report No.  
DRR10/00120

London Borough of Bromley

PART 1 - PUBLIC

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**Decision Maker:**        **Committee/Development Control**

**Date:**                    **23 November 2010**

**Decision Type:**        Non-Urgent                    Non-Executive                    Non-Key

**Title:**                    **LOCAL REQUIREMENTS FOR THE VALIDATION OF  
PLANNING APPLICATIONS**

**Contact Officer:**        Chris Evans, Manager, Major Developments Team  
Tel: 020 8313 4554 E-mail: chris.evans@bromley.gov.uk

**Chief Officer:**         Bob McQuillan, Chief Planner

**Ward:**                    N/A

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1. Reason for report

Revised central government guidance has been issued regarding local information requirements for the validation of planning applications. The report proposes that consultation be carried out on a revised list of requirements/documents needed to properly assess the various types of application.

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2. **RECOMMENDATION(S)**

Members adopt the revised local requirements set out in the list at the end of this report as a basis for carrying out consultation with statutory consultees, residents associations, agents and others, and that a report be received on the results of the consultation in due course.

### Corporate Policy

1. Policy Status: Existing policy.
  2. BBB Priority: Quality Environment.
- 

### Financial

1. Cost of proposal: <please select> No additional cost to the Council arising from the decisions recommended in this report
  2. Ongoing costs: <please select>. Staff involvement likely to continue
  3. Budget head/performance centre: Planning Division Budget
  4. Total current budget for this head: £3.8M
  5. Source of funding: Existing revenue budgets
- 

### Staff

1. Number of staff (current and additional): 103.89ftes
  2. If from existing staff resources, number of staff hours: N/A
- 

### Legal

1. Legal Requirement: Statutory requirement. Town and Country Planning Act 1990 (as amended) including power of local planning authority to require submission of material with planning and other applications as set out in Government Legislation/Guidance.
  2. Call-in: Call-in is not applicable.
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All residents of the Borough as well as those who make planning applications for development in the Borough.
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:



### 3. COMMENTARY

3.1 On 8 July 2008 the Development Control Committee adopted the use of 'local lists' of requirements/documents that may be needed to properly assess various types of applications. The lists give officers the ability to invalidate applications that are not accompanied by relevant material to assess the impact of certain effects and put forward mitigation. The Committee's decision was preceded by consultation with statutory consultees, residents associations, agents and others. The lists adopted closely followed the suggested requirements set out in the Department for Communities and Local Government document "The Validation of Planning Applications". Guidance for Local Planning Authorities" dated December 2007.

3.2 The discretionary power to require such additional material has been used sparingly by officers, typically to request tree surveys on sites where there are existing trees, and also in relation to major planning applications (as defined in the Town and Country Planning (Development Management Procedure) Order 2010) e.g. to request a Flood Risk Assessment, Transport Assessment, Biodiversity Survey and Report, Statement of Community Involvement etc. Generally the need for such material has been identified during pre-application discussions between applicants, agents and Council officers and in these cases there has been no delay to processing and consideration of applications.

3.3 In March 2010 The Department for Communities and Local Government published the following documents:

- Guidance on information requirements and validation
- Development Management Policy Annex: Information requirements and validation for planning applications.

These state that where a local planning authority has a published local list, it should review it, the starting point being statutory requirements, national and local plan policies and published guidance that explains how adopted policy should be implemented.

3.4 The CLG documents set out an overview of the recommended list review process in 4 steps –

1. Review statutory/policy/guidance "drivers", identify information requirements, decide whether to prepare new lists or revise existing list.
2. Summarise Step 1 in a short report.
3. Consult local community including applicants and agents, giving a period of at least 8 weeks.
4. Take account of responses when finalising list, if it is approved, publish it on website. It may be appropriate to publish guidance notes for applicants, and publication date should be clear on the list and guidance notes.

3.5 The CLG documents also set out 5 principles and criteria for local list preparation –

- Necessity - All local list requirements should be based on statutory requirements, national, regional or adopted local policy, or on published guidance which explains how adopted policy should be implemented.

- Precision - It should be clear what types of development require the provision of particular supporting information. Where appropriate, the LPA should also identify specific areas where the information requirement arises.
- Proportionality - The information required is likely to be dependent on the nature and scale of the proposal and the sensitivity of its location. Where possible, the LPA should identify size thresholds below which certain information is not required or where only limited information is required.
- Fitness for purpose - It should be clear what information is required to satisfy the requirement – with a strong emphasis on a proportionate approach and succinct documents.
- Assistance - For each element of the list it should be clear where further information or answers to queries can be obtained.

3.6 It is suggested that the revised local list presentation is in the form of a matrix, and this is the format adopted in the revised list prepared for this report. The existing format and requirements closely follow the lists set out in the CLG document of December 2007, that is a separate list for each type of application. It is proposed to refine the titles to delete 5, add 6 and amend the titles of 5 as follows-

- delete Environmental Statement (as this requirement is governed separately by the Environmental Impact Assessment Regulations).
- delete Landscaping Details
- delete Open Space Assessment
- delete Photographs and Photomontages
- delete Site Waste Management Plans
- add Energy Statement
- add Financial Viability Statement
- add Flat Conversions – details drawings
- add Landscape and View Impact Assessment
- add Marketing Evidence
- add Refuse and Recycling Storage
- amend Foul Sewage and Utilities, to include Surface Water Drainage
- amend Landfill Statement, to include Waste Transfer
- amend Noise Impact Assessment, include vibration
- amend Parking Provision, to refer to cars and bicycles
- amend Town Centre Uses, to add Retail Impact Assessment.

#### 4. POLICY IMPLICATIONS

4.1 The continued ability to require applicants to submit additional material with applications will assist in assessing them against UDP policies and help to maintain the quality of decisions.

<b>Non-Applicable Sections:</b>	Financial, Legal & Personnel Implications
Background Documents: (Access via Contact Officer)	DCLG Guidance on information requirements and validation, March 2010. DCLG Development Management Policy Annex: Information requirements and validation for planning applications, March 2010.

<u>Additional Information Required</u>	<u>Relevant Policy or Statutory Provision</u>	<u>Types of Application That May Require This Information</u>	<u>Locations Where This Information May Be Required</u>
Affordable Housing Statement	UDP Policies H2 & H3 Affordable housing	Major residential developments	Borough-wide
Air Quality Assessment	LP Policy 4A.19 Improving air quality	Major developments & other potentially polluting & traffic generating development	Air Quality Management Area and adjacent to it
Biodiversity Survey and Report	UDP Policies NE1, 2 & 5 Nature Conservation and Development, and Protected Species. PPS9 Planning for Biodiversity	Major developments Non-Major Developments in relevant locations	Within or adjacent to SSSI, LNR, SINC. Sites where protected species may be present
Daylight/Sunlight Assessment	UDP Policy BE1 Design of New Development	Major developments	Opportunity Sites in Bromley Town Centre
Economic Statement	UDP Policies EMP1, 4, 5 & 7 Office & Business Development	Major developments >2000 sq m or >1ha Redevelopments where loss of employment may arise	Business Areas Town / District Centres Biggin Hill Airfield
Energy Statement	LP Policies 4A.3, 4 & 7 Sustainable design, Energy assessment, Renewable energy	Major developments	Borough-wide
Financial Viability Assessment	UDP Policies H2 & H3 Affordable housing & IMP1 Planning obligations	Major developments that do not offer planning obligations Major residential developments that include < 35% affordable housing	Borough-wide

Flood Risk Assessment	LP Policies 4A.12, 13 & 14 Flooding, Flood risk management & Sustainable drainage. PPS25 Development and flood risk. TCP(DMP)Order 2010	Sites of 1ha or more	Any development in Flood Zones 2 & 3, as defined by Environment Agency
Foul Sewage and Surface Water Drainage Assessment	LP Policies 4A.14 & 19 Sustainable drainage & Water and sewerage infrastructure	Developments that will increase site coverage with buildings and hard surfaces. Sites traversed by public sewers	Borough-wide
Flat Conversions – detailed drawings	UDP Policies H11(ii) & H12 Residential conversions	Conversions of existing buildings to residential use, particularly incl basement & roofspace accommodation	Borough-wide
Heritage Statement	UDP Chapter 6 Conservation & the Built Environment, in particular Policies BE8 - 16	Planning applications in Conservations Areas, and affecting the setting of a Listed Building Conservation Area Consent Listed Building Consent Sites > 0.4ha	Conservation Areas Listed Buildings Historic Parks & Gardens Areas of Archaeological Significance
Land Contamination Assessment	UDP Policy ER7 Contaminated land. PPS23 Pollution & planning control	Any redevelopment in relevant locations, in particular where the proposed use is sensitive eg residential	Sites that have a history of commercial use or where previous uses are unknown
Landfill and Waste Transfer Statement	UDP Policy ER2 Waste management facilities. Mayor's Waste Strategy. PPS23 Pollution & planning control	All proposals for transfer, treatment and deposit of waste	Borough-wide

Landscape and Views Impact Assessment	Policies in UDP Chapters 6 Conservation and the Built Environment & 8 Green Belt and open space. BTC AAP Policy BTC19 Building height	Development that may affect the openness of protected open spaces, important local views, or views of landmarks or major skyline ridges. Proposals for high buildings	Borough-wide incl Town Centres, Conservation Areas, Historic Parks and Gardens, Green Belt / MOL, Urban Open Space
Lighting Assessment	UDP Policy ER10 Light pollution	Floodlights and other lights that may impact outside the application site	Borough-wide, particularly near residential property and in or close to Green Belt / MOL
Marketing Evidence	UDP Chapter 10 Business & Regeneration, in particular Policies EMP3, 4 & 5, also H12 Conversion of non-residential buildings & S4 / S5 Local and neighbourhood centres	Development / reuse of business premises for non-business purposes Change of use of retail shops to non-retail purposes	Business Areas, business sites outside designated Business Areas Shopping centres
Noise and Vibration Impact Assessment	LP Policy 4A.20 Reducing noise. Mayor's Ambient Noise Strategy. PPG24 Planning & noise	Noise-sensitive development (incl residential) close to noise generating activities. Proposals that incl noise generating activities & equipment / machinery	Alongside transport links (railways and busy roads). Business Areas Town & District Centres
Parking Provision for Cars and Bicycles	UDP Policies T3 & T7 Parking & Cyclists	Residential development, places of employment, education & entertainment / leisure	Borough-wide

Planning Obligations – Draft Head of Terms	UDP Policy IMP1 Planning obligations. DCLG Circular 05/05 Planning obligations	Major developments. Certain Non-Major developments eg in town centres	Borough-wide
Planning Statement	Wide range of UDP Policies incl G1, G2, G8 Green Belt, MOL & Urban Open Space & those in Chapter 10 Business & Regeneration. BTC AAP	Major developments which raise a wide range of planning issues, incl justification of “very special circumstances” regarding Green Belt / MOL	Borough-wide incl applications in Green Belt / MOL / Urban Open Space and Town Centres
Refuse and Recycling Storage	UDP Policy BE1 Design of New Development	Residential development, places of employment, education & entertainment / leisure	Borough-wide
Statement of Community Involvement	LDF Statement of Community Involvement	Major developments	Borough-wide
Structural Survey and Rebuilding Method Statement	UDP Policies BE8, 9 &10, G1 & G2 Listed Buildings, Green Belt & MOL	Listed Building Consent. Demolition of Statutory & Locally Listed Buildings. Conversion / reuse of buildings in Green Belt / MOL	Borough-wide
Telecommunication Development – supplementary information	BE22 Telecommunications Apparatus	Telecommunications masts, base stations & related apparatus	Borough-wide

Town Centre Uses and Retail Impact Assessment	Policies in UDP Chapter 11 “Town Centres & Shopping”. PPS4 Planning for sustainable economic growth	Major developments Non-Major developments incl changes of use of retail premises	Shopping floorspace outside retail centres Proposals in retail centres
Transport Assessment	UDP Policies T1, T2, T3 & T18 Transport demands, Transport effects, Parking & Road safety	Major developments	Borough-wide
Travel Plan	UDP Policy T2 Transport effects	Major developments	Borough-wide
Tree Survey and Arboricultural Implications Report	UDP Policy NE7 Development & trees	Development of sites where there are existing trees	Borough-wide
Ventilation/Extraction Statement	UDP Policies ER9 & S9 Ventilation & Food & drink premises	Restaurants, cafes & hot food takeaways (Classes A3 & A5)	Borough-wide

Key / Definitions

BTC AAP	Bromley Town Centre Area Action Plan
DCLG	Department For Communities and Local Government
LDF	Bromley Local Development Framework
LNR	Local Nature Reserve
LP	London Plan (the Mayor of London’s Plan)
MOL	Metropolitan Open Land
PPG	Planning Policy Guidance (by DCLG)
PPS	Planning Policy Statement (by DCLG)
SINC	Site of Importance for Nature Conservation
SSSI	Site of Special Scientific Interest
TCP(DMP)Order	Town and Country Planning (Development Management Procedure) Order
UDP	Bromley Unitary Development Plan

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Report No.  
DRR10/00123

London Borough of Bromley

PART 1 - PUBLIC

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**Decision Maker:**      **Development Control Committee  
Executive Committee**

**Date:**                      **23<sup>rd</sup> November 2010  
8<sup>th</sup> December 2010**

**Decision Type:**      Non-Urgent                      Non-Executive                      Non-Key

**Title:**                      **SUPPLEMENTARY PLANNING DOCUMENT (SPD) ON  
PLANNING OBLIGATIONS**

**Contact Officer:**      Terri Holding, Planning Officer  
Tel: 020 8313 4344    E-mail: terri.holding@bromley.gov.uk

**Chief Officer:**              Bob McQuillan, Chief Planner.

**Ward:**                      Boroughwide

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## 1. Reason for report

The draft Supplementary Planning Document (SPD) on Planning Obligations was endorsed by the Council's Development Control Committee (12/1/2010) for a six week period of public consultation. This document seeks to provide guidance on the requirements and mechanisms for s106 planning obligations to development proposals in the Borough. A number of responses were received as a result of the consultation process and answers to these are attached at Appendix 1 of the report. Consequently, the draft has been updated (Appendix 2) and Members are asked to consider the responses and endorse the document for adoption by the Council's Executive. Once adopted the SPD will be a material consideration in the determination of planning applications

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## 2. RECOMMENDATIONS

### **Development Control Committee:**

- 2.1 Members are asked to consider the responses received (set out in Appendix 1) and;
- 2.2 Endorse the document as amended for adoption by the Council's Executive.

### **The Executive:**

- 2.3 Members are asked to adopt the Planning Obligations Supplementary Planning Document in the light of representations received, comments made by Development Control Committee on 23/11/10 and other comments made by Members of the Executive.

### Corporate Policy

1. Policy Status: Existing policy. IMP1 (UDP 2006)
  2. BBB Priority: Children and Young People. Excellent Council, Quality Environment, Safer Bromley, Supporting Independence and Vibrant Town Centres
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### Financial

1. Cost of proposal: N/A
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: Planning Division
  4. Total current budget for this head: £3.3m
  5. Source of funding: Existing Revenue Budgets
- 

### Staff

1. Number of staff (current and additional): 1fte
  2. If from existing staff resources, number of staff hours: N/A
- 

### Legal

1. Legal Requirement: Statutory requirement. S106 of the Town and Country Planning Act 1990, Circular 05/2005, CIL Regulation.
  2. Call-in: Call-in is not applicable.
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Boroughwide
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes.
2. Summary of Ward Councillors comments: Comment from Councillors on the Section 106 Working Party addressed at Appendix 1 item 4.

### **3. COMMENTARY**

- 3.1 The draft Supplementary Planning Document (SPD) on Planning Obligations was endorsed by the Council's Development Control Committee (12/1/2010) for a six week period of public consultation. A number of responses were received as a result of the consultation process and answers to these are attached at Appendix 1 of the report. Consequently, the draft has been updated (Appendix 2). Once adopted the SPD will be a material consideration in the determination of planning applications.
- 3.2 The aim of the SPD is to provide general guidance on the requirements and mechanisms for infrastructure contributions and related social, economic, environmental and cultural provision when considering and negotiating development proposals in the Borough.
- 3.3 The Council's Local Development Scheme (LDS) sets out the Council's intention to produce an SPD on Planning Obligations with adoption mid 2010. Representations were due to have been reported to committee in June however, the coalition Government was still discussing the future of Community Infrastructure Levy (CIL) and how it will relate to the continued use of planning obligations throughout the summer/autumn. On 8<sup>th</sup> November the DCLG announced the publication of its 'Business Plan 2011-2015', which confirmed that the CIL will be reformed and continued.
- 3.4 This SPD on Planning Obligations has been prepared in accordance with government Circular 05/2005, Community Infrastructure Levy Regulations 122 and 123, and the London Plan (2008). This SPD elaborates and gives guidance on policies in the Unitary Development Plan (UDP) 2006, outlines procedures and includes a sample of the Bromley section.106 (s106) legal precedent and affordable housing definitions, interpretations and schedule. Further information on developer contributions and planning obligations for the Bromley Town Centre is dealt with separately in the Area Action Plan.

#### **Public Consultation**

- 3.5 The draft consultation was subject to a six week period of public consultation from 17<sup>th</sup> February to the 31<sup>st</sup> March 2010.
- 3.6 A consultation statement in addition to SPD matters, was produced prior to the consultation period outlining pre-production issues that arose through consultation with a number of agents, developers and officers and how the draft SPD was formally consulted upon. The following consultation was undertaken:
- A letter was sent with notification of the consultation process to specific consultation bodies, key stakeholders and associations; consultees on the Council's Local Development Framework (LDF) Consultee Database who specifically expressed an interest in receiving details of the draft SPD or being consulted on LDF documents and other consultees the Council considers to have an interest in the SPD.
  - Posting details on the Council's website;
  - Posting a Notice under Regulation 17 (Town and Country Planning (Local Development) (England) Regulation 2004 in the News Shopper Newspaper.
- 3.7 As a result of the consultation we received responses from 29 bodies and public individuals and a total of 135 representations were made. The main issues included:
- The need to update Section 1 in the light of Community Infrastructure Levy (CIL) Regulation (April 2010).

- The need to introduce flexibility into the document and prioritise.
- Clarification on developer viability in the current market.
- Clarification of the nursery cost place figure and child yield factor.
- Links to Bromley Town Centre Area Action Plan required.
- Mitigation areas needed clarification.
- Table in the SPD needed clarification regarding the 'requirement' in light of CIL regulation and tests of Circular 05/2005 on Planning Obligations.

### **Responses to Representations made**

3.8 Appendix 1 consists of the tabled responses to representations made. In response to the representations a number of paragraphs have been edited and one new paragraph included, along with minor additions or clarifications on topic areas.

- Paragraph 1.8 expanded to explain the impact of CIL regulation.
- Section 1 para 1.24 and 1.25 have been edited to reflect priorities and flexibility.
- Paragraph 2.10 on pooled contributions expanded to reflect CIL regulation.
- Clarification on circumstances where Financial Viability Appraisal is required.
- Improved references to the Bromley Town Centre Area Action Plan
- Areas of transport demand expanded including paragraph 3.8 on the impact on a strategic road network.
- New paragraph at 3.26 explaining detail on the child yield factor and Nursery place cost per place included.
- Use of the Healthy Urban Development Unit (HUDU) model clarified at paragraph 3.29.
- Clarification that 'identified needs' will be set out in advance paragraph 3.31.
- Mitigation of environmental impact topic clarified that mitigation measures cannot alleviate an existing problem, and expanded to refer to groundwater Source Protection zones.
- The table heading in Appendix 1 edited from 'requirement' to 'types of obligation sought where they are directly related to the proposed development' in line with CIL regulation tests of Circular 05/2005 on Planning Obligations.
- The Public Transport Accessibility Levels map updated.
- Affordable Housing Schedule at Appendix 9 updated to reflect that the Code for Sustainable Homes is now Level 4.

3.9 The use of section 106 is restricted the terms of the Circular 05/2005 and CIL regulation. This draft SPD on Planning Obligations is important for ensuring that our procedures are clear to applicants and developers. Legislation regarding CIL from 2014 onwards will see a scaling back of s106 affecting tariffs and standard charges. At such time the SPD on

Planning Obligations would need to be reviewed in respect of Education and Health elements, as these are social infrastructures that, should the Council choose to create and adopt a CIL Schedule, would fall into the CIL collection category rather than relate to site specific mitigation. Until such a time the detail and guidance in the SPD in conjunction with the UPD 2006 and London Plan 2008 and CIL regulation will be necessary.

**4. POLICY IMPLICATIONS**

4.1 The Supplementary Planning Document on Planning Obligations is in accordance with the UDP 2006, Circular 05/2005, Community Infrastructure Levy Regulation 122 and 123, and The London Plan 2008.

**5. FINANCIAL IMPLICATIONS**

5.1 All contributions sought via development proposals must comply with Circular 05/2005 and CIL regulation. Over the next few years there will be an emergence of the Mayoral element of the Community Infrastructure Levy, chiefly designed for Crossrail but could include other strategic transport infrastructure at a later stage, which may put further pressure on development viability and s106 receipts locally.

**6. LEGAL IMPLICATIONS**

6.1 Once adopted the SPD will be a material consideration in the determination of planning applications.

<b>Non-Applicable Sections:</b>	PERSONNEL
Background Documents: (Access via Contact Officer)	UDP2006 Planning Act 2008 The London Plan 2008 and Draft London Plan 2009 DCC report 20 <sup>th</sup> October 2009 – Community Infrastructure Levy DCC report 12 <sup>th</sup> Jan 2010- SPD on Planning Obligations Community Infrastructure Levy Regulation – April 2010 DCLG Business Plan 2011-2015

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**Summary of Responses to SPD on Planning Contributions Consultation- 17<sup>th</sup> Feb- 31<sup>st</sup> March 2010**

Number	Originator	Comment	Reply	Outcome
1. 19 <sup>th</sup> Feb 2010	<b>House Builders Federation</b> (James Stevens)	<p>1. the SPD should be revised to reflect the importance of waiving s106 obligations – to encourage development- the level of contribution sought should not threaten viability.</p> <p>2. Review whether any obligations accord with the five principles (B5), hence questions areas of Community facilities, employment and training, public realm and historic buildings. Request that employment and training, and public art should be deleted from the Council's schedule and stated that health and Education are funded by society through statutory functions.</p> <p>3. That the doc should set out the requirements for the Bromley Town Centre and any redevelopments in major and district town centres.</p>	<p>Acknowledged points raised</p> <p>1. Para 1.24 has been amended to introduce flexibility in respect of viability.</p> <p>2. Community facilities, Employment and training, and Public Art will remain in the schedule they provide a <u>guide</u> to what may fall under s106 when directly related to a proposal.</p> <p>3. The Bromley Town Centre Area Action Plan (BTCAAP) was the place for specific obligations for the BTC, the SPD is a general guide for the rest of the borough.</p>	<p>Text edited</p> <p>Added BTCAAP web link.</p>
2. 22 <sup>nd</sup> Feb 2010	<b>National Grid</b> (Les Morris)	No comment to make on the document.	Acknowledged receipt of email.	No action.
3. 18 <sup>th</sup> Feb 2010	<b>Babbacombe Rd Residents AscN</b> (Michael Payne)	Asked for confirmation of his understanding of the process; if before this it had been conducted in an ad-hoc way and if discussions between parties were known to the public in general.	The intention was for the system to be readily understood by developers and agents and that the whole process was open and available on the public register to view.	No change.
4. 12 <sup>th</sup> January 2010	<b>Report of the Section 106 working group-</b> presented to DCC 12 <sup>th</sup> January 2010.	<p>1. That the draft SPD should be updated – taking into account latest on CIL.</p> <p>2. Guidance on how s106 monies distributed.</p>	<p>1. Government decision on CIL/Planning Obligations – to be addressed in the final SPD.</p> <p>2. Continued further development of s106 monitoring system will</p>	1 Addressed

		<p>3. More advice sought from Valuation or specialist consultants when considering potential scale of s106 contributions.</p> <p>4. Broader definition of health needs investigated allowing for local priorities for example older people.</p> <p>5. Providing housing benefit rather than affordable housing as a means to overcome homelessness.</p> <p>6. Officers should ensure that parking and public transport are maximised in negotiations.</p> <p>7. More emphasis placed on cycle routes and cycling facilities.</p>	<p>allow this.</p> <p>3. The draft SPD allows for 3<sup>rd</sup> party negotiations if necessary, paid for by the developer.</p> <p>4. The HUDU model specifically refers to primary and acute care not for any other use. The statutory basis of the three tests precludes any deviation.</p> <p>5. Not appropriate under Circ 05/05.</p> <p>6. This is included in site specific negotiations.</p> <p>7. UDP policy T7 'Cyclists' and paras 5.33 and 5.34, and Draft SPD para 3.4 place emphasis on cycle routes and cycling facilities.</p>	
5. 18 <sup>th</sup> Feb 2010	<b>Pratts Bottom Residents Asc-</b> Keith Bickers	Website access difficult to comprehend- suggested publishing a single easy to understand document that lists all main issues.	Replied explaining purpose and intention of SPD and for whom it was primarily intended.	Create one page summary guide for the web on SPD publication.
6. 22 <sup>nd</sup> Feb 2010	<b>Crime Prevention Design Advisor-</b> (Mick Lane)	Will seek to ensure that all housing not just affordable housing is designed in accordance with Secure by Design scheme - wants scheme applied to all built environment.	Acknowledged receipt, topic to be dealt with in the forthcoming DPD on Development Standards.	Future action.
7.- 5 <sup>th</sup> March 2010	<b>CABE</b> (Andrew Davies)	No comment	Acknowledged receipt.	No action.
8.- 4 <sup>th</sup> March 2010	<b>Internal Officer comment-</b> Gill Slater	Lacking a nursery provision capital cost place figure which is needed to establish nursery contributions.	Figure for nursery provision cost per place established and confirmed by Officer as £8,129.	Included nursery figure.
9 19 <sup>th</sup> March 2010	<b>English Heritage</b>	1. That we should include that the list on para 3.44 includes <u>reference to maintenance and management to the Borough' Scheduled Monuments and Registered Parks and Gardens.</u>	Acknowledged receipt. 1. References will be included in para 3.44. 2. There are already elements of	Included text.



		2.Public Realm should include enhancement of historic squares and spaces, registered parks and gardens, historic pavement materials, street furniture. Removal of street clutter and installation of sympathetic lighting. Additionally contributions to the historic environment can also be signposted in other topic areas – such as environment’, ‘outdoor recreation’ and ‘community and cultural facilities’.	these enhancements included in the text and para 3.44 already clearly states that the list is not exhaustive, any contributions would be strictly requested under terms of Circular 05/2005.	
10 19 <sup>th</sup> March 2010	<b>Bats.Org.Uk</b> (Stephen Ballard)	Response draws attention to ‘bat’ issues – importantly that where large scale works are proposed that an ecological survey is carried out – particularly if the site is close to woodland or water. An example would be where works will affect trees, buildings or underground works that may contain roosts that bat surveys should be carried out.	Acknowledged receipt. Wildlife habitats are covered in para 3.32 where there are references to measures to mitigate, protect, create, enhance and manage; surveys are requested at the earlier initial validation stage.	No action.
11 19 <sup>th</sup> March 2010	<b>WS Planning</b> (Maggie Williams - admin@wsplanning .co.uk))	<b>1.Para 1.18- 1-25</b> - Objectives of this guidance. Welcome para 1.23. <b>2.Para 3.1</b> – Broadly Support- more of a comment- it would be helpful to signpost the reader to Appendix 1 and the Affordable Housing SPD – it is not clear how the payment – in-lieu is to be calculated. In addition there are concerns regarding the financial viability of some sites at the lower end of the threshold i.e. 10-15 units where it has been agreed that contributions in-lieu of affordable housing may be made. Sites may require substantial remedial works to bring them back into use, - this may render them unviable.	Acknowledged receipt <b>2.Para 4.21 of Policy H3</b> in the Adopted UDP states that in negotiating the level of affordable housing the Council will seek the provision of 35% of habitable rooms on a site unless material considerations indicate otherwise. In these negotiations one of the principal considerations will be whether there will be particular costs associated with the development of the site: this will usually be reflected in the residual land value and should not affect a site’s suitability. <u>The onus will be on applicants to submit a viability appraisal to demonstrate that abnormal development costs, in addition to the affordable housing contribution, would impact unduly</u>	Inform when SPD adopted.  Added Web Link to Housing SPD  Para 3.46 -47 added text

			<p><u>on scheme viability.</u> Para 6.24 of the Adopted Affordable Housing SPD states that particular development costs will usually be reflected in land values. The site suitability tests are outlined in the table following <b>Para 6.24 of the SPD</b>. Where applicants consider there are unforeseen additional costs involved in a site's development, then it is the Council's requirement that the GLA Development Control Toolkit is used to demonstrate how these costs would impact on the ability to contribute to affordable housing requirements and to provide units that comply with the price set out within this SPD. The Council may also accept an 'open book' approach of full financial disclosure whereby all required financial inputs and outputs are made available and assessed/ validated. Other financial methodologies may be applicable to undertake the economic viability of a specific scheme, especially in the case of complex mixed used schemes. However, the use of any alternative financial methodology in place of the GLA Development Control Toolkit must be agreed with the Council in advance of undertaking the appraisal.</p> <p>The Council does not perceive that the costs usually associated with redevelopment of previously developed but otherwise</p>	
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		<p><b>3. Para 3.23 Object</b>-There is no justification for Education Contributions to be made for 1 bed units. The word 'normally' should be deleted.</p> <p><b>4.Para 3.29</b> – Broadly Support- more of a comment- Appendix A does state that provision of community facilities will be based on a case by case basis. Reference should be made to this in paragraphs <b>3.29-3.30</b> as it is not clear. Is there an example a list of projects in the Borough that seek to improve community benefit?</p> <p><b>5.Para 3.41 OBJECT</b> –does not make clear that this applies only to development in the BCTAAP. Regarding pooled contributions there is concern smaller schemes may be rendered unviable.</p> <p><b>6.Para 3.42 OBJECT</b>- Same comments as above apply.</p> <p><b>7.Paras3.43- OBJECT</b>- concern regarding requirements towards the public realm and historic building improvements – this requirement would appear to go beyond the remit of Circ 05/05 and should not be used to remedy existing deficiencies.</p> <p><b>8.Para 3.45- OBJECT</b> –asks if it is reasonable for developers to provide public art?</p>	<p>uncontaminated land to be 'abnormal' and would expect such costs to be reflected in land values. The applicant will be required to demonstrate why they think a development cost should be defined as 'abnormal'.</p> <p><b>3. Para 3.23 Retain.</b> The number of 1 bed units yielding children is extremely low, almost negligible however the evidence indicates that this in extremely rare circumstances there can be younger children in 1 bed units and hence it is appropriate to include the word 'normally – see para 3.25.</p> <p>4. Whilst draft SPD para <b>3.30</b> refers to identified needs there is no one specific list of projects, which would change over time, set out in the SPD. Para 3.29 now amended (<b>now 3.31</b>) to provide clarification about where the details of infrastructure, for which contributions may be sought, will be set out.</p> <p><b>5 &amp; 6.</b> Para 3.41 and 3.42-. Issues of viability of smaller schemes in the town centre are specific matters for the BCTAAP and not this overarching SPD but para 3.41 has been clarified.</p> <p><b>7.</b>Paras 3.43- 3.45- Consider rewording the term 'requirement' throughout doc.</p> <p><b>8.Para 3.45</b> Public art would only be included in s106 if it was necessary to a scheme and fully</p>	<p>3.Text retained.</p> <p>4.Text edited</p> <p><b>5 &amp; 6</b> .Para 3.41 edited,</p> <p><b>7.</b> Para 3.43- 3.45 'requirement' edited.</p>
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		<p><b>9.Para 3.46-47</b> - Broadly Support- more of a comment- any contributions towards mitigation measures for environmental impacts should only be sought in relation to any additional impact arising from the proposed development and not for mitigation measures to alleviate an existing problem (to comply with Circ 05/05).</p>	<p>complies with revised Circ 05/05. <b>9.Para 3.46 -47</b> add text 'will be sought in relation to any additional impact arising from the proposed'</p>	Text added
<p><b>12</b> 19<sup>th</sup> March 2010</p>	<p>Gian Bendinelli Planning Bureau on behalf of <b>McCarthy &amp; Stone</b></p>	<p><b>1.Para 3.31- OBJECT</b> –seeking contributions for employment and training <b>does not meet</b> the requirement of Circular 05/05, as the creation of new development does not in itself create a requirement for it to be mitigated by training persons who may be unemployed or lack the skills to gain employment and therefore should be omitted</p> <p><b>2.Para 3.45 – OBJECT</b> – Public Art may be a social benefit but <b>Circ 05/05 only permits a requirement for contributions</b> in order to mitigate the impact of a development – there would not be a circumstance where the impact of development needed to be mitigated by public art - the full tests of the circular need to be applied.</p>	<p>Acknowledged receipt <b>1.Para 3.31-</b> each case is looked at individually and this is not a requirement. Suggest re-wording to read – <b>Conditions or Planning obligations may be</b> sought in any major development proposal especially in areas where unemployment levels are above the Borough average... <b>2.Para 3.45-</b> Para 3.45 Public art of some form may be included in the original design but may as with the Bromley Town Centre require s106 for future maintenance etc. As planners we are charged to ensure high quality development through good and inclusive design (PPS1).</p>	<p>Inform when SPD adopted.</p> <p>Paras 3.31 &amp; 3.45 text added</p>
<p><b>13.</b> 18<sup>th</sup> March 2010</p>	<p>Shire Consulting on behalf of <b>Barclays Bank</b></p>	<p><b>Objections.</b> 1. The SPD should set out clearly what is sought, and <b>justify this with evidence.</b> 2.The document is <b>too long.</b> 3.The bank believes <b>the Council is going</b> beyond what is allowed in policy. 4. Repeated reference to '<b>requirements</b>' – <b>these references should be edited out.</b></p>	<p>Acknowledged receipt 1. A range of possible obligations that may be sought is given as a guide for each topic because each case is dealt with on its merits. <b>2, 3 and 4:</b> the final document will be reviewed in the light of the revision of Circ 05/05, and 'requirement' will be edited.</p>	<p>Inform when SPD adopted.</p> <p><b>4.</b> Edited text.</p>

		<p><b>5. Para 2.10</b> Implications of use of ‘pooled contribution- query use of <b>contributions raised in one town on improvements for another – this would not meet tests of the circular.</b></p> <p><b>6. Para 2.11</b> Principle of unspent contributions being returned to developer should apply to all unspent on specific provision not just unspent balance.</p> <p><b>7.</b> The Bank does not believe all matters listed in SPD are in conformity with Circular due to a lack of direct relationship with the development such as <b>Employment and training.</b></p> <p><b>8. ‘Health’ is unreasonable</b> unless there is a direct impact upon these caused by the development and there is a geographical link with any justified provision.</p> <p><b>9.</b> It should be made clearer in Section 3 and Appendix 1 <b>that contributions to public art will be voluntary.</b></p> <p><b>10.</b> Appendix 1 not clear about what matters listed will apply in what part of the borough – direct comparison with BTC31 and that the SPD should make it clear that only these matters will apply to planning obligations sought in BTC.</p> <p><b>11. Comment</b> -Suggest that the SPD should be postponed until it is clear whether CIL will be the way forward.</p>	<p><b>5. Para 2.10</b> Pooling arrangements will be reviewed in the light of CIL regulations and revised Circ tests.</p> <p><b>6.</b> Para 2.11 – ‘balance’ deleted, and ‘monies’ added.</p> <p><b>7.</b> If a direct relationship to a proposal is proved using the revised tests then that an obligation will be sought.</p> <p><b>8.</b> Contributions will be sought in accordance with the circular tests. Para 3.28 has been expanded to clarify when health contributions will be sought.</p> <p><b>9.</b> Any contribution may be voluntary but where there are future maintenance issues as a result of a public art included in a scheme, it would be appropriate to use s106 not condition this.</p> <p><b>10.</b> The application of any type of obligation will vary considerably in any part of the borough hence they will be sought on a strictly case by case basis. Matters for the town Bromley Town Centre are those in the policy BTC31 of the BTC Area Action Plan.</p> <p><b>11.</b> Delay inevitable -awaiting further information re the Governments intention for CIL</p>	<p><b>5.</b> Text added to para 2.10.</p> <p><b>6.</b>Text edited para 2.11.</p> <p><b>8.</b> Text edited</p> <p><b>9.</b> Deleted last line of para 3.45.</p>
<b>14.</b> 24 <sup>th</sup> March 2010	<b>Thames Water</b> (Carmelle Bell)	<b>Supports Para 2.4</b> and relies heavily on the planning system to ensure infrastructure is ahead of development either through phasing or the use of Grampian style conditions.	Acknowledged receipt	
<b>15.</b> 26 <sup>th</sup> March 2010	<b>Natural England</b>	<b>1. Suggests</b> strengthening the document by inclusion of the principle that ‘Green spaces should be designed to deliver multiple functions in addition to amenity (including	Acknowledged receipt <b>1.</b> Edit text to include principle – para 3.35.	Inform when SPD adopted. <b>1&amp;2.</b> Text edited

		<p>provision of habitat'), helping the borough to adapt to climate and improving air quality.</p> <p><b>2.Para 3.43</b> Welcomes improvements to public spaces, open spaces, gardens and parks, together with improving links between them through new trees and landscaping – this can be used in respect of the term public spaces, which can refer to 'soft' as well as 'hard' landscaping. <b>Suggests</b> the inclusion of web resources to be of use to potential developers.</p> <p>Design for Biodiversity  <a href="http://www.d4b.org.uk/">http://www.d4b.org.uk/</a></p> <p>Biodiversity by Design  <a href="http://naturalengland.communities.com/naturalenglandsho p/docs/TCP1.pdf">http://naturalengland.communities.com/naturalenglandsho p/docs/TCP1.pdf</a></p> <p>Right Trees for a Changing Climate  <a href="http://www.right-trees.org.uk/">http://www.right-trees.org.uk/</a></p> <p>Adapting to Climate Change: A Checklist for Development  <a href="http://www.london.gov.uk/lccp/publications/development.js p">http://www.london.gov.uk/lccp/publications/development.js p</a></p>	<p><b>2.</b>Add to Para 3.43 – that public spaces can also have soft landscaping improvements not only hard landscaping to control movement.  Include web resources as listed.</p>	<p>and web refs included.</p>
<p><b>16.</b>  24<sup>th</sup> March  2010</p>	<p><b>Robinson Escott</b>  (Fiona Dalitis)  <b>Crest Nicholson Eastern Limited</b></p>	<p><b>Various objections</b></p> <p><b>1.Para 1.2</b> –implies the current document isn't a formal consultation – but continues that the objections are formal objections.</p> <p><b>2.Para 1.23</b> the SPD seems to misinterpret the respective roles of the LPA and the applicant; states obligations appear 'negotiable'. Quotes para B35 and B8 of Circular.</p> <p><b>3.Para 2.8</b> – re education and health- formulae should only be applied following assessment of the actual impact of a proposal.</p>	<p>Acknowledged receipt</p> <p><b>1.</b> The consultation has been made in accordance with guidance and the objections have been accepted as formal objections.</p> <p><b>2.</b>Para 1.23 and 1.24 edited to clarify guidance. Para B35 Circ 05/05 refers to standard charges which are not a practice of this Council.</p> <p><b>3.</b>The impact on the existing infrastructure is assessed by Education and PCT as appropriate and consequently a formula is applied. Para 3.28 has</p>	<p>Inform when SPD adopted.</p> <p><b>2.</b> Text edited</p> <p><b>3.</b> Text edited</p>

		<p><b>4. Para 2.10</b> - pooled contributions – the use of town centre improvement fund to bankroll town centre improvements would appear to be contrary to Circ 05/05- Council must demonstrate a direct relationship between a proposed development and the infrastructure provided.  <b>Objections to topic areas.</b>  <b>5. Affordable Housing</b> – requires further explanation concerning those factors, such as viability, that will bear upon the percentage of affordable housing that the Council will seek to negotiate in the circumstances of each case.</p> <p><b>6. Health – Para 3.28</b> -contribution should only be required following an assessment whether there is a need –to ‘enhance health services’ is not in accordance with Circ 05/05.</p> <p><b>7. Community facilities-</b> inappropriate to ask for planning obligations if need is not consequent of a proposed development.</p>	<p>been expanded to clarify the position in respect of health contributions.  <b>4.</b>Text in para 2.10 strengthened to reflect this view.</p> <p><b>5.</b> Para 3.1 already outlines affordable housing policy and states the Council will seek to negotiate 35% of habitable rooms for affordable housing <u>unless material considerations indicate otherwise or unless it can be demonstrated that lower level should be sought or that 70-30 split would not create mixed and balanced communities.</u></p> <p><b>6.</b>as for comment 3 above. Para 3.28 –text strengthened.</p> <p><b>7.</b> Obligations sought in accordance with Circular 05/2005 tests. Para B15 makes clear that where a development gives rise to the need for additional or expanded community infrastructure, which is necessary in planning terms; “it might be acceptable for contributions to be sought”. This approach has been upheld through various court judgements nationally and locally, (contributions towards social/community/educational facilities) Accepted by the Inspector and the Secretary of State. PINS case ref 2043219 to be found at:</p>	<p><b>4.</b>Text edited</p> <p><b>6.</b> Text edited</p> <p><b>10.</b>Text edited</p>
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		<p><b>8. Employment &amp; Training</b> – does not meet tests of Circular.</p> <p><b>9. Bromley Town Centre</b> – should not be used to resolve deficiencies – appears to suggest this.</p> <p><b>10. Major and District Town Centres</b> – appears contrary to Circular.</p> <p><b>11. Public Realm &amp; Historic Buildings Improvements</b> - appears contrary to Circular and Paras 3.43 and .44 do not seem to recognise tests.</p> <p><b>12. Public Art</b> – Not relevant to planning – sense of place etc and stimulating economic benefits can and should be achieved through high quality design.</p> <p><b>Appendix 1.</b></p> <p><b>13. Affordable Housing</b> – stated as requirement not target – inconsistent with Policy H2. Appendix should state ‘if a viability analysis demonstrates that either the quantum of affordable housing or the tenure split would render a development unviable then a reduced quantum or an alternative tenure split will be accepted by the Council.</p>	<p><a href="http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp">http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp</a> .</p> <p>Additionally Policy C1 seeks the re-provision of facilities lost through redevelopment</p> <p><b>8.</b> Entirely dependant on site specific circumstance.</p> <p><b>9.</b> Para 3.41 – The specific Town Centre Objectives are contained in the AAP to which para 3.41 merely points developers towards s106 cannot be used for deficiencies.</p> <p><b>10.</b> Para 3.42 clarified that use is strictly in line with 05/2005 and CIL regulation 122.</p> <p><b>11.</b> Paras 3.43-44 strengthened.</p> <p><b>12.</b> Applied on a case by case basis to facilitate high quality in accordance with PPS1, Circular 05/2005 and CIL regulation 122.</p> <p><b>13.</b> Heading to be edited. Wording of the policy cannot be changed. Policy H2 already allows for a degree of flexibility ‘the Council will seek 35% provision, with 70% social rented and 30% intermediate provision, unless it can be demonstrated that a lower level should be sought or that the 70-30 split would not create mixed and balanced communities.’ Clarification at para 1.24 and para 3.2. However the wording of ‘requirement’ will be revised for consistency.</p>	<p><b>11.</b> Text edited</p> <p><b>13.</b> Appendix 1 Heading column ‘Requirement’ deleted edited to ‘Types of Obligation Sought’ etc.</p>
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		<p><b>14. Transport Demand</b> - Formula should be specific- pooling of resources needs to be more explicit and to make reference to the infrastructure to be provided.</p> <p><b>15. Employment &amp; Training</b> – should be no requirement – it is unacceptable for the formula to be left to a case by case negotiation.</p> <p><b>16. Health</b> – Should be no requirement – formula should be explicit and transparent and not by reference to the HUDU model which has been discredited.</p> <p><b>17. Community Facilities</b> – requirement would not meet tests of Circular – if there was a requirement the formula needs to be explicit and not negotiable on a case by case basis.</p> <p><b>18. Natural Open Space</b>- an explicit formula should be laid out.</p> <p><b>19. Sports and Recreation</b> - an explicit formula should be laid out.</p> <p><b>20. Play provision</b> - an explicit formula should be laid out.</p> <p><b>21. Bromley Town Centre</b> - Any requirement must be justified in connection with the Circular tests.</p> <p><b>22. Major &amp; District Centres</b> – there should be no requirement for a contribution – any formula must be explicit.</p>	<p><b>14.</b>No formula is used as each proposal is dealt with on its own merits – unless it is located in the BTC. Reference to specific infrastructure will be made by case Officer at pre-application stage.</p> <p><b>15.</b> This can only be applied on a case by case basis, but where a commercial enterprise provides its own training schemes and thereby provides opportunities ‘in-house’ then there would be no obligation to make further provision, similarly for the childcare provision aspect.</p> <p><b>16.</b> Hudu model (which produces a figure for both capital and revenue costs) is not discredited. A legal opinion sought by Tower Hamlets PCT supports the use of the model, although Bromley and several other Councils use the HUDU model to seek only the capital contribution (for physical infrastructure).</p> <p><b>17.</b> as for comment 7 above. ‘Requirement’ heading edited.</p> <p><b>18, 19 and 20.</b>Practice remains that there will be no specific formulas; Natural Open Space and Sports and Recreation, and Play provision will remain as case by case basis terms.</p> <p><b>21.</b> Obligations sought for the Town Centre are listed and justified in the BTC AAP.</p> <p><b>22.</b> No specific requirement only examples of what obligations could be sought.</p>	
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		<p><b>23.Public Realm &amp; Built Heritage Improvements –</b> Contrary to Circular unless proposed development creates need.</p> <p><b>24.Public Art –</b> does not meet tests of circular</p> <p><b>25.Planning Obligation Monitoring Service -</b> contrary to guidance in Circular (para B19) which states that where an asset is intended for wider public use, the costs of subsequent maintenance and other recurrent expenditure associated with the developers contribution should normally be borne by the body or authority in which the asset is to be vested.</p> <p><b>26. Legal Services-</b> should be no requirement to pay LA's legal services if a Unilateral Undertaking has been prepared which complies with the guidance in the Circular.</p>	<p><b>23.</b> Obligations applied if proposed development creates need.</p> <p><b>24.</b> Applied on a case by case basis to facilitate high quality in accordance with PPS1, Circular 05/2005 and CIL regulation 122..</p> <p><b>25.</b> Guidance in Circular 05/2005 para B19 relates to the obligations towards provision of facilities and their recurrent expenditure not to the implementation process which is referred to in Para B50 and to which these costs are directly associated.</p> <p><b>26.</b> It is in the Council interest to seek legal advice to examine the undertaking to ensure that the Council's interests are met. Costs involved for a uni-lateral would never be as much as for a fully drawn up s106 but a charge is nevertheless incurred.</p>	
17. 22nd March 2010	GLA	<p><b>Comment</b></p> <p>1. The SPD is not clear on it's priorities – unlike the Mayors plan i.e. Affordable Housing and Transport.</p> <p>2. Concern over method of calculating child yield, with a higher yield attributed to social housing.</p> <p>3. Given the priority identified for affordable housing in policy 6A.4 (London Plan) the Council should be flexible in</p>	<p><b>Acknowledged receipt-</b> (GS phoned Gemma @GLA).</p> <p>1. Para 1.24 states priorities of Affordable Housing, Education, Health and Highways.</p> <p>2. The higher child yield for social housing reflect the evidence from the DMAG update 2006/11 "Child occupancy of new social housing". This child yield is applied to the social housing element of affordable housing.</p> <p>3. Amendments have been made to the introductory paragraphs of</p>	<p>Send hard copy and inform on adoption.</p> <p>2</p> <p>3. Text added Para 1.24</p>

		<p>its approach to education contributions from social housing providers.</p> <p><b>4.</b> Para 3.6, transport assessment of any application referred to Mayor will be expected to adhere to the current Transport assessment best practice guide issued by TfL.</p> <p><b>5.</b> Para 3.7 and 3.8 – where a development impacts on the TfL Road network, the applicants will be required to carry out any works directly or meet Transport for London's costs in doing so. This may be in addition to any highways schemes identified through the Local Implementation Plan.</p> <p><b>6.</b>For any major development the impact of development may go further than the highway network and should include a reference to 'mitigating the impact on the public transport network either individually or through pooled obligations'.</p> <p><b>7.</b>Construction management and Service and delivery Plans may be secured through obligations.</p> <p><b>8.</b>Travel planning should not be exclusively for non-residential developments.</p> <p><b>9.</b>Provision for electric charging, a Mayoral priority, should also be supported.</p>	<p>the SPD relating to the impact of contributions to scheme viability.</p> <p><b>4.</b> Include text in para 3.6..</p> <p><b>5.</b> Include text para 3.8.</p> <p><b>6.</b> Include text para 3.7.</p> <p><b>7.</b> Include text 3.9.</p> <p><b>8.</b> Include text 3.4.</p> <p><b>9.</b> Include text para 3.4.</p>	<p><b>4.</b> Text edited.</p> <p><b>5.</b> Text edited.</p> <p><b>6.</b>Text edited.</p> <p><b>7.</b> Text edited.</p> <p><b>8.</b> Text edited.</p> <p><b>9.</b> Para 3.4 edited.</p>
<b>18.</b> 29 <sup>th</sup> March 2010	<b>South East England Partnership</b> (Angela Parkes/ Sue Janota)	No substantive comment to make.	Acknowledged receipt	No action
<b>19</b> 29 <sup>th</sup> March 2010.	<b>Homes &amp; Communities Agency</b> (London) (Mick Breheny)	<p><b>Comments-</b></p> <p>1. Registered Social Landlord – changed to Registered Provider on 1<sup>st</sup> April 2010.</p> <p>2. <b>Appendix 9</b> – (i) Social rented housing – Target rents are the province of the Tenant Services Authority, not the Homes &amp; Communities Agency.</p> <p>3. <b>Appendix 9</b> – Registration is with the Tenant Services Authority not the Homes &amp; Communities Agency.</p> <p>4. <b>Affordable Housing Schedule</b> – there is a requirement that affordable housing should meet the Homes &amp; Communities Agency's 2007 standards,</p>	<p>Acknowledged receipt.</p> <p><b>1.</b> Amend any reference to Registered Social Landlord to Registered Provider.</p> <p><b>2.</b> Tenant Services Authority now part of HCA (October 2010).</p> <p><b>3.</b> Amend to Tenant Services Authority.</p> <p><b>4.</b> Amend schedule to Level 4.</p>	<p><b>1.</b>Text edited and Schedule revised and updated.</p> <p><b>3.</b> Edited</p> <p><b>4</b> Schedule edited</p>

		including level 3 of the code for sustainable homes (emailed MP 26/8/10). There is a current consultation (including level 4 of the code for sustainable homes) changes are due to take effect for schemes starting on site on or after 1/4/11.		
20. 29 <sup>th</sup> March 2010	<b>HUDU</b> (Nikki Honan)	<p>Comment</p> <p><b>1. Appendix 1</b> – Whilst it is useful that contributions consist of ‘either on-site provision or contribution towards providing or enhancing local health facilities’ HUDU would suggest the document could confirm that any on-site contributions must be progressed following detailed consultation and agreement from the PCT, and be in line with the polysystem approach to facilities management being progressed by the NHS, and current PCT documentation setting out the estates strategy (which may include CLAMS work).</p> <p><b>2.</b> Any agreed on-site contributions should be offered to the PCT at zero or reduced rent. Any premises offered to the PCT at a commercial rent should not be considered contributions.</p> <p><b>3.</b> HUDU suggest that the SPD could benefit from confirming that both capital and revenue contributions are likely to be required to support healthcare facilities , as set out below;</p> <p>a) Revenue to purchase additional activity from Primary and Community care, Acute and Mental Health services until NHS funding allocations include the additional net population generated as a result of the developments; and</p> <p>b) Capital to provide/enhance the physical space in Primary Care, Acute and Mental Health facilities to accommodate the additional activity.</p>	<p>Acknowledged receipt.</p> <p><b>1.</b> Edit text to ‘any on-site contributions must be progressed following detailed consultation and agreement from the PCT, and be in line with the approach to facilities management being progressed by the NHS, and most up to date PCT documentation setting out the estates strategy.’</p> <p><b>2.</b> Include this text.</p> <p><b>3.</b> Officers not comfortable with the Revenue approach however, agree with Capital funding element. Clarify text; Capital to provide/enhance the physical space in Primary Care, Acute and Mental Health facilities to accommodate the additional activity.</p>	<p><b>1.</b> Appendix edited.</p> <p><b>2.</b> Para 3.28 edited</p> <p><b>3.</b> Para 3.28 clarified.</p>
21. 30 <sup>th</sup> March 2010	<b>Capital Shopping Centres</b> (Nathaniel Lichfield and Partners- Alison McCrone).	<p><b>1. Support Appendix 1</b> -the approach of contributions in relation to residential proposals.</p> <p><b>2. Support Para 2.4-2.5</b> —use of conditions and Grampian conditions.</p> <p><b>3. Object Para 2.13</b> – to suggestion that financial contribution for off-site works and longer term projects will be required prior to commencement of development.</p>	<p>Acknowledged receipt</p> <p><b>3.</b> Clarify text to include a reference to a greater flexibility if necessary or confirm that phasing</p>	<p>Inform when SPD adopted.</p> <p><b>3.</b> Para 2.13 text edited.</p>

		<p>Approach will not be appropriate in all circumstances and in a difficult economic climate, imposing an upfront financial burden on developers and undermine deliverability- greater flexibility should be reflected to allow developers to negotiate on phasing of contributions.</p> <p><b>4. Support- 3.4-3.11 and Appendix 1, 2.4.</b></p> <p><b>5. Comments</b> it supports in principle the Town Centre Improvement Fund but stresses that financial contribution must meet tests of 05/05.</p> <p><b>6.</b> Table 1 at Appendix 1 – majority of works would be done by developer plus cost of Council Inspection – accept point in principle but in town centre works there may be many stakeholders, proportionate pooled contributions towards works may be more appropriate.</p> <p><b>7. Object Para 3.31 and Appendix 1 (pages 28-29)</b> to childcare contribution for both training and employment- this is not for developers but training providers, employers and the individuals.</p> <p><b>8. Object Para 3.26-3.28 and page 29 of Appendix- HUDU</b> application to any commercial scheme inappropriate – amend threshold information to say to apply to ‘residential and mixed-use schemes only’.</p> <p><b>9. Para 3.41 and Appendix 1 page 31. Comment –</b> make it clear that developments within the BTC boundary will only be required to provide obligations identified in policy BTC31 in the AAP.</p> <p><b>10.Object Para 3.42 and Appendix 1 page 31 –</b>To avoid double counting the text associated with Major and District Centres should be amended to exclude contributions already sought by virtue of the Bromley Town Centre AAP.</p> <p><b>11. Para 3.43 -3.44 comment –</b> financial contributions sought for public realm improvements in Bromley Town Centre are consistent with priorities identified in policy BTC18 of the AAP and that in all cases the obligations</p>	<p>is negotiable at an early stage.</p> <p><b>5</b> Financial contributions only sought when Circ 05/05 tests met fully.</p> <p><b>6.</b> Pooled contributions are subject to the CIL regulation and application therefore time limited after April 2014; current practice will remain until such time as a local levy exists.</p> <p><b>7.</b> Clarify text to explain where a commercial enterprise provides its own training schemes and thereby provides opportunities ‘in-house’ then there would be no obligation to make further provision, similarly for the childcare provision aspect.</p> <p><b>8.</b> Edit text to read ‘residential and mixed-use schemes only.’</p> <p><b>9.</b> Clarify para 3.41 that developments within the BTC boundary will only be required to provide obligations identified in policy BTC31 in the AAP.</p> <p><b>10.</b> Edit text referring to ‘Major and District Centres’ to read ‘excludes contributions already sought by virtue of the Bromley Town Centre AAP’.</p> <p><b>11.</b> Edit para 3.43-44 that financial contributions sought for public realm improvements in Bromley Town Centre are consistent with priorities identified</p>	<p><b>7.</b> Para 3.31 and Appendix 1 text clarified.</p> <p><b>8.</b> Para 3.28 and Appendix 1 edited.</p> <p><b>9.</b> Clarified text.</p> <p><b>10.</b>Text added.</p> <p><b>11.</b> Text added to para 3.43.</p>
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		<p>sought are directly related to the proposed development.</p> <p><b>12. Para 3.45 and Appendix 1 page 32-</b> Support approach to public art.</p> <p><b>13. Comments Para3.46 and Appendix 1 page 33-</b> Mitigation of environmental impacts on air, soil and water. Proposals should be negotiated on a site by site basis. <b>Para 3.46</b> specifically makes reference to new homes and if the intention of the financial contribution is to cover all developments then this paragraph should be amended to avoid confusion. Where cumulative impacts arise, it is appropriate for financial contributions to be pooled – commensurate with impact of each proposal.</p> <p><b>14. Para 2.15, Appendix 1 page 34 and Appendix 7.</b> Make explicit within text that copy of the legal s106 form is that of an example and that it does not represent a template that parties are expected to adopt.</p> <p><b>15.</b> The interest rate on the sample s106 has a suggested 4% above the base rate; this is onerous and should be negotiated between relevant parties at the appropriate time.</p>	<p>in policy BTC18 of the AAP.</p> <p><b>12.</b> Support welcomed</p> <p><b>13.</b> Amend and clarify para 3.46 and Appendix 1, to reflect on ‘new developments’, and para 3.47 add ‘commensurate with impact of each proposal’.</p> <p><b>14.</b> Para 2.15 – The template referred to is a Council template document that we use. <u>This does not preclude other parties from using their own document when preparing their s106 with the Council.</u></p> <p><b>15.</b> The interest rate level at 4% has been reviewed by the Councils legal team (confirmed June 2010) and will remain, however it is important to note the phrase “from time to time” which indicates re-negotiation of that rate if necessary.</p>	<p><b>13.</b> Text edited.</p> <p><b>14.</b> Para 2.15 text edited.</p>
<p><b>22.</b> 30<sup>th</sup> March 2010</p>	<p><b>Her Majesty’s Court Service</b> (Development Planning Partnership LLP – Amy Jones)</p>	<p><b>1. Comment :</b> HMCS plays a key role in the delivery of safe and secure neighbourhoods and communities, alongside other delivery partners, such as, the Metropolitan Police. Request that document should be amended to include HMCS explicitly in reference to the delivery of required social infrastructure to meet community needs and to support development and growth in the Borough.</p> <p><b>2.Comment:</b> Population and growth places additional pressure on a range of court services, directly requiring existing services to be enhanced or extended. It is appropriate therefore that the cost of such additional</p>	<p>Acknowledged receipt.</p> <p><b>1 and 3.</b> There is no finite list for social infrastructure therefore unable to accommodate this specific request. This is deliberate so that it is not exclusive but HMCS could fall within categories already required.</p> <p><b>2.</b> Any predicted shortfalls should be flagged up through the Bromley Infrastructure Delivery</p>	<p>Inform when SPD adopted.</p>

		<p>requirements is met by development in the Borough, in exactly the same way as other community services are supported. The requirement for contributions to be made through the Borough's prevailing s106/CIL payments regimes accordingly should be recognised in the SPD and emerging LDF Policies.</p> <p><b>3.Request rewording Para 3.29 to –</b> “UDP Community Services Objectives seek partnership with providers to secure the provision of essential facilities (including health, educational, <b>Criminal justice facilities</b>, faith , social service facilities) and enhance the availability of the wide range of community facilities which contribute to the quality of life of the Borough's population. UDP Policy C1 seeks re-provision of facilities lost through redevelopment proposals.”</p>	<p>Plan (IDP) process, which will involve gathering evidence from stakeholders. This process will be undertaken as part of the Core Strategy development and this will provide the HMCS an opportunity to put forward its' strategy.</p> <p><b>3.</b> Policy C1 seeks re-provision of facilities lost through re-development, use of s106 must be strictly within terms of Circular 05/2005.</p>	
<p><b>23.</b> 30<sup>th</sup> March 2010</p>	<p><b>Sainsbury's Supermarkets</b> (Turley Associates)</p>	<p><b>1.Support 1.6-7-</b> that obligations are required on impact of each case, and that on occasion's imposition of conditions is adequate.</p> <p><b>2.Object Para 2.2 + Appendix 1 –</b> to threshold of 'major developments which includes floorspace which is 1,000 sq m or more – if a development falls within the definition of a 'major development ' this should not be a automatic qualification for the Council to apply the identified planning obligations.</p> <p><b>3. Object Para 3.1-3.2 –</b> Notes affordable housing contribution on residential units and recommends that the Council should build some flexibility into the document in relation to affordable housing contributions – in light of the fact the Mayor is reviewing this issue.</p> <p><b>4. Object – Section 2. –</b> document should acknowledge that in specific instances, planning obligations may be a significant factor that affects viability and that where a developer provides robust information regarding viability of schemes, the Council may review the range and nature of obligations.</p>	<p>Acknowledged receipt</p> <p><b>2.</b> Types of obligation are sought only where they are directly related to the proposed development.</p> <p><b>3.</b> Para's 3.1/2 outlines current policy set out in UDP; this will be reviewed as part of Core Strategy. Current policy does allow developers to demonstrate if a lower level of affordable housing should be sought.</p> <p><b>4.</b> Para 2.16 include text 'where a developer provides robust information regarding viability of schemes, the Council may review the range and nature of obligations'.</p>	<p>Inform when SPD adopted.</p> <p><b>2.</b> Appendix 1 heading edited.</p> <p><b>4.</b> Para 2.16 edited.</p>

		<p><b>5. Object Section 3 + plus Appendix 1-</b> that in a number of instances the obligation 'requirement' applies to 'all major developments- whereas contributions must only be sought if they are directly related to the proposed development.</p>	<p><b>5.</b> Clarify heading in Section3 and edit heading of 'requirement' to '<u>Types of obligation sought where they are directly related to the proposed development</u>' in Appendix 1.</p>	<p><b>5.</b> Text edited</p>
<p><b>24.</b> 30<sup>th</sup> March 2010</p>	<p><b>Environment Agency</b> (Susan Sheahan)</p>	<p><b>1. Comment page 22-</b> support the statement 'Council is committed to securing developer contributions towards the improvement of the town centre particularly to the public realm' but would include 'infrastructure, buildings, planting, landscaping, repairs and enhancement' in the list of improvements to the public realm.</p> <p><b>2. Suggest amending Table at Appendix 1,</b> section headed Requirement is re-titled as Types of Obligations Sought.</p> <p><b>3. Page 29-30: Natural Open Space, section 'requirement'</b> – recommend that obligations include 'Information and education, Management and impact surveys.</p> <p><b>4. Page 31: Bromley Town Centre. Section 'requirement'</b> – recommend obligations include: SUDS, Warnings systems and signage, Recreational facilities, including access, signage and landscaping, recycling.</p> <p><b>5. Page 33: under Mitigation</b> - recommend obligations include 'Protection of groundwater quality.</p> <p><b>6.</b> Include text 'protection of groundwater quality 'Bromley has 4 groundwater Source Protection Zones and chalk formation is exposed from the northeast to the south of the Borough- approximately 50% of the total area.'</p>	<p>Acknowledged receipt.</p> <p><b>1.</b> Page 22 – the complete list of improvements to the public realm in the town centre is specifically documented in the Bromley Town Centre Area Action Plan to which this para 3.41 refers the developer.</p> <p><b>2.</b> Section retitled as '<u>Types of obligation sought where they are directly related to the proposed development</u>'</p> <p><b>3.</b> Information and education are included under 'requirement' column but, 'Management and impact surveys' now also included.</p> <p><b>4.</b> Include 'SUDS, Warnings systems and signage, Recreational facilities, including access, signage and landscaping. Recycling would not be considered under terms of Circular 05/2005.</p> <p><b>5.</b> Include 'Protection of groundwater quality' in table.</p> <p><b>6.</b> Add justification text to Page 26.</p>	<p><b>2.</b> Edited.</p> <p><b>3.</b> Edited.</p> <p><b>4.</b> Edited page 35</p> <p><b>5.</b> Edited table p.37</p> <p><b>6.</b> Text added p.26</p>
<p><b>25.</b> 30<sup>th</sup> March 2010</p>	<p><b>The Theatre Trust</b> (Rose Freeman)</p>	<p><b>1. Community Infrastructure – object-</b> there is no mention of 'cultural facilities' in this section.</p>	<p>Acknowledged receipt</p> <p><b>1. Para 3.30</b> edited to delete 'services' &amp; broaden the term</p>	<p>Inform when SPD adopted.</p> <p><b>1</b> Text edited</p>



		<p><b>2. Concern</b> that theatre buildings do not benefit under s106, and that it is necessary to unlock new sources of funding.</p> <p>3. Suggest that the Glossary at Appendix 10 includes a definition of community facilities and recommend 'community facilities provide for the health, welfare, social, educational, spiritual, recreational, leisure and cultural needs of the community.</p>	<p>social to include 'cultural' facilities. This is an area addressed in the Bromley Town Centre Area Action Plan (BTC AAP).</p> <p><b>2.</b> Despite the fact that currently the theatre hasn't directly received s106 monies, the Council acknowledges that Culture and the arts perform an important town centre role. For the future however, the Bromley Town Centre Area Action Plan has acknowledged that the town lacks a strong focus for community activity and the arts and will address this by applying a new policy <b>BTC7 Theatres and entertainment venues</b> - "The Council will encourage proposals to enhance Bromley Little Theatre as a performance venue and community arts facility....."</p> <p><b>3.</b> There is no finite list for social infrastructure. The list is not exhaustive as the nature of social infrastructure evolves.</p>	
<p><b>26.</b> 29<sup>th</sup> March 2010</p>	<p><b>Aperfield Green Belt Action Group</b> (Peter Sibley)</p>	<p><b>Para 1.7 Object:</b> Concern that this section will allow inappropriate development on Green Belt land by developers.</p>	<p>Acknowledged receipt Para 1.7 merely confirms the application of Circular 05/2005 and would not over-ride National, regional and local policy considerations on Green Belt protection.</p>	<p>Inform when SPD adopted</p>
<p><b>27.</b> 31<sup>st</sup> March</p>	<p><b>London &amp; Quadrant</b> (Roger Tym &amp; Partners)</p>	<p><b>Para 3.25 Object :</b> Evidence base for 16-17 year olds is not robust and the policy is not sufficiently flexible.</p>	<p>Acknowledged receipt The figures have been extrapolated from published datasets to provide a Child Yield</p>	<p>Inform when SPD adopted</p>

			which reflects the proportion of Bromley's population aged 16-17yrs. Flexibility is addressed in para 1.24.	
28. 31 <sup>st</sup> March	<b>Linden Homes and Network Rail</b> (Boyer Planning)	<p><b>Support para 1.5 CIL – reviewing SPD</b></p> <p><b>1. Object para 2.13 Timing of Obligations –</b>that financial contributions for off-site works and projects are required by the Council prior to commencement of development. Request that flexibility should be allowed so that payments can be phased in line with provision- particularly in large schemes – because viability could be affected.</p> <p><b>2. Object Para 2.16 Administration and Monitoring –</b> Payments for any third party advice being met by developer. Consider it is important that payments are related to reasonable costs and specific to individual schemes.</p> <p><b>3. Affordable Housing –Paras 3.1-3.2 and Appendix 9.</b> To be consistent with London Plan reference should be made to fact that scheme viability will partly determine affordable housing provision within individual schemes.</p>	<p>Acknowledged receipt.</p> <p><b>1.</b>Because of current economic climate and scheme viability para 2.13 has been clarified to state that <u>unless phasing has been negotiated at an early stage</u>, financial contributions for off-site works and longer term projects will be required to be received by the Council prior to commencement of the development. Therefore payments can be 'phased in line with provision' if negotiated in advance.</p> <p><b>2.</b> Para 2.16 explains that where a <u>'developer provides robust information regarding the viability, the Council may review the range and nature of obligations, and if it is found that independent third party advice is required for that scheme</u>, the costs for this are to be met by the developer', it is accepted that in the circumstances these would be reasonable costs.</p> <p><b>3. Paras 3.1 and 2</b> outlines current policy set out in UDP para 4.21; this will be reviewed as part of Core Strategy. Current policy is flexible and does allow developers to demonstrate if a lower level of affordable housing should be sought. To clarify text add wording from para 4.21 UDP</p>	<p>Inform when SPD adopted</p> <p><b>1.</b>Text edited.</p> <p><b>2.</b> Para 2.16 clarified.</p>

		<p><b>4. Appendix 9 -Clarity</b> is sought re the definition of affordable housing- it is considered that shared ownership should be excluded as it is offered onto the market after the owner has 'staircased' to other forms of market housing.</p> <p><b>5. Object – Appendix 9</b> -the definition of Intermediate Housing being households of incomes to £35,000 is unduly restrictive and does not accord with London Plan.</p> <p><b>6. Object to Appendix 9</b> – free disposal purchased by RSL without direct subsidy suggest amending to incorporate a cascade arrangement whereby the percentage is a function of viability and, indirectly, the availability of grant subsidy.</p>	<p>to para 3.1 that 'material considerations which may indicate otherwise, and para 3.2 that the 'onus would be on applicants to submit a financial viability appraisal to demonstrate that abnormal development costs' in addition to the housing contribution in the context of sales revenue would impact unduly on scheme viability'.</p> <p><b>4.</b> Appendix 9 sets out standard clauses rather than a policy position therefore this is the standard definition of affordable housing and includes shared ownership – set out in PPS3 Annex B.</p> <p><b>5.</b> Draft London Plan proposes income cap of £74k for intermediate products, in LB Bromley, households earning approaching that level could afford to purchase direct from the market. In exceptional cases, regarding the particular mix of units, we would consider higher incomes, but at all times in line with the parameters of the HCA's HomeBuy criteria and other relevant national and regional policy.</p> <p><b>6.</b> This standard clause does not state 'no' public subsidy necessarily, but does go on to the justification needed for any financial appraisal. The emphasis should be on there being no assumption of public subsidy, which is pertinent in a period of tight squeeze on public finances. Adopted Affordable Housing SPD</p>	
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		<p><b>7. Seeks flexibility</b> on the freehold disposal of affordable housing as this should be possible to any RSL rather than approved RSL.</p> <p><b>8. Transport Demand etc para 3.4-3.11</b> refers to policies within BTCAAP, LH&amp; NR seek clarity within the SPD of what these obligations are, to ensure consistency within the LDF itself.</p> <p><b>9. Object – the SPD should clarify where highway works can be delivered on-site</b> – until then LH&amp;NR seek to reserve their position.</p> <p><b>10. Object to Para3 3.12-3.29-30</b> – text for new community infrastructure/facilities is considered to</p>	<p>requires that affordable housing be transferred to an RSL. Para 6.34 does allow for site circumstances giving potential for 999 year lease, or that cascade arrangements may be appropriate.</p> <p><b>7.</b> Guidance in ‘Delivering Affordable Housing’ para 50, promotes spirit of partnership between developer, RSL and LA In relation to housing provider in order to ensure that the housing provider is acceptable to all parties. LB Bromley would not prescribe one RSL to deliver a site- there are several providers that develop housing in Bromley. They have a local presence and management base and this usually helps create cost efficiencies throughout the development process and life of the scheme.</p> <p><b>8.</b> Full details of AAP related obligations are for the AAP and reference must be made to that document, in particular to Policy BTC31 on Developer Contributions.  <a href="http://www.bromley.gov.uk/environment/planning/town+centre+action+plan/">http://www.bromley.gov.uk/environment/planning/town+centre+action+plan/</a></p> <p><b>9.</b> Highway s106 only required on sites where it is necessary, directly related, and fairly and reasonably related in scale and kind to a development. These matters are dealt with on a case by case basis.</p> <p><b>10.</b> Obligations sought in</p>	
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		<p>represent insufficient justification for contributions are sought- LH&amp;NR feel that without robust evidence, sought contributions would fail to meet tests of Circular 05/05.</p> <p><b>11. Object Paras 3.14-25 &amp; Appendix 1-</b> no guidance given in Appendix 1 on <b>costs per nursery place</b> –DCSF do not provide costs –therefore <b>clarification is sought</b> and taken into account and must be proportion of children attending private nurseries and the part-time nature of nursery provision.</p> <p><b>12. Object Para 3.21</b> – further clarification need on criterion (d), statement is considered ‘too vague’.</p> <p><b>13. Object</b> – re <b>calculating child yield</b> – draft SPD <b>fails to take into account ‘other factors’</b>. Examples given are where schools overlap boundaries, social housing residents moving to new development who may be already living in the borough, LB Richmond identified percentage of new social rent education, and finally there is no proof evidence given in para 3.20 for the reported</p>	<p>accordance with Circular 05/2005 tests. Para B15 makes clear that where a development gives rise to the need for additional or expanded community infrastructure, which is necessary in planning terms; “it might be acceptable for contributions to be sought”. This approach has been upheld through various court judgements nationally and locally, (contributions towards social/community/educational facilities) Accepted by the Inspector and the Secretary of State. PINS case ref 2043219 to be found at:  <a href="http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp">http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp</a> .  Additionally Policy C1 seeks the re-provision of facilities lost through redevelopment proposals.</p> <p><b>11.</b> Costs per place for nursery education have been provided by out Children &amp; Young People’s department. The part-time nature of early years provision (i.e. a.m and p.m sessions) has been factored into this figure. The use of private nurseries is also factored in, as set out in new para.3.26.</p> <p><b>12.</b>Para 3.21 addressed by deletion of para (d) and further clarification in criterion (a).</p> <p><b>13.</b> Statistics relating to cross borough pupils are routinely collated by the Council. The calculation has been refined to account for the likelihood of residents being educated out of</p>	<p><b>11.</b> New para 3.16.</p> <p><b>12.</b> Text amended</p> <p><b>13</b> Text and formula amended</p>
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		<p>fact that the Council is a net importer of pupils.</p> <p><b>14. Object -Bromley Town Centre paras 3.41-42-</b> stronger links to this document - identifying contributions and obligations sought then state how these meet the test of the circular.</p> <p><b>15. Clarification paras 3.43-44 – Public Realm and Historic Buildings Improvements.</b> Reference should be made to the fact that where necessary improvements can be delivered on site, no off-site contribution would be sought from the Council.</p>	<p>Borough or in private education. Whilst children moving into social housing may have relocated from other social housing units the result is a net increase in social housing units and increased pressure on education facilities in the area.</p> <p><b>14.</b> This has been addressed by adding a link and further clarification given to BTCAAP.</p> <p><b>15.</b> Include text - where necessary improvements can be delivered on site no off-site contribution would be sought by the Council.</p>	<p><b>14.</b> Link added</p> <p><b>15.</b>Text included.</p>
<p><b>29.</b> 31<sup>st</sup> March</p>	<p><b>Metropolitan Police</b> (CGMS) Alun Evans and Julieanne Saxty</p>	<p><b>1. Object Paras 3.29-3.30</b> –There is no formal definition of ‘Community Strategy’. Furthermore guidance in PPS1 seeks to ensure provision of safe and secure environments, and the London Plan Policy 3A.18 stresses that policing is an integral aspect of social and community infrastructure. Require an additional paragraph inserted between paras 3.30 &amp; 3.31:-In order to ensure continued safety and security across the borough, where appropriate, Major Development may be expected to contribute to policing needs and facilities in order to mitigate against the impact of new development upon policing. Development resulting in the net increase in the number of residents, businesses, commercial, social and leisure activity in an area many increase the need for emergency services and police services. In parts of Bromley police services will already be at capacity. New populations will require additional police services.</p> <p><b>2.</b> Request for the insertion of a new topic area ‘Policing Facilities’ in the Appendix 1- this would be below Community facilities, this would require a contribution towards policing as development has an impact on policing needs of an area.</p>	<p>Acknowledged receipt.</p> <p><b>1.</b> The boroughs “Sustainable Community Strategy” and its relevance to the SPD is adequately set out in paras 1.14 &amp; 1.15. Policing would not be considered under circular 05/05. There may be circumstances under the forthcoming Community Infrastructure Levy where such a police contribution may be sought.</p> <p><b>2.</b> ‘Policing Facilities’ is not explicitly set out in Policy IMP1 (although this list is not exhaustive) however this heading or similar as a topic area may come forward in the Core</p>	<p>Inform when SPD adopted</p>

			Strategy development. Note Policy C1 seeks the re-provision of facilities lost through redevelopment proposals. Any contributions must be justifiable in the context of the circular.	
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**APPENDIX 2**



**Draft**  
**Supplementary**  
**Planning**  
**Document**

**Planning Obligations**

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## 1. Introduction

### Background

- 1.1 The main aim of this document, is to explain and provide non-statutory guidance on the Council's general approach to planning obligations, and where possible the requirements, and mechanisms for infrastructure contributions. This is in accordance with Bromley Unitary Development Plan (UDP) July 2006, and the London Plan (2008). This guidance supplements the policies of the Bromley UDP, which were extended on Direction of the Secretary of State in July 2009. Until such time as policies are replaced through the Local Development Framework (LDF), the UDP will remain the statutory planning document for development management purposes.
- 1.2 A Formal public consultation took place in February and March 2010 ~~will be carried out on the document~~, in accordance with Planning Policy Statement 12 (PPS12) and the Statement of Community Involvement (SCI). During this time comments from a range of interested parties and key stakeholders were ~~will be~~ sought. All comments received were ~~will be~~ reported to the Council's Development Control and Executive Committees and changes to the document ~~may be~~ were made in light of response received and ~~Following consultation,~~ comments made. ~~The~~ guidance will be adopted for development management purposes, forming part of the Council's Local Development Framework (LDF) and will be a material planning consideration in the determination of planning applications. The document has been prepared in line with the requirements of the Planning and Compulsory Purchase Act 2004, associated regulations and guidance.
- 1.3 Planning obligations are private agreements negotiated, usually in the context of planning applications, between the Council and persons with an interest in a piece of land. They are intended to make acceptable development that would otherwise be considered unacceptable in planning terms. They can be used to prescribe the nature of a development, for example requiring that a given proportion of housing is affordable. A planning obligation can mitigate the impacts of proposed new development, or secure a contribution from a developer to compensate for the loss or damage created by the development. There may be significant financial implications and developers, applicants and their agents will therefore need to take this guidance into account when seeking planning permission and landowners will need to consider its implications when contemplating the disposal of their land. Planning obligations relate to a planning permission but are also attached to the land and registered as a local land charge. This means that contributions cannot only be enforced against those who entered into it but against anybody who gains title to the land. This ensures that if land is sold with a planning permission and related planning contributions, those contributions can be enforced against the new owner(s) of the land i.e. successors in title.

- 1.4 The Barker report on Housing Supply in March 2004 recommended the introduction of an explicit tax on development gains, instead of extending the powers of s106 agreements. The tax was known as the Planning-gain supplement (PGS) – to be levied nationally on the increase in land value resulting from the grant of planning permission. The scheme was to be administered through the HM Revenue and Customs (HMRC). Consultation followed but the proposal did not gain support. In the Pre-budget Report of October 2007, the Government announced the replacement of PGS by a planning charge and increased spending on infrastructure. The Planning Act 2008 (Dec) then enabled the planning charge which is called the Community Infrastructure Levy (CIL) and unlike PGS will be collected locally. ~~A Commencement Order came into effect on 6 April 2009; Local Planning Authorities can start preparatory work for developing a 'charging schedule'.~~
- 1.5 ~~The Government consulted in October (2009) on detailed proposals and draft regulations for the introduction of the CIL as a general charge. Local Planning Authorities (from April 2010) can choose to set CIL on most types of new development. CIL is designed to help fund infrastructure identified through a local Community Infrastructure Delivery Plan (CIDP). Until such time as an CIDP is available and a Charging Schedule is produced through the Core Strategy programme, this Council we will continue to apply the current national, regional and local policy regarding planning obligations. Therefore it is envisaged that this guidance will be reviewed as appropriate in the light of any future changes in legislation, experience of the process and local circumstances.~~

### Legislation and National, Regional, and Local policy guidance.

- 1.6 The facility to enter into a negotiated planning obligation using section 106 of the 1990 Town and Country Planning Act ~~will and remains when~~ now that CIL regulation is has been introduced. The facility is restricted to the terms of the Circular 05/2005 on Planning Obligations which clarifies existing policy, and aims to streamline the system of negotiated agreements aligning the planning obligations with the system of spatial planning established by the Planning & Compulsory Purchase Act 2004. ~~The circular will be become statute when the final CIL regulations are published in April 2010. The Government intends that from 2012~~ 2014 onwards there will be a scaling back of s106 to restrict its use and to this chiefly affects tariff or standard charges, where monies are pooled. Whilst this Council uses formulae for specific obligation areas it does not use tariff or standard charges in areas where there is pooling this would remain until April 2014 or such time as a Community Infrastructure Levy Schedule is adopted.
- 1.7 Circular 05/2005 requires that planning obligations are *'intended to make acceptable development which would otherwise be unacceptable in planning terms'*. They should be used to ensure the development complies as far as practical with local, regional and national planning

policies. Where there is a choice to make a development acceptable through a planning condition or a planning obligation, the imposition of a condition is preferable.

- 1.8 The Secretary of State's policy requires, amongst other factors, that planning obligations are only sought where they meet all the following tests (Circular sets out (at paragraph B5) five policy tests):
- Relevant to planning;
  - Necessary to make the proposed development acceptable in planning terms;
  - Directly related to the proposed development;
  - Fairly and reasonably related in scale and kind to the proposed development; and
  - Reasonable in all other respects.

In addition, Regulation 122 of the Community Infrastructure Levy (CIL) Regulations, which came into force on 6 April 2010, makes it unlawful for a planning obligation to be taken into account in determining a planning application for a development, or any part of a development, that is capable of being charged CIL, whether there is a local CIL in operation or not, if it does not meet the three tests set out in Regulation 122. These statutory tests are based upon three of the five policy tests in Circular 5/2005 at paragraph B5.

- Necessary to make the proposed development acceptable in planning terms;
- Directly related to the proposed development;
- Fairly and reasonably related in scale and kind to the proposed development
- 

At such time as a CIL Schedule is adopted, Regulation 123 will ensure that the use of Planning Obligations and CIL do not overlap. This regulation has affect that from 6 April 2014 and locally on the date a first schedule takes effect that the authority will no longer be able to seek more than five individual planning obligation contributions towards infrastructure that is capable of being funded by CIL.

- 1.9 Planning is required to be more spatially aware, ensuring sustainable development as set out in Planning Policy Statement (PPS) 1: Delivering Sustainable Development and PPS 12; Local Spatial Planning. The approach is intended to enable the necessary social, physical and green infrastructure to ensure sustainable communities are delivered.
- 1.10 PPS1 encourages sustainable development to be treated in an integrated way during the creation of development plans. It encourages planners to take full account of the need for transparency, information and participation. It recognises the potential adverse impact that proposed development may have on people who do not directly benefit

from development. It recognises this is an area where planning obligations can be used to ameliorate such impacts.

- 1.11 PPS12 requires planning to go beyond the traditional land use planning role and take into consideration other plans and projects not previously considered.

### **London Plan Consolidated with Alterations since 2004 (February 2008) and Draft London Plan (DLP) Oct 2009**

- 1.12 The London Plan (February 2008) Spatial Development Strategy for Greater London, is the statutory development plan for the region. The guidance in this SPD is prepared in accordance with policies 6 A.4 *Priorities in Planning Obligations*, and 6 A.5 *Planning Obligations* of the this current London Plan.

- 1.13 In the London Plan (2008) the Mayor's priorities for planning obligations are that "...affordable housing and public transport improvements, should generally be given the highest importance with priority also given to tackling climate change, learning and skills, health facilities and services, and childcare provisions". In the draft London Plan October 2009 it is stated that in addition to these priorities will be "small shops" (DLP Policy 8.2). The Mayor, when considering planning applications of potential strategic importance will always consider the content and existence of any planning contributions.

## **Local Plans**

### **Sustainable Community Strategy**

- 1.14 "Building a Better Bromley"- 2020 Vision (March 2009), is the Boroughs Sustainable Community Strategy setting out Bromley's long-term comprehensive strategy to preserve and enhance an environment in which people can improve their well-being. The 'Building a Better Bromley 2020 Vision' centres on eight key themes:

- A safe place in which to live
- A quality environment
- Helping Bromley's children and young people achieve their potential
- Promoting independence and health
- Future housing
- A prosperous and thriving borough
- Involving communities and citizens; and

- Public service partnership

1.15 Planning obligations may be required to ensure development proposals are aiding the Council's efforts in achieving some of the priorities and targets outlined in this strategy. The table below sets out the linkages between seven of the “2020 Vision” themes and planning obligation topic areas.

Sustainable Community Strategy	SPD on Planning Obligation topic areas
Children and Young People	Education, Outdoor recreation and leisure, Public realm improvements
Safer Communities	Public realm improvements
Independence and health	Health and Community facilities
Involving communities and citizens	Health and Community facilities, Natural open space, Outdoor recreation and leisure
Quality Environment	Natural open space, Outdoor recreation and leisure, Mitigation of impacts on air, soil and water, Public realm improvements, and Public Art, World Heritage Site, and Archaeology
Future Housing	Affordable housing
Prosperous and thriving borough	Bromley Town Centre, Major and District Centres, and Employment

### Unitary Development Plan (UDP)

1.16 The Council’s overarching policy on planning obligations is set out in **Policy IMP1 Planning Obligations** of the UDP 2006. When considering planning applications ***‘the Council will, where appropriate, seek the attainment of planning obligations in accordance with Government guidance’***. The Council’s objective is to deliver sustainable development and ensure that social and environmental benefits are achieved through the proper use of planning obligations in regeneration and new development proposals. The Council will not accept that the provision of a planning obligation is a reason for granting permission nor will the absence of a planning obligation, in itself, constitute a reason for refusal.

1.17 In developing policies in the UDP 2006 earlier drafts were subject to a rudimentary Sustainability Appraisal during the deposit stages. Therefore, in addition to IMP1, other relevant policies are indicated in this document purely as a guide and are listed beneath each topic heading in Section 3.

### Objectives of this guidance

- 1.18 Following guidance in Circular 05/2005 the overall objective of this local guidance is to:
- Clarify the topic areas for which planning obligations may be sought and any methodology for calculating the amount of these obligations, and to explain associated procedures.**
- 1.19 This guidance provides the development industry, the community, land owners and the Council with a vehicle to identify the likely planning obligations that a proposal will generate, attributed to its impact, at an early stage in the proposal formulation process. Acknowledgement and preparation for the required planning obligations should be integral to negotiation of land transactions and the formulation of development proposals. Planning obligations will be sought on developments when they reach the various thresholds detailed in Appendix 1. Each topic area is explained in more detail in Section 3 of this document.
- 1.20 This guidance provides the basis for the negotiation of contributions by setting out the following:
- the broad range of likely contributions that may be sought, why these may be required;
  - the types of developments that would be subject to planning obligations, in terms of their scale, nature, uses proposed and their location;
  - the calculation of any financial contributions and use of formulae and
  - general principles relating to the consideration of such matters as on-going maintenance, legal costs, the pooling of contributions and the possible alternative use of conditions attached to planning consents.
- 1.21 The Council will expect developers to enter into discussions on potential planning obligations ~~requirements~~ with Council officers as soon as possible, prior and during the pre-application stage. The Heads of Terms of any planning agreement will need to be finalised before applications are reported to elected members. These early discussions and decisions are crucial to avoid lengthy finalisation of any legal agreements and to ensure the application remains within statutory timeframes.
- 1.22 In addition to this document any development briefs or area action plans produced by the Council should also be considered as these may refer to specific requirements.
- 1.23 The potential obligations requirements included in the guidance and explained in the document are not exhaustive; other requirements may arise in specific circumstances, which are not mentioned, but are referred to in the policies in the UDP. Importantly the guidance thresholds and calculations in Appendix 1 ~~are not rigid and~~ are intended to be used as a starting point in the negotiation process.



- 1.24 Developers should note that **not all** of these policy requirements obligations may be required for every scheme and a level of priority will be applied. Current Council priorities for planning obligations are Affordable Housing, Education, Health, and Highways. Policy obligations should be reflected in land values from the outset and thus should not threaten scheme viability however, the market situation will be taken into account and the impact of contributions on scheme viability will be considered, particularly in respect of the provision of affordable housing. Where a planning obligation is identified as being relevant necessary, the Council will expect the developer to acknowledge the policy, and offer some rationale for their proposal.
- 1.25 This guidance will be reviewed and regularly updated to reflect changes in Government policy and guidance, costs, including changes to the Council priorities or as service area obligation needs are met. It will be important for users of this document to ensure that they have the most up-to-date version of the Appendix 1.

## 2. General Principles

### Thresholds

- 2.1 New developments create varying impacts on the provision of services and facilities. As a general rule the greater the scale and complexity of a development, the greater its scale and range of impacts. All stakeholders should be aware of the Council's likely planning obligations' requirements prior to the application stage of the development.
- 2.2 The table in Appendix 1 lists the range of commonly required planning obligations and their relationship to the scale and impact of the development. The most used threshold in the table is that of 'Major Development'. This is defined in the General Development Procedure Order 1995 as development involving one or more of the following:
- (a) the mining or working of minerals or the use of the land for mineral working deposits;
  - (b) waste development;
  - (c) (i) the number of dwellings to be provided is 10 or more; or  
(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within paragraph (c) (i);
  - (d) The provision of a building or buildings where the floor space to be created by the development is 1000sqm or more; or
  - (e) Development carried out on site having an area of 1 hectare or more.
- 2.3 If it is identified that a proposed development is not maximising the use of a site to avoid an obligation threshold, the Council will seek obligations from the development, which reflect the appropriate or full use of the land. Likewise, where it is identified that a potentially large development proposal or site has been split into smaller applications in order to be under obligation thresholds, the Council will require that, for the purposes of planning obligations, all the individual proposals are treated as single or whole.

### Conditions

- 2.4 Most planning applications will not require an obligation. There are many developments where planning conditions can adequately deal with on-site works and even the provision of works or facilities outside the application site. This may be achieved through the imposition of a condition preventing the occupation or commencement of a development until the works or facilities in question have been provided (such conditions are known as Grampian Conditions). When considering applications, the Council will consider whether planning conditions can adequately control all direct and indirect impacts of the development and

secure the desired benefits before it decides that a planning obligation is necessary. The circumstances where an obligation will be required will be determined by the precise merits of the case, taking into account the location, scale and nature of the proposal. Pre-application discussion will be particularly useful in giving consideration as to whether an obligation is likely to be required.

- 2.5 Negotiations for all planning obligations will be undertaken by a Council planning officer and where appropriate assisted by officers representing various other service areas.

### **Unilateral Undertakings**

- 2.6 Planning obligations made under s.106 of the Town and Country Planning Act may be entered into by agreement with the Borough Council (commonly known as 's.106 agreements') or unilaterally.

- 2.7 Unilateral undertakings are legal agreements which bind only one party, usually the developer, to undertake planning obligations that do not have to be negotiated and can be volunteered. Unilateral undertakings are suitable for simple contributions. Unilateral undertakings are also appropriate in the case of appeals to the Secretary of State for schemes which the Council considers unacceptable or where agreement cannot be reached. In addition, where it is possible for a developer to determine the likely requirements in advance, developers will be encouraged to submit a unilateral agreement with their application.

### **Formulae**

- 2.8 The Circular 05/2005 on Planning Obligations encourages local authorities to employ formulae where appropriate. The Circular advises these are to be consistent in their application and must still meet the Secretary of State's necessity tests (para 1.8). Formulae will be used for Education, and Health planning obligations, details for which is clarified in Section 3.

### **Maintenance Payments**

- 2.9 The Circular 05/2005 advises that where contributions are secured through planning obligations towards the provision of facilities which are predominantly for the benefit of the users of the associated development, it may be appropriate for the developer to make provision for subsequent maintenance (i.e. physical upkeep). Such provision may be required in perpetuity. However, if the facility is to be used by the wider public, the costs of maintenance and recurrent expenditure would be borne by the Council. Ongoing maintenance costs should only be for the time between completion and inclusion in the public sector funding streams, not for

perpetuity. The Council will seek agreement on the type of payments to be made on for example a capitalised sum, with a clear audit trail.

### **Pooled Contributions**

- 2.10 Circular 05/2005 advises that pooling of contributions can take place both *between developments and between local authorities where there is a cross-authority impact*. The Council has already set up a capital fund known as the Town Centre Improvement Fund to hold relevant s.106 contributions which directly refer to town centre environments or local economy matters. This practice will continue until April 2014 or such time as a Community Infrastructure Levy Schedule is adopted that could, subject to Member agreement, be re-invested as appropriate in the Borough's larger town centres towards identified projects once any improvement plans have been approved. The Council will demonstrate a direct relationship between a proposed development and the infrastructure provided in the light of CIL regulations.
- 2.11 When any such contributions are requested, the Council would set out in advance any need for joint supporting infrastructure (for specific requirements of the Bromley Town Centre developers should refer to the Bromley Town Centre Area Action Plan). There would be a clear audit trail between the contribution made and the infrastructure provided and the Council would account to the developer for the initiatives on which the contributions are spent. Any unspent balance monies, together with interest, would be returned to the developer.
- 2.12 Pooled contributions can also be sought from developments which are permitted after the infrastructure has been provided where the policy tests are met and the need for the infrastructure and proportionate contributions to be sought is set out in advance (Circular 05/2005 Para 23 refers).

### **Timing of Obligations**

- 2.13 Infrastructure works and highway improvements directly associated with the development are normally required to have been carried out prior to occupation. Unless phasing has been negotiated at an early stage, financial contributions for off-site works and longer term projects will be required to be received by the Council prior to commencement of the development.

### **Administration and Monitoring**

- 2.14 The Council has an established process for recording and monitoring Section 106 agreements, including a database with the details of all agreements. The monitoring costs for this service are provided in Appendix 1 and are based on the extent of the obligations and the officer time involved in monitoring the agreements. Please contact the

Council's s.106 Monitoring Officer for information on any particular agreement; telephone number 020 8313 4345.

- 2.15 Appendix 6 outlines a flow chart showing the various stages of the procedure pre and post legal agreement. Following either Development Control or Plans-Sub Committee's decision, the drafting of the agreements is undertaken by the Council's Legal Services Division. A sample of a s106 precedent is attached at Appendix 7, this does not preclude other parties from using their own document when preparing their s106 agreement with the Council. Developers will be required to pay the legal costs expended in the preparation of the agreement (see Appendix 1) and any associated costs for the monitoring of planning obligations. In addition to assist with accurate monitoring of s.106 agreements developers/applicants are asked to complete a 'Notification Form' (see Appendix 8) and return this to the Council. ~~with the necessary information on.~~
- 2.16 If issues of viability of a scheme arise during negotiations and a developer provides robust information regarding the viability, the Council may review the range and nature of obligations and if it is found that ~~and~~ independent third party advice is required for that scheme, the costs for this are to be met by the developer.

### **3. Topic areas for which obligations should be sought where they are directly related to the proposed development.**

#### **Affordable Housing**

SPD on Affordable Housing

H2 Affordable Housing

H3 Affordable Housing – payment in lieu

- 3.1 In support of the Community Plan, in line with the Supplementary Planning Document (SPD) on Affordable Housing (March 2008) <http://www.bromley.gov.uk/NR/rdonlyres/59865160-EC74-4451-AF27-1B03346BDBAB/0/AffordableHousingSPDMarch2008.pdf> and Policy H2 of the UDP (2006) affordable housing will be sought on all housing sites capable of providing 10 units or more or on sites of 0.4ha or more. On all sites at or above this threshold the Council will seek to negotiate 35% of habitable rooms for affordable housing purposes unless material considerations indicate otherwise; with 70% of that provision for social-rented purposes and 30% for intermediate housing (that can consist of, shared ownership, low cost home ownership or sub market rented housing) unless it can be demonstrated that a lower level should be sought or that the 70:30 split would not create mixed and balanced communities. For further detail refer to Para 6.24 of the Affordable Housing SPD.
- 3.2 Policy H3 specifies that where a site meets the size threshold and is suitable for affordable housing, payment in-lieu of affordable housing on site or provision in another location will be acceptable only in exceptional circumstances, and where the applicants can provide robust evidence to demonstrate that it would be impractical to transfer the affordable housing to a Registered Social Landlord (RSL) Provider; on-site provision of affordable units would reduce the viability of the development to such a degree that it would not proceed; on-site provision of affordable units would not create mixed and balanced communities; and there would be benefit in providing such units at another location. The applicant will be required to submit a full Financial Viability Appraisal that will be independently assessed by a RICS accredited organisation, appointed by the LA and paid for by the applicant. The FVA will be assessed to consider the extent to which abnormal development costs, in addition to the affordable housing contribution, would impact unduly on scheme viability. Para 6.24 of the Adopted Affordable Housing SPD states that particular development costs will usually be reflected in land values. See Appendix 9 for the Affordable Housing Definitions and Interpretations and the Affordable Housing Schedule.

#### **Transport Demand, Highway Works, Public Rights of Way and Travel Plans.**

T1 Transport Demand

T2 Assessment of Transport Effects

T6 Pedestrians  
T7 Cyclists  
T9 Public Transport  
T10 Public Transport  
T15 Traffic Management  
L2 Public Rights of Way and other Recreational Routes  
Bromley Town Centre Area Action Plan

- 3.4 Policies within the Transport section of the UDP set out the Council's requirements regarding transport provision. These policies generally seek to reduce the need to travel, to ensure that there is access to a choice of travel mode and to integrate transport and land use. They also seek to ensure safe and convenient access for pedestrians, cyclists and public transport users who, in policy terms, have priority over access by the private car. Transport Policies in the UDP and Bromley Town Centre Area Action Plan BTC31, Developer Contributions <http://www.bromley.gov.uk/environment/planning/town+centre+action+plan/> (submitted for inspection November 09 adopted November 2010) allow for obligations for appropriate works to be undertaken, as an example these could be seeking improvements to public transport interchanges, up-grading cycle routes, cycle parking stands, provision for electric vehicle charging, variable messaging signs, travel plans (non-residential and residential), or if the proposal was in the town centre the obligation could be for contributions to the Town Centre Improvement Initiative Fund to help achieve these types of objective.
- 3.5 When mitigating the impact of a development, Circular 05/2005, cites as an example that, if a proposed development is not acceptable in planning terms *due to inadequate access or public transport provision, planning obligations might be used to secure contributions towards a new access road or provision of a bus service, perhaps co-ordinated through a Travel Plan*. Travel Plan guidance can be found in the TfL (Transport for London) Travel Plan Best Practice Guidance. Travel planning is not exclusively for non-residential developments. The Public Transport Accessibility Map for Bromley reproduced at Appendix 2.
- 3.6 All new development may have transport implications. For schemes with significant transport implications a Transport Assessment will be necessary to help assess the impact of the development on its surroundings and what works may need to be undertaken to help overcome any detrimental impact the development will have. Any applications referred to the Mayor must adhere to the current Transport Assessment Best Practice Guide issued by TfL.
- 3.7 Where it is identified that off-site highway works are necessary to facilitate the development, these will be secured through an obligation (or through uses of conditions if more appropriate). The developer will be required to either carry out these works directly or meet the Council's costs in doing so. For any major development the impact of development may go further than the highway network and require mitigating the impact on the public transport network either individually or through pooled obligations (until 6<sup>th</sup> April 2014 under CIL regulation).



- 3.8 Where development is likely to have an impact on the strategic road network, it may be appropriate for the developer to contribute towards major highway schemes identified in the Local Implementation Plan. In such circumstances, appropriate proportional contributions will be sought. Where a development impacts on the TfL Road network, the applicants will be required to carry out any works directly or meet Transport for London's costs in doing so. This may be in addition to any highways schemes identified through the Local Implementation Plan.
- 3.9 Where appropriate, and demonstrated through the Transport Assessment, developers may be required to contribute to additional public car parking, traffic calming or traffic management measures. Construction management, and Service and Delivery Plans may also be secured through obligations.
- 3.10 It should be noted that an obligation involving highway works may also need to refer to the provisions of Section 278 of the Highways Act 1980 that enables landowners to make financial contributions towards carrying out highway works.
- 3.11 Development affecting a Public Right of Way will be dealt with on a case by case basis. Planning permission will not be granted for development affecting a Public Right of Way, unless the proposals include either the retention or diversion of the Right of Way. Contributions will depend on the scale and impact of the development.

**Community Infrastructure:**

- C1 Community Facilities and objectives  
C2 Community Facilities and Development

- 3.12 The White Paper "Planning for a Sustainable Future" (2007), highlights that the provision of local infrastructure, including schools, health and social care facilities, and other community facilities are essential to the creation of thriving, healthy sustainable communities" (para 1.11) The White Paper suggests that, without the right infrastructure in place, at every level, our quality of life – individually and collectively – will diminish, and that improving infrastructure provision is vital for unlocking housing growth (para 1.14). The Housing Green Paper (2007) also stresses the importance of access to good schools, healthcare, transport and other community facilities, adding that "Local authorities can often agree how such facilities are provided as part of the planning process, ensuring a fair contribution by developers to the local infrastructure." (Chapter 5 para 1)
- 3.13 The London Plan <http://www.london.gov.uk/thelondonplan> Mayoral Best Practice Guidance "Health Issues in Planning" (June 2007) <http://www.london.gov.uk/mayor/strategies/sds/bpg-health.jsp> looks at the wider determinants of health and indicates how positive health improvements can be achieved through the use of s.106 agreements to



address shortfalls in community infrastructure. Community infrastructure topic areas below support the priorities of the Bromley Community Plan.

### **Education**

C1 Community Facilities, and objectives

C7 Educational & pre-School Facilities

- 3.14 Planning contributions will be expended on capital investment for providing additional educational capacity across the borough in line with the Councils education investment strategies.
- 3.15 ~~The Government's "Every Child Matters: Change for Children" agenda sets out the new approach to the well being of children, based on~~ The legislative framework is set out in the Education Act 2002, the Children Act 2004, and the Child Care Act 2006. ~~This whole system reform of childrens' services,~~ includes the entitlement to 15-hours a week free nursery education for all 3 and 4 year olds, and places on local authorities the requirement to produce "Childcare Sufficiency Assessments" and develop "Childrens Centres". These assessments will be used to identify areas where contributions to nursery infrastructure development is required by this SPD,
- 3.16 Childcare & early education provision is met in a variety of settings, including through private day nurseries, nurseries linked to schools and through the programme of "Childrens Centre" development.
- 3.17 In support of the Community Plan the authority's policy with regard to primary school provision is that parents should be able to access a place for their child in a nearby local school and maintain a 5% spare capacity. This policy is designed to meet parental demand and to be the most sustainable pattern of school provision. The numbers of births have been steadily increasing since 2001 placing significant pressure for places at primary schools in the Borough. Additionally new housing developments will further increase the pressure in some areas, particularly around central Bromley.
- 3.18 The pattern of primary school provision is considered through reviews of the Primary Schools Development Plan. These reviews (or subsequent primary provision strategy documents) will be used to identify areas where contributions to education infrastructure development are required by this SPD. Some proposals to address shortfalls and ongoing enhancements to the primary infrastructure may be identified in the Primary Capital Programme. Contributions will be sought in areas identified as having expansion need within the Primary School Development Plan review, even if specific schemes have yet to be set out in the Primary Capital Programme.
- 3.19 There is continued pressure on secondary school places across the Borough as Bromley's secondary schools adapt to meet the demands of the National Curriculum, including the 14-19 reforms. Bromley's

Strategy for Capital Investment in Secondary Schools Sept 2008 (“Secondary Strategy for Change”) included an “Assessment of Capacity, suitability, condition and identification of improvements”. Section 106 contributions will be sought to meet the pressures identified in the Strategy document which new development will exacerbate. Ongoing update reports to the Investment Strategy set out the prioritised schemes.

3.20 Catchment areas for secondary schools are broad with pupils travelling across the Borough to access school places, additionally children cross borough boundaries: Bromley is a net ‘importer’ of pupils who are resident in adjoining Boroughs. New housing developments will add to existing pressures. Primary and secondary schools are also experiencing increased pressure as a result of a recession related shift away from private sector education.

3.21 The Council will seek contributions for educational provision from all major residential developments;

(a) Where the development is located in an area where the Childcare Sufficiency Plan identifies a shortage of pre-school provision, and or the impact of the development would lead to a shortfall such that a 5% spare capacity cannot be maintained.

(b) Where the development is located in an area where there is an identified shortage of primary school places, and

(c) Where the development will place pressure on places in secondary education, such that the 5% spare capacity across the education sector, necessary to provide choice, cannot be maintained within a 3mile radius (as the crow flies), and

~~(d) Where the size of the development creates a significant impact on the pattern of educational demand.~~

3.22 Education contributions will be calculated by multiplying the likely child-occupation generated by a particular development (see child yield information below) by the cost per pupil place (with locational factor). The current cost per place data for primary, secondary and 16 – 17 yrs is set out in Appendix 1, but note this information is subject to change over time and the up to date Department for Children, Schools & Families (DCSF) annual data on the cost-multiplier per pupil place in schools (and locational factor) is found at :

<http://www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/schooldesign/costinformation/>

<http://www.teachernet.gov.uk/docbank/index.cfm?id=10463>

Cost relating to capital investment in early years education will be has been determined on the advice of the Councils Children & Young People department. The figure of £8,141 has been derived on the basis of 5 recent schemes including new builds, extensions and refurbishments.

- 3.23 Developments of purely one bedroom flats, and also specialist accommodation e.g. for elderly persons will normally be excluded from calculations.
- 3.24 There is no single reliable child yield figure estimating the number of children who will live in new housing developments, which can be applied across the board to all housing types & tenures. This document uses three child yield datasets put forward in two recent DMAG (Data Management and Analysis Group) publications.
- Oxfordshire New Housing Survey (2004) -(DMAG “Child Yield” Briefing 2005/25)
  - London Housing Survey 2002 (DMAG “Child Yield” Briefing 2005/25)
  - “Child Occupancy of New Social Housing” (DMAG Update 2006/11)
- 3.25 Neither the Oxfordshire nor the London Housing Survey datasets provide a yield for 16– 17 yrs, or 3- 4 yrs. This has been remedied as follows
- The 1991 Census indicates that 40.6 % of children aged 0 - 4 yrs are aged 3 & 4 yrs hence a child yield figure can be extrapolated.
  - Using the known progression between the 11-15 and 16-17 age groups in “Child Occupancy of New Social Housing” it is possible to extrapolate a reasoned 16-17 child yield progression for the Oxfordshire and London Housing Survey datasets.
- DMAG Briefing Child Yield 2005/25 suggests that the child yield by age in Oxfordshire taken from a large survey with a good response rate may be appropriate for developments of houses rather than flats in Outer London Boroughs.

**Child Yield (Private Houses)**

Age	Number of Bedrooms			
	1	2	3	4+
0-4	0.03	0.17	0.31	0.41
3-4 (extrapolated)	0.01	0.07	0.12	0.16
5-10	0.01	0.08	0.21	0.41
11-15	0.01	0.13	0.13	0.15
16-17 (extrapolated)	0.00	0.08	0.05	0.04

(Oxfordshire New Housing Survey)

- There are the significant numbers of flatted developments within particular parts of Bromley, notably Bromley Town Centre. For flats it is therefore considered more appropriate to rely on the London Housing Survey 2002 which reflects a more urban form of development. This data indicates the same or reduced child yield as the Oxfordshire Survey in all circumstances other than 1 bed flats.

**Child Yield (Private flats)**

Age	Number of Bedrooms			
	1	2	3	4+
0-4	0.04	0.08	0.15	0.23
3-4 (extrapolated)	0.02	0.03	0.06	0.09
5-10	0.01	0.08	0.21	0.35
11-15	0.00	0.06	0.14	0.28
16-17 (extrapolated)	0.00	0.04	0.05	0.08

(London Housing Survey 2002 Inner London Owner Occupied)

- DMAG Update “Child Occupancy of New Social Housing” 2006/11 provides recent data in respect of the social housing element of affordable housing.

### Child Yield (Social Housing)

Age	Number of Bedrooms			
	1	2	3	4+
0-4	0.20	0.64	0.62	0.41
3-4 (extrapolated)	0.08	0.03	0.25	0.16
5-10	0.00	0.23	0.74	1.22
11-15	0.00	0.08	0.47	1.29
16-17 (extrapolated)	0.00	0.05	0.17	0.37

(DMAG Update “Child Occupancy of New Social Housing” 2006/11)

- 3.26 Schools in Bromley are extremely popular, however, some children will be educated privately or across the boundary in neighbouring boroughs. Currently 94% of children born in the Borough subsequently enter Bromley schools at reception. In respect of secondary education the figure is 85%. It is therefore appropriate to attach a factor of 0.94 to nursery and primary child yield and 0.85 to Secondary and Post 16 child yield at the current time. Advice will be taken from the Council’s Children and Young People department about changes to these figures overtime.

### Health

- C1 Community Facilities and objectives
- C2 Community Facilities and Development
- C4 Health facilities

- 3.27 Policy IMP1 identifies the provision of community, health, and leisure resources as examples of appropriate planning obligations.

- 3.28 The London Plan (Policy 2A.1) advises that, in considering planning applications referred to him, the Mayor will ensure that development takes account of existing or planned infrastructure including community infrastructure such as schools and hospitals. The London Plan also advises that the spatial needs of London’s diverse population should be addressed, existing facilities that meet the needs of particular groups should be protected and, where shortfalls have been identified, policies should seek measures to address them proactively.

- 3.29 The NHS London Healthy Urban Development Unit (HUDU) has devised a process for identifying the impact that residential and mixed se developments have on the capacity of health services, and the associated cost of ameliorating this impact. The Council, in coordination with the Bromley Primary Care Trust (PCT), will identify if a residential or mixed use development is likely to create a demand for ~~new~~ additional facilities or services. The Council's preferred way to gauge this demand is to use the NHS HUDU s106 Model for 'planning contributions and health' at <http://www.healthyurbandevelopment.nhs.uk>. This model calculates Revenue and Capital financial contributions which may be required after assessment of the likely impact from the development. The Council, on behalf of the PCT, would seek the Capital element only in a s106, monies to enhance health services to provide the necessary financial support. provide/enhance the physical space in Primary Care, Acute and Mental Health facilities to accommodate the additional activity until mainstream funding kicks in demand. Any agreed on-site contributions should be offered to the PCT at zero or reduced rent. Any premises offered to the PCT at a commercial rent would not be considered contributions.

### **Community Facilities**

C1 Community Facilities and objectives  
C2 Community Facilities and Development

- 3.30 UDP Community Services Objectives seek partnership with providers to secure the provision of essential facilities (including health, educational, faith, social ~~service~~ facilities) and enhance the availability of the wide range of community facilities which contribute to the quality of life of the Borough's population. Provision of community facilities will be based on a case by case basis. UDP Policy C1 seeks the re-provision of facilities lost through redevelopment proposals.
- 3.31 The London Plan (Policy 3A.25) advises that for Major developments (as defined by the London Plan) local neighbourhood needs, identified by local community organisations and other local partners, should be used as a basis for negotiating local community benefit from development, including s106 agreements. The "identified needs" in Bromley will be set out in advance (in accordance with Circular 05/2005 para B21) in plans or strategies of the Council or Local Strategic Partners. The likelihood of a contribution towards particular infrastructure being required in particular areas will be set out in other LDF documents, including for example the Core Strategy, Area Action Plans and Planning Briefs.

### **Employment and Training**

Business and Regeneration Objectives

- 3.32 The Council is committed to reducing unemployment, promoting the development of e-commerce, improving skills and creating competitive town centres. The largest rise in employment levels recently has been

within the construction sector. Conditions or planning obligations will may be sought on a case by case basis in all major development proposals borough wide, and especially in areas where unemployment levels are above the Borough average. However, Areas have been identified where employment and training opportunities could be accessed by those not working or with low skill levels (i.e. not just where they live and not be limited to high unemployment but also where there are low paid and poor quality jobs to increase access to other opportunities). As a guide see map at Appendix 3 showing 'Ward level Claimant Count Rates' above the Borough average. A priority is making training available to all, promoting and ensuring access opportunities for example childcare provision or access for people with disabilities. Opportunities would be sought both during the construction phase and post development stage. However, where a commercial enterprise provides its own training schemes and thereby provides opportunities 'in-house' there would be no obligation to make further provision, similarly for the childcare provision element.

### **Natural Open Space**

Green Belt and Open Space Objectives

NE1 Development and SSSIs

NE2 Development and Nature Conservation Sites

NE3 Nature Conservation and Development

NE4 Additional Nature Conservation Sites

NE5 Protected Species

L2 Public Rights of Way and recreational routes

Bromley Bio-diversity Plan 2006-2009.

- 3.33 In determining planning applications, the Council will ensure that the effects of biodiversity, wildlife habitats, geological features and nature conservation are fully taken into account. PPS 9 requires that new development protects and enhances biodiversity. Paragraph 14 states that 'development proposals provide many opportunities for building-in beneficial bio-diversity or geological features as part of good design'. Where development proposals are otherwise acceptable but cannot avoid damage to and /or loss of wildlife features, the Council will require, through planning obligations or conditions, the inclusion of suitable mitigation measures and the protection, creation, enhancement and management of wildlife habitats and landscape features. Planning obligations may be used where financial payments or on-going management are required to address biodiversity or geological conservation concerns. For further detail refer to the Bromley Bio-diversity Action Plan <http://www.bromleybiodiversity.co.uk/>.
- 3.34 The Ravensbourne River in the north west of the borough and the River Cray in the north east form parts of the Blue Ribbon Network across London and London Plan Policy 4C.3 advises protection and enhancement of the Blue Ribbon Network including 'taking opportunities to open culverts and naturalise river channels'.



3.35 Where planning obligations are required to manage specific impacts they will need to be negotiated on a case by case basis. Where the combined impact of a number of developments creates a green infrastructure need, developers contributions may be pooled between those developments and where applicable between the Council and potentially other local authorities, until April 2014 or such time as a Community Infrastructure Levy Schedule is adopted

**Outdoor recreation and leisure**

L2 Public Rights of Way and other Recreational Routes

L6 Playing Fields

L8 Public Open Space Deficiency

3.36 PPG17 “Planning for open space, sport and recreation” promotes the need for sustainable patterns of leisure activity. The protection of existing sport, open space and recreation facilities, identified by assessment of needs and audit, is given clear priority. Most open spaces and recreational facilities have a potential and should be designed to perform multiple functions, in addition to amenity (including provision of habitat) and have a role to play in improving air quality, and promoting health and well-being.

3.37 PPG17 advises that planning obligations should be used as a means to remedy local deficiencies in the quantity or quality of open space, sports and recreational provision, and those local authorities will be justified in seeking planning obligations where the quantity or quality of provision is inadequate or under threat, or where new development increases local needs (para 33).

3.38 The Council will resist loss of sports grounds or playing fields. Planning obligations will be designed to secure conversion of part of the major residential proposal site to reduce or eliminate any deficiency. Sport England has developed an online ‘Planning Contributions Kitbag’ which the Council may use to secure new and improved sports and recreation facilities;  
[http://www.sportengland.org/facilities\\_planning/planning\\_contributions.aspx](http://www.sportengland.org/facilities_planning/planning_contributions.aspx) ).

3.39 In all major residential developments in areas of open space deficiency, planning obligations should ensure the provision of open space and/or access to open space. See map at Appendix 4 showing Areas of Open Space Deficiency.

<b>Table: Hierarchy of Public Open Space UDP 2006</b>	
<b>Open Space categorisation</b>	<b>Size guideline and distance from home</b>
Regional Parks	400 hectares 3.2-8km
Metropolitan Parks	60 hectares 3.2km
District Parks	20 hectares

	1.2km
Local Parks and Open Spaces	2 hectares 0.4km
Small Open Spaces	Under 2 hectares 0.4km or less

## **Play**

- 3.40 The PPG17 definition of “Open Space” includes provision for children and teenagers - including play areas, skateboard parks, outdoor basketball hoops, and other more informal areas (e.g. teenage shelters).
- 3.41 PPS3 Housing advises that “Particularly where family housing is proposed, it will be important to ensure that the needs of children are taken into account and that there is good provision of recreational areas, including private gardens, play areas and informal play space” (Para 17). With specific reference to “Play”, the London Plan (February 2008) Policy 3D.13 seeks to ensure that all children have safe access to good quality play and informal recreation provision. The Mayor has set out benchmark standards for play provision in new developments in the Supplementary Planning Guidance “Providing for Children and Young People’s Play and Informal Recreation” (March 2008). Policy 3D.13 advises that provision should normally be made on-site, in accordance with the Play Strategy for the area. Off site provision, enhancements to existing facilities and financial contributions may be secured by legal agreement, provided that the provision fully satisfies the needs of the development. Appendix 5 of this SPD illustrates areas of Children’s play space deficiency, which it is appropriate to address. In areas not illustrated as deficient in respect of access to play space advice will be sought from the Council’s play advisors, in respect of the appropriateness of facilities to meet needs (e.g. quality and variety of provision). Bromley’s Play Strategy can be found at:  
[http://www.bromley.gov.uk/education/childcare/bromley\\_play\\_strategy\\_2007\\_2012.htm](http://www.bromley.gov.uk/education/childcare/bromley_play_strategy_2007_2012.htm)

## **Bromley Town Centre**

- 3.42 The Bromley Town Centre Area Action Plan (BTCAAP) was ~~submitted to GOL in November 2009. It will then go forward to a hearing in March 2010 prior to being formally adopted by the Council later in November 2010. It will~~ The BTCAAP contains development opportunities within the town as well as site specific and other policies designed to ensure the town’s competitiveness whilst retaining its character and heritage. In compliance with the Action Plan the Council is committed to securing developer contributions towards the improvement ~~in~~ of the vitality and viability of the town centre; particularly to the public realm, as well as transportation and highway enhancements in order that the town can accommodate the demand that will be generated by new development. Planning obligations identified in policy BTC31 of the AAP, will be part of



negotiations on any development proposal to ensure the town centre as a whole benefits, as appropriate, from new development. Obligations would be dependant on the type and scale of development proposed. Small scale development proposals coming forward within the town centre on sites not identified within the AAP would contribute to the Town Centre Improvement Initiative fund. Pooled contributions will be requested until April 2014 or such time as a Community Infrastructure Levy Schedule is adopted, and the Council would set out in advance the need for joint supporting infrastructure. Until such time, for the specific requirements of the Bromley Town Centre, developers should refer to the Bromley Town Centre Area Action Plan available at:- <http://www.bromley.gov.uk/environment/planning/town+centre+action+plan/>.

### **Major and District Town Centres**

- 3.43 In support of the Community Plan and in order to ensure the Borough's other town centres remain economically viable and attractive, appropriate planning obligations are may be part of negotiations on any development proposal strictly within the terms of Circular 05/2005 and CIL regulation 122. Obligations may include improvements to the Public Realm, safety and security measures, car clubs, transport improvements, traffic schemes, outdoor recreation and open space, this list is not exhaustive and obligations will be sought on a case by case basis; excludes contributions already sought by virtue of the Bromley Town Centre AAP. Specifically for Orpington Town Centre there is a Masterplan and it is intended that this will be adopted in due course as a Supplementary Planning Document (SPD); this document was published for consultation in June 08 and again amplifies Council policy on developer contributions (Policy IMP 1).

### **Public Realm and Historic Buildings Improvements**

BE4 Public Realm  
London Plan policy 4B.3  
BE8 Statutory Listed Buildings  
BE10 Locally Listed Buildings

- 3.44 All—In line with Circular 05/2005 and CIL regulation 122 Major developments may require contributions or works to control movement through streets, for example, CCTV, lighting, including elements such as areas for children to play, or planting street trees, cycle parking, seating or surface treatments, public spaces can also have soft landscaping improvements not only hard landscaping to control movement. This supports the Community Plan in facilitating a quality environment. The appropriate planning obligations including “enabling development” will be part of negotiations on any development proposals on a case by case basis. Where necessary improvements can be delivered on site no off-site contribution would be sought by the Council. Financial contributions

sought for public realm improvements in Bromley Town Centre will be consistent with priorities identified in policy BTC18 of the AAP

- 3.45 Specifically for historic buildings, types of contribution could include; repair, restoration or maintenance of historic asset (s) and their setting; increased public access and improved signage to and from heritage assets; interpretation panels/ historic information and public open days; production and implementation of up-to-date Conservation Area management plans and appraisals; measures for preservation, investigation and recovery of archaeological remains; display of archaeological sites; dissemination of information for public/school education and research; maintenance and management to the Borough' Scheduled Monuments and Registered Parks and Gardens, and, sustainability improvements (such as loft insulation) for historical buildings. This list is by no means exhaustive but provides an indication of the type of planning obligations that may be expected. Web resources found to be of use to developers are:-

**Design for Biodiversity**

<http://www.d4b.org.uk/>

**Biodiversity by Design**

<http://naturalengland.communities.com/naturalenglandshop/docs/TCP1.pdf>

**Right Trees for a Changing Climate**

<http://www.right-trees.org.uk/>

**Adapting to Climate Change: A Checklist for Development**

<http://www.london.gov.uk/lccp/publications/development.jsp>

**Public Art**

BE5 Public Art

- 3.46 Public Art is beneficial in helping to establish a sense of place and local distinctiveness and can also provide a link to local history. Economic benefits can also be gained through their ability to attract visitors and the use of local businesses and individuals in the design. In all major developments in Town, Major and District centres the Council will on a case by case basis encourage proposals for Public Art to enhance buildings and open spaces where appropriate. Public Art can take a number of forms including fine art, sculpture, murals, street furniture, paving and lighting (obligations for the Bromley Town Centre refer specifically to the Area Action Plan). If it is mutually agreed that public art cannot be provided a financial contribution may be acceptable.

**Mitigation of environmental impacts (including air, soil and water)**

ER2 Waste management facilities

London Plan 4A.7 Renewable Energy

London Plan 4A.9 Adaptation to Climate Change

London Plan 4A.11 – Living roofs and walls

4A.14 Sustainable drainage

4A.17 – Water Quality

London Plan 4A.19

ER7 Contaminated Land  
London Plan 4A.20 and the Mayors Ambient Noise Strategy  
London Plan 4A.14 & 4A.18  
G14 Mineral Workings and Associated Development  
G15 Associated Development

- 3.47 With pressure on natural resources and the uncertainty of climate change it is important that new homes are built in ways that provide benefits for both residents and the environment. The Council may seek an obligation on a site by site basis to cover mitigation measures for the additional environmental impact arising from of new development where this cannot be avoided and where development is otherwise acceptable and not for mitigation measures to alleviate an existing problem. Protection of groundwater quality is of importance in Bromley, the Borough has 4 groundwater Source Protection Zones and chalk formation is exposed from the northeast to the south part of the Borough-approximately 50% of the total area.
- 3.48 Attenuation measures may be for immediate impacts for example, noise or access arrangements, reinstatement of a site and surrounding roads or include proposed hours of operation. The measures in the medium or long term may include impact on air quality, ensuring the energy efficiency of a building, or to secure long-term operation and maintenance for example, maintenance for a suitable site sustainable drainage systems and related water management (for example open spaces within development may be designed to accommodate flood waters).
- 3.49 Where planning obligations are required to manage specific impacts they will need to be negotiated on a case by case basis. Where the combined impact of a number of developments creates an infrastructure need, developers contributions (commensurate with impact of each proposal) may be pooled between those developments and where applicable between the Council and potentially other local authorities, until April 2014 or such time as a Community Infrastructure Schedule is adopted.

Summary of Planning Obligations and Costs

APPENDIX 1

Subject	Threshold	Criteria	Requirement <u>Types of obligation sought where they are directly related to the proposed development.</u>	Formula	Detail
<b>Affordable Housing</b>	Sites capable of providing 10 units or more or 0.4ha or more in size.	Borough wide	<p>On-site provision or contribution towards housing on an alternative site in exceptional circumstances.</p> <p>On site provision of affordable housing as follows:</p> <p>35% of total number of habitable rooms for affordable purposes split between 70% of the affordable element for social-rented housing and 30% for intermediate housing.</p> <p>Payment-in-lieu may be considered in exceptional circumstances if on-site provision is demonstrated to be practically difficult by the applicant (as set out in Policy H3 of the UDP .2006).</p>	<p>Formula for calculating financial contributions in lieu of on-site affordable housing provision is as follows:</p> <p>Difference between market value of units and financial contribution (from a Housing Association to Developer) set out in Appendix 2 to Affordable Housing SPD March 2008 - x number of affordable units.</p>	Please refer to the Adopted Affordable Housing SPD (2008) for further guidance on affordable housing provision.

Subject	Threshold	Criteria	Requirement <u>Types of obligation sought where they are directly related to the proposed development.</u>	Formula	Detail
<b>Transport Demand</b>	Development falling under the Major Development classification	Borough wide	Contribution	Based on a case by case basis depending on the scale and impact of development	Costs can be amended or updated as required depending on the success of implementation and the costs of the resulting projects Pooling of resources may be appropriate in certain circumstances
<b>Highway works</b>	Any development proposals – see criteria	Any proposal creating an additional impact on the road and transport network	Examples: <ul style="list-style-type: none"> <li>• Provision and maintenance of highway improvements</li> <li>• Acquisition/dedication of land for highways improvements</li> <li>• Highway/transport infrastructure</li> <li>• Improvement of highway to ensure it is an adoptable standard</li> <li>• Contribution to increase capacity at public transport nodes</li> <li>• Traffic management</li> <li>• Provision of new or replacement bus stops and facilities</li> <li>• Minor works including contribution for the loss of parking bays, approval of plans and inspection of</li> </ul>	No formula.  If a financial contribution is required estimates for the costs will be provided by the Council's Transportation Planning Division	In the majority of proposals the works will be required to be carried out by the developer.  The actual cost for Council inspection and supervision will be recovered from the developer.  A developer should undertake a survey of an unmade road prior to commencement of development and reinstate the road to a satisfactory state afterwards.

Subject	Threshold	Criteria	Requirement <u>Types of obligation sought where they are directly related to the proposed development.</u>	Formula	Detail
<b>Public Rights of Way</b>	On a case by case basis <del>All</del> developments	A diversion of an existing right of way or a new right of way is required for the development to proceed	<p style="text-align: center;">highway works etc</p> Maintenance contribution	No formula. Any contribution will be calculated on a case by case basis depending on scale and impact of the development	The Consultation Transport engineers will provide an estimate of the costs.
<b>Travel Plans</b>	Non residential developments that are likely to generate significant amount of vehicle based movement	Examples: <ul style="list-style-type: none"> <li>• Business uses</li> <li>• Schools &amp; nurseries</li> <li>• Medical establishments</li> <li>• Large retail and leisure developments</li> </ul>	Submit a Travel Plan for approval by the Council.  An outline of the Plan should be submitted with the planning application and should be suitable for attachment to the S.106 agreement	Measures could include: <ul style="list-style-type: none"> <li>• Corporate/management commitment and promotion of initiatives to reduce the number of trips made by employees by car</li> <li>• Employing a dedicated Travel Plan advisor</li> <li>• Travel surveys</li> <li>• Challenging targets based on the survey to reduce car usage over a given period together with monitoring procedures</li> </ul>	
<b>Education</b>	All Major	Borough wide	Contribution	Formula to be based	<b><u>Child Yield= (X)</u></b>

Subject	Threshold	Criteria	Requirement <u>Types of obligation sought where they are directly related to the proposed development.</u>	Formula	Detail
	residential developments of 10 units or more			on X times Y where X equals the expected child yield and Y equals the total cost per child of the expansion scheme	<p><b><u>Child yield=(X)</u></b> As set out by dwelling size &amp; tenure in para 3.25 and new para 3.26.</p> <p><b><u>Cost Per School Place DCS&amp;F multiplied by the Bromley location factor = (Y)</u></b> (Costs subject to change – see <a href="http://www.teachernet.gov.uk">www.teachernet.gov.uk</a>. Figures for Jan 09 as below)</p> <p><b><u>Nursery place £8,141.</u></b> <b>Primary — £12 257</b> <b>Secondary — £18 469</b> <b>Post-16 — £20 030</b></p> <p><b>Multiplied by the Bromley locational factor of 1.12</b></p>
<b>Employment and Training</b>	Major developments	Borough wide especially in areas where unemployment levels above the Borough average have been identified also where employment and training	<u>Unless such a scheme is provided already ‘in-house’</u> , contribution to or implementation of a Local Employment Training Scheme in partnership with local colleges or be based on the direct provision of employment and training initiatives by the developer or the provision of premises to undertake training, during the construction phase	No formula. Any contribution will be calculated on a case by case basis depending on scale of the development	To make training available to all and promote and ensure access to opportunities e.g. childcare provision may be required for those attending training and access issues for individuals with physical disabilities.  Childcare contributions would apply to both training

Subject	Threshold	Criteria	Requirement <u>Types of obligation sought where they are directly related to the proposed development.</u>	Formula	Detail
		opportunities could be accessed by those not working or with low skill levels	and post development.		and employment <u>phases</u> .
<b>Health</b>	Major residential developments	Borough wide	Either on-site provision or contribution towards providing or enhancing local health facilities. <u>Any on-site contributions must be progressed following detailed consultation and agreement from the PCT, and be in line with the approach to facilities management being progressed by the NHS, and most up to date PCT documentation setting out the estates strategy. Any agreed on-site contributions should be offered to the PCT at zero or reduced rent. Any premises offered to the PCT at a commercial rent should not be considered contributions.</u>	Health demand produced by a development will be calculated using the NHS Health Urban Development Unit (HUDU) toolkit	Refer to: <a href="http://www.healthyurbandevelopment.nhs.uk">http://www.healthyurbandevelopment.nhs.uk</a> for more information
<b>Community Facilities</b>	Large residential developments which by their nature generate	Borough wide	Community and ancillary services to mitigate additional pressures on existing provision and, where applicable the loss of existing facilities.	Based on a case by case basis depending on the scale and impact of development.	



Subject	Threshold	Criteria	Requirement <u>Types of obligation sought where they are directly related to the proposed development.</u>	Formula	Detail
	a demand for additional community space <b>OR</b> where an existing community facility is lost as a result of development				
<b>Natural Open Space</b>	All Major residential proposals	<p>In areas of deficiency and/or providing access to open space to help improve the provision of such.</p> <p>To mitigate effect of damage to and or loss of wildlife features, habitats and landscape features. Obligations can include new additions/creati</p>	<p>Provided on site or adjacent sites (e.g. a local Council-owned SINC where habitats can be enhanced as a result of a reduction in habitat on a development site), or projects which benefit unspecified biodiversity in the Borough as a whole on the ground or that assist survey work or monitoring on or off site, or provide information on biodiversity to the public or targeted groups (e.g. education packs). <u>Management and impact surveys.</u></p>	<p>No formula obligations will be based on a case by case basis.</p>	<p>Based on a case by case basis however, the following documents can act as guidance:-</p> <p>The Rights of Way Improvement Plan.</p> <p>Biodiversity Action Plan,</p> <p>World Heritage Site Management Plan.</p>

Subject	Threshold	Criteria	Requirement <u>Types of obligation sought where they are directly related to the proposed development.</u>	Formula	Detail
		on of habitat/opportunities for biodiversity.			
<b>Sports and Recreation</b>	All Major residential proposals	In areas of deficiency	Provided on site or contribution towards providing necessary facilities on an appropriate site	No formula but should be in line with National Playing Field Standards.	Sport England produce a 'Planning Contributions Kitbag' which can be viewed via <a href="http://www.sportengland.org/facilities_planning/planning_contributions.asp">http://www.sportengland.org/facilities_planning/planning_contributions.asp</a>
<b>Play Provision</b>	All Major residential proposals	Borough wide	Provided on site or contribution towards providing necessary facilities on an appropriate site	No formula but should be in line with Mayoral Benchmark Standards for play provision	Mayor's Supplementary Planning Guidance "Providing for Children and Young People's Play and Informal Recreation" (March 08) benchmark standards for play provision set out in Table 4.6
<b>Bromley Town Centre (Area Action Plan DPD contains detail).</b>	All development located within the Bromley Town Centre boundary	Development within the area identified in the BTC AAP	<u>For specific obligation details refer to policy BTC31.</u> Examples: <ul style="list-style-type: none"> <li>• Town Centre management</li> <li>• Variable message signing</li> <li>• Car clubs</li> <li>• Travel plans</li> <li>• CCTV</li> <li>• Public Art (see below)</li> </ul>	The level of contribution will vary depending on the scale of development.	Adopted 2010

Subject	Threshold	Criteria	Requirement <u>Types of obligation sought where they are directly related to the proposed development.</u>	Formula	Detail
			<ul style="list-style-type: none"> <li>• Public realm improvements</li> <li>• Highways and transport improvements</li> <li>• <u>SUDS</u></li> <li>• <u>Warnings systems and signage</u></li> <li>• <u>Recreational facilities, including access, signage and landscaping</u></li> </ul>		
<b>Major &amp; District Town Centres</b>	All development proposals <u>in such areas</u>	Proposals within the defined shopping frontages; <u>excluding Bromley Town Centre (see above.</u>	Contribution towards town centre management, CCTV and public realm improvements for example Townscaping or lighting.	No formula. Any contribution will be calculated on a case by case basis depending on scale and impact of the development	Draft Orpington SPD published for consultation June 08.
<b>Public realm and built heritage improvements</b>	All Major developments	Borough wide	<p>Contribution to planting and maintenance of trees including street trees.</p> <p>Contribution towards the provision of townscaping of areas within the public realm.</p> <p>Contribution for the restoration /maintenance of the historic fabric.</p>	No formula. Any contribution will be calculated on a case by case basis depending on scale and impact of the development	<p>Costs calculated by the Council as an estimate of the costs of the particular works.</p> <p>In the majority of proposals the works will be required to be carried out by the developer.</p> <p>The actual cost for Council inspection and supervision</p>

Subject	Threshold	Criteria	Requirement <u>Types of obligation sought where they are directly related to the proposed development.</u>	Formula	Detail
			Investigation and recovery of archaeological remains. Management plans. Measures for preservation.		will be recovered from the developer
<b>Public Art</b>	All Major developments	Development in town and District centres. & Business areas where appropriate	A piece of work to be incorporated into the design of the building or associated public space around the building.  If it is mutually agreed that public art cannot be provided a financial contribution may be acceptable.	No formula.  Any contribution will be calculated on a case by case basis depending on scale and impact of the development	
<b>Mitigation of environmental impacts on air, soil and water.</b>	Allny development may have an impact	Borough wide - especially those <u>new</u> developments that place a burden on existing facilities	Examples where contributions or site mitigation measures may be required: <ul style="list-style-type: none"> <li>• Energy efficiency of buildings</li> <li>• Development that may have an adverse impact on public areas, landscape, or biodiversity.</li> <li>• Reducing impact of development on air quality and monitoring to ensure acceptable levels</li> <li>• Site investigations and remedial works on contaminated land</li> </ul>	No formula. Any contribution will be calculated on a case by case basis depending on scale and impact of the development depending on impact and cost of implementing schemes or required maintenance payments, to mitigate effects of development.	Hours of operation of non-residential development will be considered.  Waste reduction and recycling initiatives.  Community energy efficiency and renewable energy projects  Monitoring arrangements.  An agreement may be required between the

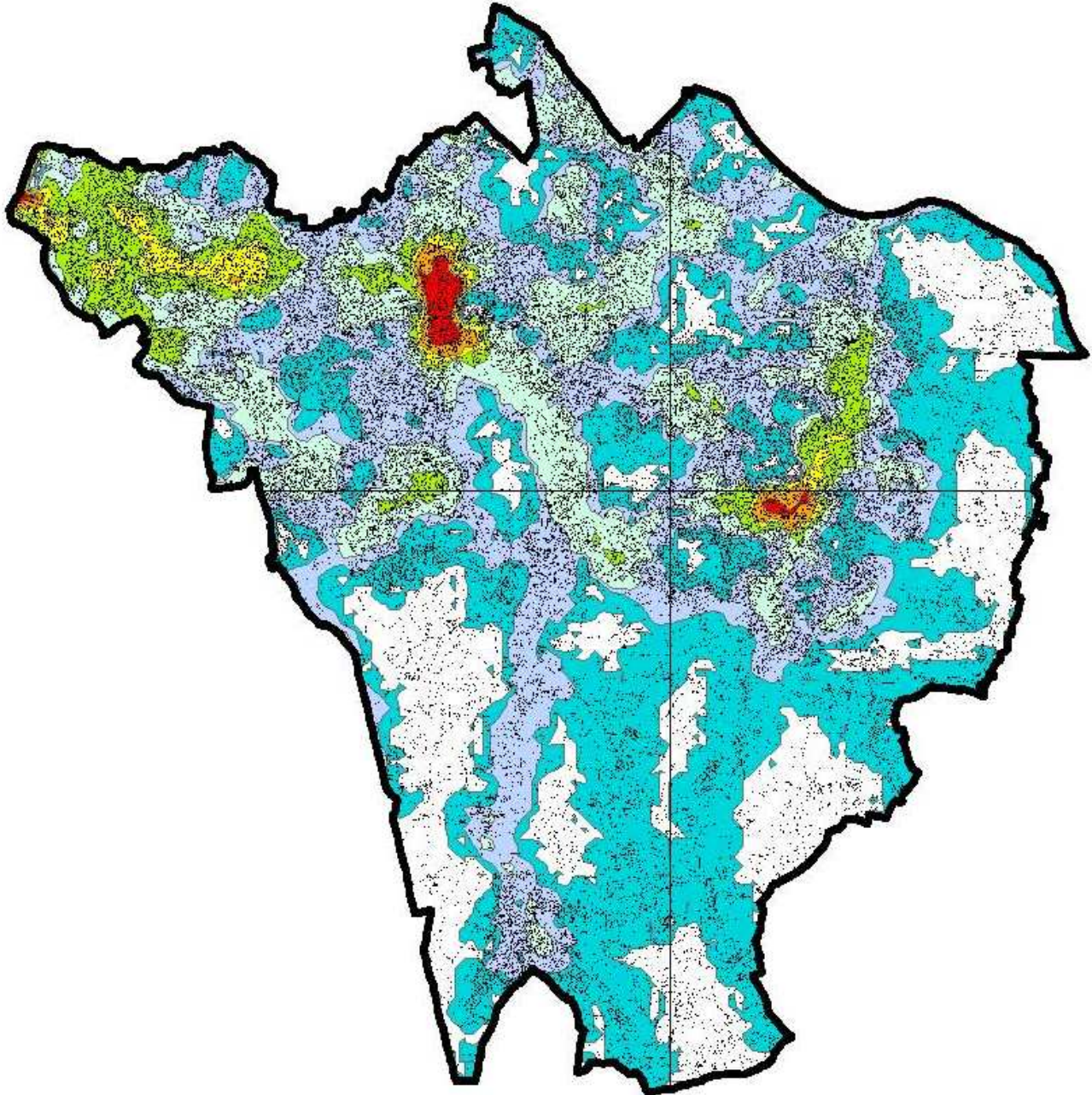
Subject	Threshold	Criteria	Requirement <u>Types of obligation sought where they are directly related to the proposed development.</u>	Formula	Detail
			<ul style="list-style-type: none"> <li>• Sustainable drainage systems</li> <li>• Mitigate noise pollution</li> <li>• Mitigate light pollution</li> <li>• <u>Protection of groundwater quality.</u></li> </ul>		developer and the Council to ensure measures are maintained for the life of the building
<b>Planning Obligation Monitoring Service</b>	All developments with Planning Obligations.	All agreements.	Contribution	The Council may charge up to a maximum of £1,000 depending on complexity and phasing.	Dependant on the estimated time involved in monitoring each obligation.
<b>Legal Services</b>	All developments with Planning obligations	All agreements	Contribution	The normal charge is normally between £850- £2,000.	Dependant on the complexity of the case





## Public Transport Accessibility Levels (PTALs)

(Source: Transport for London - September 2010)



### Key

-  High (level 6a)
-  High (level 5)
-  Moderate (level 4)
-  Moderate (level 3)
-  Low (level 2)
-  Low (level 1b)
-  Low (level 1a)

### NOTE:

The map is designed to show indicative borough-wide PTAL levels. It is not suitable for assessing individual sites.

Data Sources: -

National Rail – 2008 base + London Overground + Recent revisions  
London Buses – April 2010 data



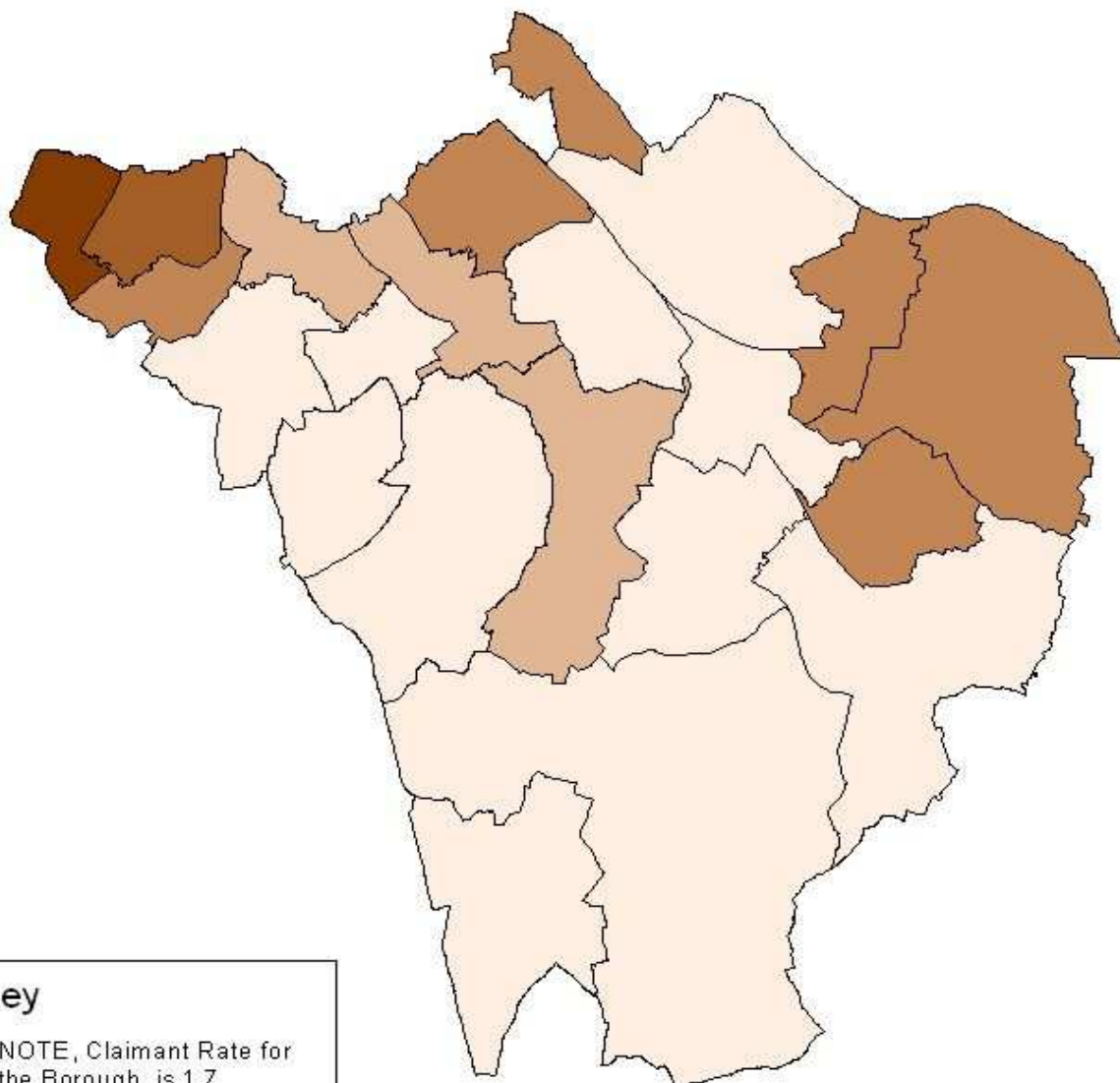
1:100,000





## Ward Level Claimant Count Rates

*(Proportion of resident working population estimates)*



### Key

NOTE, Claimant Rate for the Borough is 1.7

Lightest Tan	0.6 - 1.34
Light Brown	1.34 - 2.08
Medium Brown	2.08 - 2.82
Dark Brown	2.82 - 3.56
Darkest Brown	3.56 - 4.3

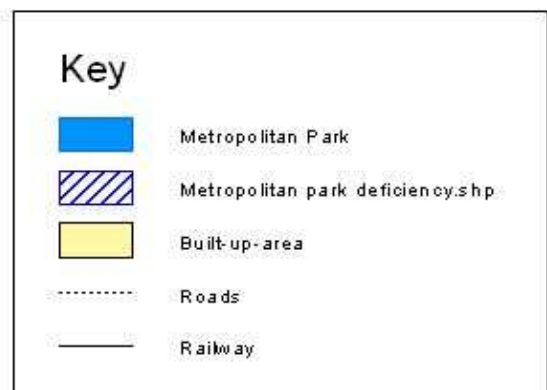
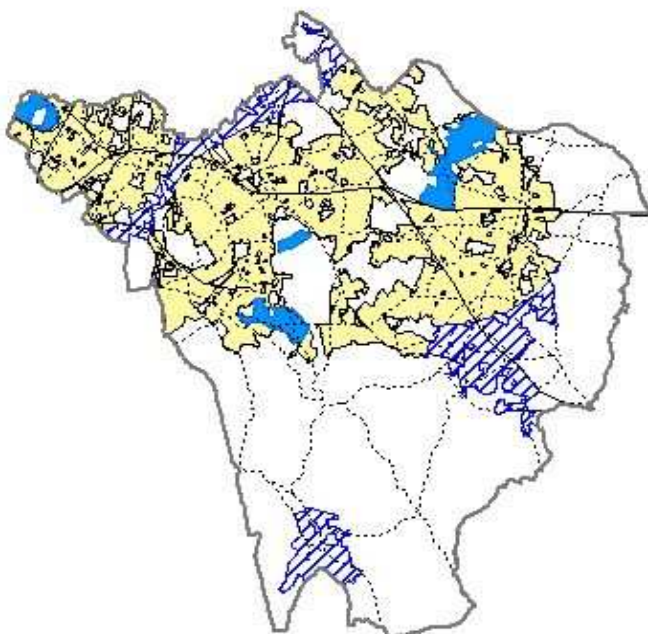
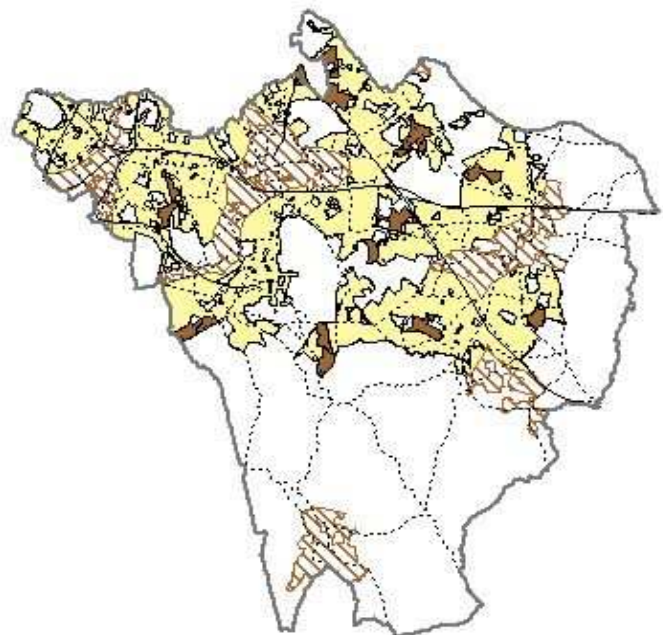
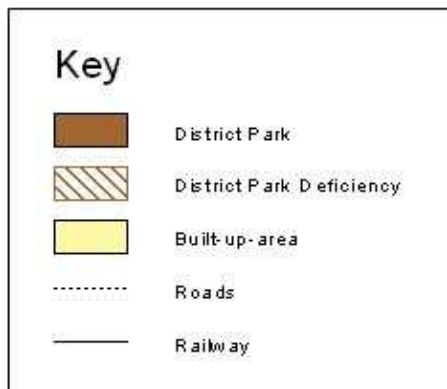
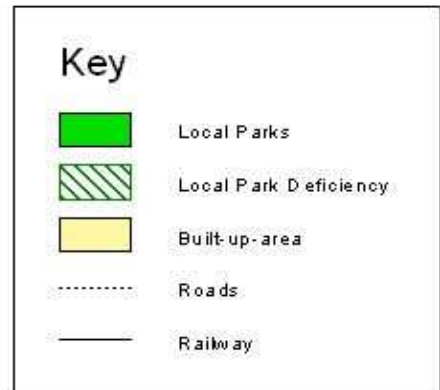
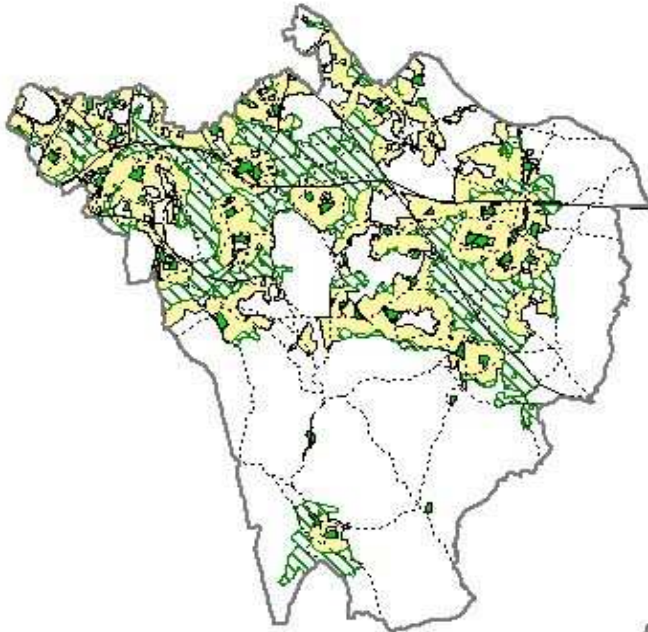
*The claimant count records the number of people claiming Jobseekers Allowance (JSA) and National Insurance credits at Jobcentre Plus local offices. This is not an official measure of unemployment, but is the only indicative statistic available for areas smaller than Boroughs.*

Source: ONS © Crown Copyright Reserved August 2007



# Open Space Deficiency

(Based on the London Plan Hierarchy of Public Open Space)





# Childrens' Play Facility Deficiency

*(More than 800 metres from Childrens Play Facility)*



Key	
▲	Childrens' play facilities
▨	Area deficient in childrens' play facilities
■	Built-up-area
----	Roads
—	Railways

**Procedure for Negotiating and Completing a Planning Obligation APPENDIX 6**

Stage	Actions	Responsibility
Pre application Agree Heads of Terms prior to submission	1. Applicant to consider relevant SPD and Planning policies prior to submitting application along with proposals for planning obligations. Formal advice can be provided by attendance of all parties at Pre-application meeting to agree Head of Terms to submission	Applicant/Case Officer/Policy/Highways/Other Service Departments /Legal
Formal Consideration of Planning Application  and  Preparing the Legal Agreement	2. Need for planning obligations confirmed with applicant and legal instructed to prepare S106 Draft	Case Officer/ Legal
	3. Standard letter sent to applicant e.g. requesting proof of title information, and completion of an undertaking by applicant to pay Council's legal costs to be returned	Legal/ Applicant
	4. 1 <sup>st</sup> Draft obligations sent to applicant's Solicitor for consideration	Legal
	5. Further negotiation meetings held if necessary. Legal begin drafting S106 on a 'without prejudice' basis	Applicant/Case Officer/Legal
	6. Agreed heads of terms and triggers included in committee report	Applicant/Case Officer/Legal
	Committee Consideration Resolution to grant	7. Consider application – if proposal accepted grant permission subject to completion of legal agreements. Resolution to grant planning permission subject to completion of legal agreement. Monitoring Officer to liaise and send Draft Decision Notice and copy of Draft Decision Notice to Legal
Legal Agreement Completion	8. Before agreement is completed, Council to ensure all title matters are in order and the Council's legal costs have been paid	Legal
	9. Copy of final legal agreement, decision notice and any other consents sent to applicant's Solicitor	Legal
	10. Copy sent to S106 Monitoring Officer for circulation to other officers as necessary	Legal/S106 Monitoring Officer
Recording	11. Statutory Register updated to show that permission has been granted. Copy of the legal agreement placed on register and made available on the Council's Planning website	S106 Monitoring Officer



Recording	12. Agreement and consents registered as local land charges	Land Charges	
	13. Agreement registered as a charge against the title at HM Land Registry	Legal/Land Registry	
Monitoring	14. Details of agreement recorded on a shared database and copies of a S106 passed to the relevant partners (see 10 above)	S106 Monitoring Officer	
	15. Implementation of planning permission and compliance of obligations including receipt of the Notification Form, monitored by Planning via joint working with Finance, Address Management, and Land Charges departments. Non-compliance enforced as necessary. Service area officer alerted to receipt of funds, and makes a formal bid for the relevant fund. Committee approval authorises funds for Service area. Database updated.	S106 Monitoring Officer, Finance Officer, Address Management, Land Charges, Relevant Service Area Officer and Enforcement	
	16. S106 Monitoring Officer to check (no less than quarterly End March/June/Sept/Jan) all agreement for compliance with obligation trigger dates (e.g. date of implementation) and notify Finance Officer of findings (even if no action is required) to ensure that all agreements are adhered to	S106 Monitoring Officer Finance Officer	
	17. Where necessary Finance Officer to raise and render sundry debtor invoice using unique ledger code for recording purposes in Council's financial system	Finance Officer	
	18. Finance Officer to monitor debtors invoice and record the date the payment is received	Finance Officer	
	19. Budget monitoring team to generate quarterly budget monitoring statement to Executive	Finance	
	20. Report present bi-annually to PDS Committee	Planning/Finance	





**AGREEMENT PURSUANT TO SECTION 106 OF  
THE TOWN AND COUNTRY PLANNING ACT 1990  
AND OTHER POWERS IN RELATION TO:**

**[Insert site address]**

Dated: 201...

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**THE MAYOR AND BURGESSES OF  
THE LONDON BOROUGH OF BROMLEY**

(1)

and-

**[Owner ]**

(2)

-and-

**[ List any other interested persons]**

(3)

**Ref: [Insert file reference no.]**

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### INTRODUCTION

#### Clause:

1. INTERPRETATION
2. LEGAL EFFECT OF AGREEMENT
3. COMMENCEMENT
4. OWNER'S COVENANTS
5. COUNCIL'S COVENANTS
6. GENERAL PROVISIONS
- [ ] **[MORTGAGEE'S CONSENT]**
7. WAIVER
8. INTEREST
9. SEVERABILITY
10. VERIFICATION AND ENFORCEMENT
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15. THIRD PARTIES
16. JURISDICTION
17. DELIVERY

### SCHEDULE

Schedule 1: **Draft Planning Permission**

Schedule 2: **Planning Obligation(s)**



- 
- 5 The Parties are satisfied that:
- (a) the restrictions and provisions in this Agreement are relevant to planning considerations concerning the Site;
  - (b) fairly and reasonably relate to the Development;
  - (c) fairly and reasonably relate in scale and kind to the Development; and
  - (d) are reasonable in all respects.
- 6 Having regard to the unitary development plan and the planning considerations affecting the Site, the Council considers that the Development ought only to be permitted subject to the terms of this Agreement and resolved to grant the Permission subject to those terms at its Planning Applications Sub-Committee held on **[insert date]**.

MATTERS AGREED:

**1 INTERPRETATION**

- 1.1 In this Agreement the following expressions must have the meanings set out below:

**“Act”** the Town and Country Planning Act 1990  
(as amended)

**“Agreement”** the Planning Obligations made pursuant to  
Section 106 of the Act

**“Application”** the application for planning permission  
dated [ ] submitted to the Council for the  
Development and allocated under reference  
number [ ]

**“Chief Planner”** the Council’s Chief Planner or any other  
officer or person properly exercising the  
authority of the Chief Planner for the time  
being.

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**“Commencement Date”** means the date on which the Development commences by the carrying out on the Site pursuant to the Planning Permission of a material operation as specified in Section 56(2) and (4) (a) to (d) of the Act and **“Commence”** and **“Commenced”** and cognate expressions will be interpreted in accordance with this definition but material operation for these purposes shall exclude operations consisting of site clearance, demolition work, archaeological investigations, ground investigations, diversion of services, erection of any temporary means of enclosure for the purposes of Development Site security and or the temporary display of site notices or advertisements.

**“Council”** the party of the first part hereto which shall include its successors and assigns from time to time.

**“Development”** **[insert description of the development as set out in the in the Application]**

**“Interest”** interest at 4 per cent above the base lending rate of Barclays Bank plc from time to time.

**“Notification Form”** the form attached to this Agreement notifying the Council of implementation and completion of obligations.

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**“Parties”** means the Mayor and Burgesses of the London Borough of Bromley (**“the Council”**) [ **insert name of the Owner (“the Owner”)** and/ or the Developer (**“the Developer”**) **insert name of the Mortgagee (“the Mortgagee”)**]] which shall include its successors and assigns from time to time

**“Permission”** planning permission in the form of the draft attached to this Agreement

**“Plan”** the plan attached to this Agreement

**“Site”** [**insert site address**] as shown edged red on the plan attached to this Agreement

- 1.2 Any covenant by the **Owner** or the Council not to do any act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred.
- 1.3 Any references to any particular statute include any statutory extension, modification, amendment or re-enactment of such statute and also include any subordinate instruments, regulations or orders made in pursuance of it.
- 1.4 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.5 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 1.6 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can

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be enforced against all of them jointly and against each individually, unless there is an express provision otherwise.

- 1.7 Where under this Agreement any notice, approval, consent, certificate, direction, authority, agreement, action, expression of satisfaction is required to be given or reached or taken by any party or any response is requested any such notice, approval, consent, certificate, direction, authority, agreement action, expression of satisfaction or response shall not be unreasonable or unreasonably withheld or delayed.
- 1.8 The headings appearing in this Agreement are for ease of reference only and shall not affect the construction of this Agreement.
- 1.9 Where reference is made to a Clause, Part, Plan, Paragraph, Recital or Schedule such reference (unless the context requires otherwise) is a reference to a clause, part, plan, paragraph, recital or schedule of or to (or in the case of Plan attached to) this Agreement.
- 1.10 References to any Party to this Agreement must include:
- (a) the Party's successors in title and to any deriving title through or under that party; and
  - (b) in the case of the Council, the successors to their respective statutory functions.

## **2 LEGAL EFFECT OF AGREEMENT**

- 2.1 This Agreement is made under the Act and the obligations and are:
- (a) covenants to which the relevant statutory provisions apply; and
  - (b) relate to the Site; and
  - (c) are enforceable by the Council as the local planning authority.
- 2.2 The obligations shall be enforceable without limit of time not only against the **Owner** but also against its agents servants successors in title and assigns and those deriving title under it, Provided That neither the **Owner** nor its agents servants successor in title and assigns shall be liable for any breach of any covenant contained in this Agreement after it has parted with all its interest in

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the Site except in relation to any antecedent breach prior to parting with such interest.

### **3 COMMENCEMENT**

3.1 This Agreement is conditional upon:

- (a) the grant of the Planning Permission; and
- (b) the Commencement of Development,

except for the provisions of [ **clauses 4(c); 16 and 17** ] which shall come into effect immediately upon completion of this Agreement

### **4 OWNER'S COVENANTS**

The **Owner** hereby covenants with the Council:

- (a) To observe and perform and cause to be observed and performed the covenants contained in [**Schedule 2**] of this Agreement; and
- (b) at its own cost to do all things necessary:
  - (i) to enable an entry relating to this Agreement to be made in the Charges Register of the Title Number of the Property, or if the Title is not registered in the Land Charges Register and immediately after execution of this Agreement, to apply to the Chief Land Registrar to make such entry; and
  - (ii) following the making of such an entry to furnish the Council's Solicitor with an official copy of the register entries relating to the Title
- (c) to pay, on completion of the Agreement, the Council's reasonable legal costs and disbursements in connection with the preparation of this Agreement
- (d) to pay any legal and other professional costs incurred by the Council in monitoring or enforcing the performance of the Owner's obligations under this agreement
- (e) to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details



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of the transferee's full name and registered office (if a company or usual address if not) together with a plan showing the area of the Site purchased

- (f) to complete and submit a copy of the Notification Form attached to this Agreement to the Chief Planner C/o Central Income Section, London Borough of Bromley, BR1 3UH on implementation and completion of each obligation

## **5. COUNCIL'S COVENANTS**

- 5.1 The Council hereby covenants with the **Owner** to observe and perform the relevant covenants contained in this Agreement.

## **6. GENERAL PROVISIONS**

IT IS HEREBY AGREED AND DECLARED that:

- 6.1 The covenants on behalf of the parties to be observed and performed under this Agreement shall be treated as Local Land Charges and registered at the Local Land Charges Registry for the purposes of the Local Land Charges Act 1975; and
- 6.2 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council in the exercise by it of its statutory functions and the rights powers duties and obligations of the Council under private or public statutes bye-laws orders and regulations may be as fully and effectively exercised as if it were not a party to this Agreement.
- 6.3 The Council will on written request from the **Owner** and on payment of its reasonable costs and expenses certify whether or not an obligation under this Agreement has been satisfied
- Following the performance and satisfaction of all the obligations contained in this Agreement the Council shall cancel all entries made in the Register of Local Land Charges in respect of this Agreement.

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**[INSERT ADDITIONAL CLAUSE IF NECESSARY]**

**[MORTGAGEE'S CONSENT]**

[The Mortgagee acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of the mortgage over the Site shall take effect subject to this Agreement PROVIDED THAT the Mortgagee shall otherwise have no liability under this Agreement unless it takes possession of the Site (or part thereof) in which case it too will be bound by the obligations as if it were a person deriving title from the Owner]

**7 WAIVER**

No waiver (whether express or implied) by the Council of any breach or default by the **Owner** in performing or observing any of the covenants undertakings obligations or restrictions contained in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants undertakings obligations or restrictions or from acting upon any subsequent breach or default by the **Owner**.

**8 INTEREST**

Without prejudice to any right remedy or power available to the Council, if any payment of any sum referred to shall have become due but shall remain unpaid for a period exceeding twenty one days, the Owner shall pay on demand to the Council interest thereon at the interest rate of four per centum per annum above the base lending rate of Barclays Bank plc, from the date when it becomes due until payment.

**9 SEVERABILITY**

Each Clause Sub-clause Schedule or paragraph shall be separate distinct and severable from each other, to the extent only that if any of these becomes or is invalid or shall be held by the Courts to be void but would be valid if severed or any wording was deleted or any time period reduced or scope of activities or area covered diminished, then any modifications necessary to ensure such Clause Sub-clause Schedule or paragraph be valid shall apply without

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prejudice to any other Clause Sub-clause Schedule or paragraph contained in this Agreement.

## **10 VERIFICATION AND ENFORCEMENT**

- 10.1 The **Owner** shall permit the Council and its authorised employees and agents upon reasonable notice to enter the Site at all reasonable times after receipt of a request in writing for the purpose of verifying whether any obligation arising under this Agreement has been performed or observed.
- 10.2 Without prejudice to the terms of any other provision in this Agreement the **Owner** shall pay the reasonable legal charges and expenses (including without prejudice to the reasonable legal costs and reasonable Surveyor's fees) incurred by the Council for the purpose of or incidental to the enforcement of any right or power of the Council or of any obligation of the **Owner** arising under this Agreement.
- 10.3 Without prejudice to any other right remedy or power contained in this Agreement or otherwise available to the Council, if there is a breach of a requirement in a planning obligation herein to carry out any operations in on under or over the Site the Council may:-
- (a) Enter the Site and carry out the operations; and
  - (b) Recover from the **Owner** any expenses reasonably incurred by the Council in doing so as a debt due and owing
- 10.4 Before the Council exercises its power under clause 10.3 above it shall give not less than 21 days notice of its intention to do so to the **Owner**.

## **11 MODIFICATIONS TO AGREEMENT**

In the event of the planning obligations contained in this Agreement being modified, a note or memorandum shall be endorsed on this Agreement.

## **12 RESOLUTION OF DISPUTES**

- 12.1 Wherever in this Agreement the consent agreement or approval of any Party is required, it shall not be unreasonably withheld or delayed.

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12.2 In the event of any dispute between the Parties including any dispute as to reasonableness, any Party may invite any other Party to resolve the dispute by mediation in such manner as the Parties may agree.

12.3 In the event of a dispute between the Parties (other than a dispute relating to a matter of law or in relation to the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts) the Parties agree that the matter in dispute will on the application of either of them be referred to a Surveyor acting as an expert (hereinafter referred to as the "Expert") (being a member of the Planning Division of the RICS with not less than ten years recent experience in the field of town and country planning and development) whose identity will be agreed between the Parties or in default of agreement appointed by or on behalf of the President for the time being of the RICS on the application of any Party and it is further agreed that:-

12.3.1 the determination of the Expert will be final and binding on the Parties save in the case of manifest error; and

12.3.2 the Parties will be entitled to make representations and counter-representations in accordance with such timetable as the Expert shall direct; and

12.3.3 the Expert's costs will be borne in such proportions as he may direct failing which each Party will bear its own costs of the reference and determination and one-half each of the Expert's costs.

## 13 NOTICES

13.1 The **Owner** shall give written notice to the Council at least 14 days prior to the Commencement of the Development.

13.2 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval to be served under or in connection with this Agreement and any such notice to the:

(a) Council shall be in writing and addressed to the Chief Planner at Civic Centre, Stockwell Close, Bromley BR1 3UH and shall quote the reference number referred to in the definition of "Application" in clause 1.1 of this

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Agreement and shall state that the notice is served pursuant to this Agreement.

(b) **Owner** shall be in writing and addressed to **[Insert name]** at **[Insert address]**.

(c) **[Include other names and addresses if necessary]**

13.3 For avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with such proceedings.

#### **14 REVOCATION**

In the event that the Planning Permission is quashed lapses or is revoked or otherwise withdrawn this deed will cease to have any further force or effect unless otherwise agreed in writing with the Council

#### **15 CONTRACTS (RIGHTS OF THIRD PARTIES ACT) 1999**

It is hereby agreed between the Parties that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no one other than the Parties to this Agreement (and any of its servants successors in title assigns or successor bodies) shall have any rights under or be able to enforce the provisions of this Agreement.

#### **16 JURISDICTION**

This Agreement is governed by and interpreted in accordance with the law of England and Wales.

#### **17 DELIVERY**

The provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

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**IN WITNESS** whereof the parties hereto have executed this Agreement as a deed on the day and year first before written.

**EXECUTED AS A DEED** when the common seal of )  
**THE COUNCIL** was affixed in )  
The presence of: )

**SIGNED AS A DEED** by ..... )  
**[INSERT NAME]** )  
..... )



## NOTIFICATION FORM

Notification/cheques and letters to be sent for the attention of: **Chief Planner, C/o Central Income Section. London Borough of Bromley, Civic Centre, Stockwell Close, Bromley BR1 3UH**

**Section 106 Legal Agreement**

Site address: \_\_\_\_\_

Date of Legal Agreement: \_\_\_\_\_

Planning Reference: \_\_\_\_\_

Date of implementation of development and or Date of relevant trigger (s): \_\_\_\_\_

Obligation(s) quote Schedule(s) and Clause No(s)

*Please continue on separate sheet if necessary*

**Section 106 Obligation**

Documentation submitted to the Council with this form:

*NB: please continue on separate sheet(s) if necessary.*

**CONTACT DETAILS**

YOUR REFERENCE:

DATE SUBMITTED:

SUBMITTED BY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE/FAX NUMBER: \_\_\_\_\_

**FOR COUNCIL USE**

COST CODES: \_\_\_\_\_

**Note:** This form is of a summary nature only and is not intended to be a binding legal document. The London Borough of Bromley uses this form to assist in the monitoring and implementation of the covenants and obligations in the s106 Agreement. No statement or declaration in this form shall override, vary, or modify the wording of the s106 Agreement. If a contradiction does exist between the Form and the s106 Agreement, then the s106 Agreement is to take precedence.  
**All cheques should be made payable to "London Borough of Bromley"**





## APPENDIX 9

### AFFORDABLE HOUSING DEFINITIONS AND INTERPRETATIONS

**Affordable Dwelling(s):** means a Dwelling which shall not be occupied other than as Affordable Housing

**Affordable Housing:** Means 'social rented' and 'intermediate' housing provided by a Registered ~~Social Landlord~~ **Provider** that is affordable for households that are unable to rent or buy on the open market including the relevant level of parking provision for the units

**(i) Social rented housing:** Is housing where rents are within the Homes and Communities Agency's target rent levels.

**(ii) Intermediate housing:** Is housing that is affordable to households with income levels of less than £35,000 per annum, based on a household spending no more than 33% of its gross income on housing costs. Housing costs include rents, mortgages and service charges.

**Tenure** 70% of the Affordable Dwellings shall be Social Rented Dwellings and 30% of the Affordable Dwellings shall be Intermediate Dwellings unless otherwise agreed in writing by the Council's Assistant Director (Housing and Residential Services).

**Registered Provider previously known as the Registered Social Landlord (prior to April 2010):** Means a registered provider ~~social landlord~~ as defined in ~~Part 1 of the Housing Act 1996~~ **Housing and Regeneration Act 2008**, registered with the Homes and Communities Agency and a partner on the Council's approved list that has been agreed in writing by the Council's Assistant Director (Housing and Residential Services).

**Affordable Housing Scheme** that part of the Development comprising [...] no habitable rooms and [...] no residential dwellings [...*describe mix of affordable dwellings setting out no of habitable rooms and dwelling size in metres squared e.g.: 2 x 2 bedroom flats, 55 metres squared.*] and in number comprising 35% of the total number of Habitable Rooms including market housing units within the application) together with [.....] car parking spaces shown on drawing numbers [*drawing references*]; or any one or more of them

**\*\*NB the detail in italics in this definition needs to be filled in by the applicant**

**South East London Housing Partnership: Wheelchair Homes Design Guidance** design guidance which has been adopted as the design brief for all wheelchair homes in SE London.

**Habitable Room** means any habitable room as defined in the RICS Code of Measurement 5<sup>th</sup> Edition, within a Dwelling, the primary purpose of which is for living, sleeping or dining including kitchens where the total area (including fittings) is more than 13 square metres and for the avoidance of doubt in blocks of flats rooms exceeding 20 square metres which are readily capable of division shall be counted as two

**Chargee/ mortgagee:** any mortgagee or chargee of the Registered ~~Social Landlord~~ **Provider** or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925

**Chargee's/ mortgagee's duty:** The tasks and duties set out in paragraph [...] Schedule [...] (*detailed in this document under Covenants: In-Perpetuity/Chargee's/mortgagee's duty*)

**Protected tenant:** any tenant who

(a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Dwelling

(b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Dwelling

(c) has been granted a shared ownership lease by a Registered ~~Social Landlord~~ Provider (or similar arrangement where a share of the Affordable Dwelling is owned by the tenant and a share is owned by the Registered ~~Social Landlord~~ Provider) by the Registered ~~Social Landlord~~ Provider in respect of a particular Affordable Dwelling and the tenant has subsequently purchased from the Registered ~~Social Landlord~~ Provider all the remaining shares so that the tenant owns the entire Affordable Dwelling

COVENANTS

**In perpetuity/ Chargee's/ mortgagee's duty** : From the date of Practical Completion of the Affordable Dwellings shall not be used other than for Affordable Housing save that this obligation shall not be binding on:

(a) any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or

(b) any Chargee provided that the Chargee shall have first complied with the Chargee's Duty

(c) any purchaser from a mortgagee of an individual Affordable Dwelling pursuant to any default by the individual mortgagor.

OR

**In perpetuity/ Chargee's/ mortgagee's duty** : Subject to the provisions hereinafter appearing the Owner covenants with the Council not to allow the occupation of the units to be constructed pursuant to the Permission except for the provision of Affordable Housing

The Owner covenants with the Council:

(1) not to use the Affordable Dwellings otherwise than for the purposes of Affordable Housing; and

(2) not to dispose of any of the Affordable Dwellings otherwise than by way of rental or by way of shared ownership

The provisions contained in Clauses 1 to 2 inclusive shall not bind nor be enforceable against:-

(a) any mortgagee or chargee of the Owner which mortgagee or chargee is exercising its powers of sale in respect of the Site against the Owner

(b) an occupant of an Affordable Dwelling who has a shared ownership leave of an Affordable Housing Unit or who has exercised a statutory right to acquire under the Housing Act 1996 or otherwise ("Occupant") or any person other than a Registered ~~Social Landlord~~ Provider deriving title under any such Occupant

a mortgagee of an Occupant in the event that the mortgagee of an Occupant seeks to dispose of an Affordable Dwelling pursuant to its power of sale exercised pursuant to default of the terms of the mortgage

### **AFFORDABLE HOUSING SCHEDULE**

35% of the total number of Habitable Rooms of all Dwellings to be constructed as affordable housing

70% of the Affordable Dwellings (rounded to the nearest whole number) shall be Social Rented Dwellings

30% of the Affordable Dwellings shall be of intermediate tenure

10% of Dwellings shall be designed in accordance with the standards set out in the South East London Housing Partnership: Wheelchair Homes Design Guidance

35% of the social rented units shall be 3 bed 5 person units or larger

All Affordable Dwellings shall be designed in accordance with Homes and Communities Agency's Design and Quality Standards April 2007

All Affordable Dwellings shall be designed to achieve level ~~3~~ 4 in the Homes and Communities Agency's "Code for Sustainable Homes"

All Affordable Dwellings shall be designed in accordance with the principles contained in the document "Lifetime Home Standards" published by the Joseph Rowntree Foundation and dated 1999

All Affordable Dwellings shall be designed in accordance with the principles contained in the document "Secured by Design"

The Affordable Dwellings will at all times be managed by a Registered ~~Social Landlord~~ Provider

All Affordable Dwellings shall be purchased by the Registered ~~Social Landlord~~ Provider without direct public subsidy unless otherwise approved in writing by the Council's Assistant Director (Housing and Residential Services). It is the responsibility of the applicant, through discussions with the Council and an ~~RSL~~ RP, to enquire as to the availability of subsidy. Any decision taken in relation to the use of public subsidy shall include the assessment of an affordable housing development appraisal to be presented to the Council by the applicant, in partnership with the ~~RSL~~ RP, at the earliest stage.

The Council requires that affordable housing be transferred to an approved ~~RSL~~ RP on a freehold basis.

No more than 50% of the Market Housing shall be Occupied until the Affordable Housing Dwellings have been transferred to the Registered ~~Social Landlord~~ Provider on terms that accord with relevant Homes and Communities Agency funding requirements current at the date of construction of the Affordable Housing Units.

## GLOSSARY

## APPENDIX 10

Term	Definition
<b>The Act</b>	The Planning and Compulsory Purchase Act 2004.
<b>Affordable Housing</b>	<p><b>Social-rented housing:</b> housing provided by a landlord where access is on the basis of housing need, and rents are no higher than target rents set by the Government for housing association and local authority rents.</p> <p><b>Intermediate housing:</b> sub-market housing available to people on moderate incomes who cannot afford to buy or rent housing generally available on the open market. This is presently defined as households on an income of less than £35,000 per annum (as at 2008) <u>however this figure will be reviewed annually</u> to reflect changes in income: house price ratios. Intermediate housing may take the form of shared ownership, low cost home ownership or sub market rented housing, as defined in the UDP 2006.</p>
<b>Area Action Plan (AAP)</b>	LDD setting out the planning framework for areas with a concentration of proposals for change and areas of conservation, AAP's have DPD status.
<b>Community Infrastructure Levy (CIL)</b>	CIL is a general charge that local Planning Authorities can (from April 2010) choose to set on most types of new development following the development and publication of a Development Charge Schedule DPD..
<b>Core Strategy</b>	Sets out the long-term spatial vision for the local planning authority area, strategic objectives, and strategic policies to deliver that vision. The Core Strategy will have the status of a Development Plan Document.
<b>Development Plan Documents (DPD)</b>	Spatial planning documents that are subject to independent examination.
<b>Engrossment</b>	Final version of a deed prepared for signature by all parties to the legal agreement.
<b>Greater London Authority (GLA)</b>	The strategic authority for London, which assumed its main responsibilities in July 2000. The Mayor for London has a duty to prepare a number of city-wide strategies, including a <i>Spatial Development Strategy (The London Plan)</i> .
<b>Habitable Room</b>	A room within a dwelling the primary purpose of which is for living, sleeping or dining - including kitchens where the total area (including fittings) is more than 13 sq.m. In proposals for blocks of flats, rooms exceeding 20 sq.m. readily capable of division will be counted as two.
<b>Heads of Terms</b>	Proposed terms or clauses to be included in a s.106 legal agreement.
<b>Household</b>	One person living alone or a group of people (who may or may not be related) living or staying temporarily at the same address, with common housekeeping (1991 Census definition).

<b>Legal Agreement</b>	In accordance with Section 106 of the Town and Country Planning Act 1990, advantages may be offered or sought as part of a development proposal (planning obligations) in order to limit the effects of that proposal, or which are necessary for it to be implemented e.g. highways improvements or contributions to education provision.
<b>Local Development Documents (LDDs)</b>	The collective term in the Act for Development Plan Documents, Supplementary Planning Documents, and the Statement of Community Involvement (SCI).
<b>Local Development Framework (LDF)</b>	The name of the portfolio of LDDs. Consisting of: <ul style="list-style-type: none"> <li>• Development Plan Documents</li> <li>• Supplementary Documents</li> <li>• Statement of Community Involvement</li> <li>• Local Development Scheme</li> <li>• Annual Monitoring Report</li> </ul> Together these documents provide the framework for delivering spatial planning strategy for a local authority area.
<b>Local Development Scheme (LDS)</b>	Sets out the programme for the preparation of LDDs. This must be submitted to the Secretary of State for approval within six months of the commencement of the Act.
<b>Planning Policy Statements (PPSs)</b>	Government advice on various planning policy matters issued from time to time to guide Local Planning Authorities in their operation of the planning system.
<b>Registered Social Landlord (RSL) Provider</b>	A non profit-making organisation registered with the Housing Corporation whose purpose is the provision, construction, improvement or management of houses for sale or rent (see Policy H2).
<b>Sealed</b>	Sealed or stamped with the Borough Crest and signed by the Mayor/ or Councillor, or Director of Legal and Democratic Services/Senior Solicitor.
<b>Statement of Community Involvement (SCI)</b>	LDD which sets out the methods and standards which the planning authority intend to achieve in relation to involving the community in the preparation, alteration and review of all LDDs and in development control decisions. The SCI is not a DPD but is subject to independent examination.
<b>Spatial Development Strategy</b>	A statutory plan prepared by the Mayor for London. This aims to provide an integrated approach to strategic planning and land use issues in London.
<b>Supplementary Planning Document (SPD)</b>	Introduced under the Town and Country Planning Regulations (2004) previously referred to as SPG (see above). Provides additional guidance on certain planning topics.

**Section 106 List of Contacts**

**APPENDIX 11**

	<b>Contact</b>	<b>Telephone</b>
Monitoring s.106 agreements	Karen Bradshaw Rebecca Black	020 8313 4550 020 8313 4345
General s106 Policy	Terri Holding	020 8313 4344
Affordable Housing	Stephanie Turner Martin Poole	020 8313 4477 020 8313 4676
Highways	Duncan Gray	020 8313 4556
Landscape/Public Realm Improvements. Public Art.	Matthew Etherington	020 8313 4573
Biodiversity Action Plan	Alistair Hayes	0208 461 7808
Community Infrastructure. Education and Health	Gill Slater	020 8313 4492
Open Space/Sports and Recreation	Doug Ogilvie	020 8313 4454
Bromley Area Action Plan	Kevin Munnelly	020 8313 4582
Sustainable Development	Katie Ryde	020 8313 4520
Major Developments Team Manager	Chris Evans	020 8313 4554

## BACKGROUND DOCUMENTS

## APPENDIX 12

### National

Planning Act 2008  
Planning and Compulsory Purchase Act 2004  
Highways Act Section 278 (1980)  
Education Act (2002)  
Children Act (2004)  
Child Care Act (2005)  
Circular 05/2005 on Planning Obligations (2005)  
Office of National Statistics (2007)  
Census 2001, National Report for England and Wales (2003)  
Planning Policy Statement 1: Delivering Sustainable Development (2005)  
Planning Policy Statement: Planning and Climate Change, Supplement to Planning Policy Statement 1 (Dec 2007).  
Planning Policy Statement 12 Local Development Frameworks (2008)  
Planning Policy Guidance 13: Transport (2001)  
Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation (2002)  
Sustainable Communities: Building the Future (2003)  
Barker Review of Housing Supply (2004)  
Every Child Matters: Change for Children (2003)  
London Research Centre Labour Land Use Survey (1991)  
Housing Green Paper: Homes for the future (Aug 2007)  
CLG - Community Infrastructure Levy consultation July-Oct 2009

### Regional

The London Plan: Spatial Development Strategy (2008)  
The London Plan: Consultation draft replacement plan (2009)  
Transport for London (TfL) Travel Plan Best Practice Guidance (2006)  
Mayor's Supplementary Planning Guidance: 'Providing for Children and Young People's Play and Informal Recreation (2008)

### Local

Unitary Development Plan (2006)  
Building A Better Bromley, Sustainable Community Strategy (March 2009)  
Local Development Scheme (2007)  
Draft SPD – Affordable Housing (2007)  
Statement of Community Involvement (2006)  
The Future of Darwin's Wildlife in Bromley: The Bromley Biodiversity Plan (2006-9)  
Rights of Way Improvement Plan (2007)  
Bromley Town Centre Area Action Plan Submission 2009

### Websites

[http://www.sportengland.org/facilities\\_planning/planning\\_contributions.asp](http://www.sportengland.org/facilities_planning/planning_contributions.asp)  
<http://www.healthyrurbandevelopment.nhs.uk>  
<http://www.statistics.gov.uk>  
<http://www.london.gov.uk/thelondonplan> <http://www.london.gov.uk/mayor/strategies/sds/bpg-health.jsp>  
<http://www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/schooldesign/costinformation/>  
<http://www.teachernet.gov.uk/docbank/index.cfm?id=10463>  
[http://www.bromley.gov.uk/education/childcare/bromley\\_play\\_strategy\\_2007\\_2012.htm](http://www.bromley.gov.uk/education/childcare/bromley_play_strategy_2007_2012.htm)

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Report No.  
RR10/00130

London Borough of Bromley

Agenda  
Item No.

## PART 1 - PUBLIC

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**Decision Maker:**      **Development Control Committee**

**Date:**                      **November 2010**

**Decision Type:**      Non-Urgent                      Non-Executive                      Key

**Title:**                      **PERMITTED DEVELOPMENT AT BIGGIN HILL AIRPORT**

**Contact Officer:**      Matthew Nunn, Deputy Planning Manager  
Tel: 020 8313 4893      E-mail: matthew.nunn@bromley.gov.uk

**Chief Officer:**              Bob McQuillan, Chief Planner

**Ward:**                      All wards

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1.      Reason for report

Members have requested a report regarding permitted development rights that exist at Biggin Hill Airport. This report discusses the provisions that grant aviation permitted development rights, which derive from Part 18 of the Town and Country Planning (General Permitted Development) Order 1995. The report explains the use of permitted development at the airport and invites Members' comments.

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2.      **RECOMMENDATION**

**Members' comments are invited.**

### Corporate Policy

1. Policy Status: Existing policy. Government Regulations
  2. BBB Priority: Quality Environment.
- 

### Financial

1. Cost of proposal: No cost to the Council arising from the decisions recommended in this report
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: Planning Division Budget
  4. Total current budget for this head: £3.3million
  5. Source of funding: N/A
- 

### Staff

1. Number of staff (current and additional): 1
  2. If from existing staff resources, number of staff hours: N/A
- 

### Legal

1. Legal Requirement: Statutory requirement. Town and Country Planning (General Permitted Development) Order 1995
  2. Call-in: Call-in is not applicable.
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

1. Certain categories of development are permitted at airports without the need for express planning permission by virtue of Part 18 (which specifically relates to Aviation Development) of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). A copy of this section of the GPDO is attached at **Appendix A**. Members should note this is a national provision, applying to all 'relevant' airports across the country and is not specific to Biggin Hill Airport.
2. This provision of the GPDO is quite complex, but essentially states that certain types of development are generally permitted provided they are carried out on operational land by a relevant airport operator or its agent in connection with the provision of services and facilities at a relevant airport. Biggin Hill Airport and Biggin Hill Airport Ltd (BHAL) are defined as a 'relevant airport' and a 'relevant operator' respectively. 'Relevant airport' means an airport to which Part V of the Airports Act 1986 applies and 'relevant airport operator' means a relevant airport operator within s57 of the Airports Act 1986.
3. Class A of Part 18 of the GPDO permits development, including the erection or alteration of an operational building by an airport operator for the provision of services and facilities at an airport. Operational buildings include those required for the movement and maintenance of aircraft and for the loading, discharge or transport of passengers or goods at an airport. Class B deals with air navigation at an airport, Class C with air navigation near an airport, Class D with development by the Civil Aviation Authority (CAA) within an airport, Class E with development by the CAA for air traffic control and navigation, Class F with development by the CAA in an emergency, Class G with development by the CAA for air traffic control, Class H for development by the CAA for surveys, and Class I with the use of airport buildings managed by relevant airport operators.
4. Part 18 of the GPDO is wide ranging in its scope, and is subject to the condition that the relevant airport operator consults the local planning authority before carrying out any development (Condition A.2). A Consultation Agreement is in place between the Council and BHAL to ensure that consultation occurs, and as part of this, the Council undertakes to formally inform BHAL of its view as to whether it agrees the works are permitted development or not within a specific time period.
5. In addition, as a separate process and unrelated to the Planning Acts, since the Council owns the freehold of the airport, it is necessary for BHAL to gain landlord's consent from the Council under the terms of the lease between the Council and BHAL.
6. Certain types of development are specifically excluded as 'permitted development' and comprise the following categories: (1) the construction or extension of a runway; (2) the construction of a passenger terminal, the floor space of which would exceed 500 Sqm; (3) the extension or alteration of a passenger terminal, where the floor space would be exceeded by 15%; (4) the erection of a building other than an operational building; (5) the alteration or reconstruction of a building other than an operational building, where its design or external appearance would be materially affected.
7. Certain other types of development are permitted including: works urgently required for the efficient running of the airport, as well as the erection of air navigation equipment subject to certain restrictions on size.
8. Development that goes beyond what is permitted by the GPDO requires planning permission and it should be noted that development requiring an Environmental Impact Assessment (EIA) to be undertaken does not benefit from permitted development rights. Other uses such as hotels are not permitted development and require planning permission to be sought. Members

will recall that permission for a hotel was recently granted in 2009 at South Camp, although this has yet to be implemented.

9. BHAL has utilised its rights under the GPDO provision in recent years to construct various buildings and structures. These include the large 'Rizon' hangar at South Camp, now completed (Ref.07/04676/AVIATN) as well as a replacement fire station (Ref.08/02567/AVIATN and Ref.10/01811/AVIATN) which is currently under construction. BHAL advised in their submissions that the fire station was specifically designed so as to meet current operational requirements and regulations, and confirmed that the existing station was not fit for purpose, failing to meet the relevant requirements for a modern airport fire station. These include providing adequate facilities for training, as well as minimum clearance around the fire appliances which have increased in size since the existing fire station was built. The fire crew has also increased in number and could not be adequately accommodated within the existing facility. The new facility will enable swifter response times.
10. Since both the above schemes legally fulfilled the criteria of the GPDO, they did not require express planning permission. Thus no discussion or consideration of their planning merits (including their design, or their impact on the character and appearance of the area) was possible. Only a purely legal determination as to whether they constituted permitted development was appropriate. Detailed information about these developments is on file for Members to view. A list of works constructed as permitted development is attached at **Appendix B**.
11. Concerns have been raised about the cumulative effect and impact of such developments, especially on the Green Belt. It is acknowledged that certain proposals clearly do have an impact. However, Members should note that, whilst the airport largely falls within Green Belt, certain parts of it are designated as a Major Developed Site (MDS) including West Camp, East Camp and the area adjacent to the main terminal building. The UDP states that new development should be concentrated within these areas of the MDS (UDP Policies BH2-BH6). A plan of the MDS is attached at **Appendix C**. South Camp is specifically excluded from the Green Belt, and is primarily designated for airport related uses. The new Rizon Hangar falls within South Camp. Nevertheless, notwithstanding these various UDP designations, Members should be aware that if the works are permitted by virtue of the GPDO, then planning permission is not required and the Council is not in a position to consider the planning merits or otherwise of the proposal.
12. This Council as well as local residents have previously questioned whether the permitted development rights should be amended, given their potential environmental impact and given the Airport's location within the Green Belt. The Council has in the past previously made representations to the Government on this issue. The advice received by the Government of the time was that permitted development rights were given nationally because it would be unreasonable and inefficient for local authorities and airport operators to require an express planning application for essential development on every occasion. The Government of the time also commented that it was fully aware of the concerns in certain quarters about the permitted development rights enjoyed by statutory undertakers and advised it had commissioned independent research as to whether changes should be made to the GPDO. According to the Government, the main conclusion of that research was that local authorities and statutory undertakers generally believed that the existing system of permitted development rights to be operating in a broadly satisfactory manner, and confirmed that there were no plans to alter the regime.
13. Members should note that, in exceptional circumstances, a local planning authority may consider that normal planning controls should apply to development usually permitted by the GPDO. In such circumstances, it is open to the authority to make and submit for approval to

the Secretary of State an Order made under Article 4 of the GPDO seeking the removal of the particular development right and requiring an application for planning permission. According to the relevant Government Guidance, such action is rarely justified unless there is a real and specific threat: for example there is reliable evidence to suggest that permitted development is likely to take place which could damage interests of acknowledged importance and should therefore be brought within full planning control in the public interest. The Guidance also states that the boundaries of land subject to directions should be drawn as tightly as possible having regard to the specific circumstances of the case. Directions covering wide areas of land will not normally be approved.

14. In 2000, the Council made such an Order, approved by the Secretary of State, on a limited area of land south and adjacent to the main terminal building after BHAL consulted the Council regarding its intention to construct a large hangar for use by Jet Aviation (Ref. 00/02170/AVIATN). Following the removal of permitted development rights on this area by virtue of the Article 4 Direction, an application for planning permission (Ref 01/00399/FULL1) was lodged with the Council by BHAL which was subsequently refused permission. BHAL appealed the decision, and following a Public Inquiry, the appointed Inspector recommended that the appeal be dismissed. However, the decision was 'called in' by the Secretary of State, who disagreed with the Inspector and allowed the appeal, granting planning permission for the hangar. Although various ground works have been undertaken in relation to this permission, the hangar itself has not, to date, been constructed but it is understood that it is intended to do so shortly.
15. Members should be aware that removing permitted development rights using an Article 4 Direction may raise issues of financial compensation, since the airport operator is effectively being denied rights that are usually granted by the GPDO. Such an approach could therefore have serious financial consequences.

**4. POLICY IMPLICATIONS**

This report is in accordance with the Council's 'Building a better Bromley' Plan.

**5. FINANCIAL IMPLICATIONS**

Claims for financial compensation could potentially arise if any additional Article 4 Directions were to be made at the airport removing permitted development. Any person with an interest in the land may seek financial compensation for abortive expenditure, or other loss directly attributable to the withdrawal of permitted development. This may, for example, include the loss of income from leasing a hangar.

**6. LEGAL IMPLICATIONS**

Permitted development at airports is granted by a Statutory Instrument approved by Parliament and applies nationally. It is not exclusive to Biggin Hill Airport. The financial implication of removing such development rights is dealt with above.

**7. PERSONNEL IMPLICATIONS**

None.

<b>Non-Applicable Sections:</b>	Listed above
Background Documents:	Listed above

(Access via Contact Officer)	
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**Appendix A – extract from GPDO**

## **Class J Post Office**

### **Permitted development**

#### **J. Development required for the purposes of the Post Office consisting of—**

- (a) **the installation of posting boxes or self-service machines,**
- (b) **any other development carried out in, on, over or under the operational land of the undertaking.**

### **Development not permitted**

#### **J.1. Development is not permitted by Class J if—**

- (a) it would consist of or include the erection of a building, or the reconstruction or alteration of a building where its design or external appearance would be materially affected, or
- (b) it would consist of or include the installation or erection by way of addition or replacement of any plant or machinery which would exceed 15 metres in height or the height of any existing plant or machinery, whichever is the greater.

### **Interpretation of Part 17**

#### **K. For the purposes of Part 17—**

“transport legislation” means section 14(1)(d) of the Transport Act 1962(r) (supplemental provisions relating to the Boards' powers) or section 10(1)(x) of the Transport Act 1968(s) (general powers of Passenger Transport Executive).

## **PART 18**

### **AVIATION DEVELOPMENT**

#### **Class A Development at an airport**

### **Permitted development**

**A. The carrying out on operational land by a relevant airport operator or its agent of development (including the erection or alteration of an operational building) in connection with the provision of services and facilities at a relevant airport.**

### **Development not permitted**

#### **A.1. Development is not permitted by Class A if it would consist of or include—**

- (a) the construction or extension of a runway;
- (b) the construction of a passenger terminal the floor space of which would exceed 500 square metres;
- (c) the extension or alteration of a passenger terminal, where the floor space of the building as existing at 5th December 1988 or, if built after that date, of the building as built, would be exceeded by more than 15%;
- (d) the erection of a building other than an operational building;
- (e) the alteration or reconstruction of a building other than an operational building, where its design or external appearance would be materially affected.



### **Condition**

**A.2.** Development is permitted by Class A subject to the condition that the relevant airport operator consults the local planning authority before carrying out any development, unless that development falls within the description in paragraph A.4.

### **Interpretation of Class A**

**A.3.** For the purposes of paragraph A.1, floor space shall be calculated by external measurement and without taking account of the floor space in any pier or satellite.

**A.4.** Development falls within this paragraph if—

- (a) it is urgently required for the efficient running of the airport, and
- (b) it consists of the carrying out of works, or the erection or construction of a structure or of an ancillary building, or the placing on land of equipment, and the works, structure, building, or equipment do not exceed 4 metres in height or 200 cubic metres in capacity.

### **Class B Air navigation development at an airport**

#### **Permitted development**

**B.** The carrying out on operational land within the perimeter of a relevant airport by a relevant airport operator or its agent of development in connection with—

- (a) the provision of air traffic control services,
- (b) the navigation of aircraft using the airport, or
- (c) the monitoring of the movement of aircraft using the airport.

### **Class C Air navigation development near an airport**

#### **Permitted development**

**C.** The carrying out on operational land outside but within 8 kilometres of the perimeter of a relevant airport, by a relevant airport operator or its agent, of development in connection with—

- (a) the provision of air traffic control services,
- (b) the navigation of aircraft using the airport, or
- (c) the monitoring of the movement of aircraft using the airport.

#### **Development not permitted**

**C.1.** Development is not permitted by Class C if—

- (a) any building erected would be used for a purpose other than housing equipment used in connection with the provision of air traffic control services, with assisting the navigation of aircraft, or with monitoring the movement of aircraft using the airport;
- (b) any building erected would exceed a height of 4 metres;
- (c) it would consist of the installation or erection of any radar or radio mast, antenna or other apparatus which would exceed 15 metres in height, or, where an existing mast, antenna or apparatus is replaced, the height of that mast, antenna or apparatus, if greater.

### **Class D Development by Civil Aviation Authority within an airport**

#### **Permitted development**

**D. The carrying out by the Civil Aviation Authority or its agents, within the perimeter of an airport at which the Authority provides air traffic control services, of development in connection with—**

- (a) **the provision of air traffic control services,**
- (b) **the navigation of aircraft using the airport, or**
- (c) **the monitoring of the movement of aircraft using the airport.**

### **Class E Development by the Civil Aviation Authority for air traffic control and navigation**

#### **Permitted development**

**E. The carrying out on operational land of the Civil Aviation Authority by the Authority or its agents of development in connection with—**

- (a) **the provision of air traffic control services,**
- (b) **the navigation of aircraft, or**
- (c) **monitoring the movement of aircraft.**

#### **Development not permitted**

**E.1. Development is not permitted by Class E if—**

- (a) any building erected would be used for a purpose other than housing equipment used in connection with the provision of air traffic control services, assisting the navigation of aircraft or monitoring the movement of aircraft;
- (b) any building erected would exceed a height of 4 metres; or
- (c) it would consist of the installation or erection of any radar or radio mast, antenna or other apparatus which would exceed 15 metres in height, or, where an existing mast, antenna or apparatus is replaced, the height of that mast, antenna or apparatus, if greater.

### **Class F Development by the Civil Aviation Authority in an emergency**

#### **Permitted development**

**F. The use of land by or on behalf of the Civil Aviation Authority in an emergency to station moveable apparatus replacing unserviceable apparatus.**

#### **Condition**

**F.1. Development is permitted by Class F subject to the condition that on or before the expiry of a period of six months beginning with the date on which the use began, the use shall cease, and any apparatus shall be removed, and the land shall be restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.**

### **Class G Development by the Civil Aviation Authority for air traffic control etc.**

#### **Permitted development**

**G. The use of land by or on behalf of the Civil Aviation Authority to provide services and facilities in connection with—**

- (a) the provision of air traffic control services,**
- (b) the navigation of aircraft, or**
- (c) the monitoring of aircraft,**

**and the erection or placing of moveable structures on the land for the purpose of that use.**

#### **Condition**

**G.1.** Development is permitted by Class G subject to the condition that, on or before the expiry of the period of six months beginning with the date on which the use began, the use shall cease, and any structure shall be removed, and the land shall be restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.

### **Class H Development by the Civil Aviation Authority for surveys etc.**

#### **Permitted development**

**H. The use of land by or on behalf of the Civil Aviation Authority for the stationing and operation of apparatus in connection with the carrying out of surveys or investigations.**

#### **Condition**

**H.1.** Development is permitted by Class H subject to the condition that on or before the expiry of the period of six months beginning with the date on which the use began, the use shall cease, and any apparatus shall be removed, and the land shall be restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.

### **Class I Use of airport buildings managed by relevant airport operators**

#### **Permitted development**

**I. The use of buildings within the perimeter of an airport managed by a relevant airport operator for purposes connected with air transport services or other flying activities at that airport.**

#### **Interpretation of Part 18**

**J.** For the purposes of Part 18—

“operational building” means a building, other than a hotel, required in connection with the movement or maintenance of aircraft, or with the embarking, disembarking, loading, discharge or transport of passengers, livestock or goods at a relevant airport;

“relevant airport” means an airport to which Part V of the Airports Act 1986(t) (status of certain airports as statutory undertakers etc.) applies; and

“relevant airport operator” means a relevant airport operator within the meaning of section 57 of the Airports Act 1986 (scope of Part V).

## **PART 19**

### **DEVELOPMENT ANCILLARY TO MINING OPERATIONS**

#### **Class A**

##### **Permitted development**

**A. The carrying out of operations for the erection, extension, installation, rearrangement, replacement, repair or other alteration of any—**

- (a) **plant or machinery,**
- (b) **buildings,**
- (c) **private ways or private railways or sidings, or**
- (d) **sewers, mains, pipes, cables or other similar apparatus,**

**on land used as a mine.**

##### **Development not permitted**

**A.1.** Development is not permitted by Class A—

- (a) in relation to land at an underground mine—
  - (i) on land which is not an approved site; or
  - (ii) on land to which the description in paragraph D.1(b) applies, unless a plan of that land was deposited with the mineral planning authority before 5th June 1989;
- (b) if the principal purpose of the development would be any purpose other than—
  - (i) purposes in connection with the winning and working of minerals at that mine or of minerals brought to the surface at that mine; or
  - (ii) the treatment, storage or removal from the mine of such minerals or waste materials derived from them;
- (c) if the external appearance of the mine would be materially affected;
- (d) if the height of any building, plant or machinery which is not in an excavation would exceed—
  - (i) 15 metres above ground level; or
  - (ii) the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered,whichever is the greater;
- (e) if the height of any building, plant or machinery in an excavation would exceed—
  - (i) 15 metres above the excavated ground level; or
  - (ii) 15 metres above the lowest point of the unexcavated ground immediately adjacent to the excavation; or
  - (iii) the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered,

## **Appendix B - Applications made under 'Permitted Development'**

00/02170/AVIATN	Proposed additional hangar and associated apron	NOTPD	14.06.2000
01/01604/AVIATN	Consultation in respect of erection of detached single storey building on land to the west of hangar 513.	AGREPD	03.07.2001
01/01708/AVIATN	Consultation in respect of replacement single storey workshop building on the south elevation and 12 additional car parking spaces at hangar 446	AGREPD	03.07.2001
01/01812/AVIATN	Consultation in respect of erection of hangar and associated apron adjacent to hangar 500 East Camp	AGREPD	03.07.2001
01/02203/AVIATN	Single storey flying club building and associated aircraft parking area to the south of hangar 204 (East Camp).	AGREPD	01.08.2001
01/02753/AVIATN	Consultation in respect of proposed recladding of hangar 446.	AGREPD	13.09.2001
02/01346/AVIATN	Consultation in respect of proposed minor apron works at South Camp	AGREPD	01.05.2002
02/01347/AVIATN	Consultation in respect of construction of car park adjacent to scout hut at East Camp	AGREPD	03.05.2002
98/03506/AVIATN	Replacement fuel tanks	AGREPD	
99/02184/AVIATN	Additional airport car parking	AGREPD	30.04.1999
03/04240/AVIATN	Consultation in respect of erection of hangar and associated apron adjacent to hangars 504/507 East Camp, Biggin Hill Airport	AGREPD	24.12.2003
04/04541/AVIATN	Detached building for storage of essential operational equipment CONSULTATION UNDER SCHEDULE 2, PART 18, CLASS A OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	AGREPD	25.04.2005
05/01417/AVIATN	Proposed erection of hangar and associated apron adjacent to hangars 704/507 East Camp, Biggin Hill Airport CONSULTATION UNDER SCHEDULE 2, PART 18, CLASS A OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	AGREPD	17.05.2005
06/00448/AVIATN	Replacement flight business operations centre and associated apron parking CONSULTATION UNDER SCHEDULE 2 PART 18 CLASS A OF TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	AGREPD	01.03.2006

06/00449/AVIATN	Replacement buildings for office accommodation CONSULTATION UNDER SCHEDULE 2 PART 18 OF TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	AGREPD	
06/00678/AVIATN	Taxiway and hardstanding areas at east camp Biggin Hill Airport CONSULTATION UNDER SCHEDULE 2 PART 18 CLASS A OF TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	AGREPD	17.03.2006
06/01990/AVIATN	Hangar and associated apron parking adjacent to flying school at east camp Biggin Hill airport (Consultations under Schedule 2 Part 18 Class A of the Town and Country Planning (General Permitted Development) Order 1995)	AGREPD	23.01.2008
06/02546/AVIATN	Erection of hangar and apron with associated car parking and access at south camp Biggin Hill Airport CONSULTATION UNDER SCHEDULE 2 PART 18 CLASS A OF TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	AGREPD	04.08.2006
06/02552/AVIATN	Replacement substation at land adjacent to Main Road Biggin Hill CONSULTATION UNDER SCHEDULE 2 PART 18 CLASS A OF TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	AGREPD	04.08.2006
06/03584/AVIATN	Replacement substation at land adjacent to main road biggin hill consultation under schedule 2 part 18 class a of town and country planning (general permitted development) under 1995	AGREPD	27.10.2006
06/03683/AVIATN	Extension to the existing apron CONSULTATION UNDER SCHEDULE 2 PART 18 CLASS A OF TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	AGREPD	
06/03925/AVIATN	Two storey extension to hangar at South Camp CONSULTATION UNDER SCHEDULE 2 PART 18 CLASS A OF TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	AGREPD	22.11.2006
06/04370/AVIATN	Proposed hanger and apron extension at south camp CONSULTATION UNDER SCHEDULE 2 PART 18 CLASS A OF TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	AGREPD	22.03.2010

07/00314/AVIATN	New office accommodation and extension of existing building (for use by Cuisine Air) CONSULTATIONS UNDER SCHEDULE 2 PART 18 CLASS A OF TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995	PDE	
07/00351/AVIATN	Extension to existing terminal car park CONSULTATION UNDER SCHEDULE 2 PART 18 CLASS A OF TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995 (AS AMENDED)	PDE	
07/00552/AVIATN	Extension to existing apron at South Camp (CONSULTATION UNDER SCHEDULE 2 PART 18 CLASS A OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995 (AS AMENDED)	PDE	
07/02128/AVIATN	Flight business operations centre with associated pilot bar / visitors centre and car parking extension. South camp London Biggin Hill Airport. (Under schedule 2 part 18 class A of the Town and Country Planning (General Permitted Development) Order 1995	NOTPD	08.02.2008
07/02151/AVIATN	Extension to the existing apron at South Camp and intends doing so under Schedule 2 / Part 18 / Class A of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO)	PDE	
07/03582/AVIATN	Aircraft hanger, associated apron and car parking at East Camp (Consultation under Schedule 2 Part 18 Class A of the Town and Country Planning [General Permitted Development] order 1995 [as amended])	AGREPD	23.01.2008
07/04510/AVIATN	Consultation in respect of proposed erection of FBO Building for Bluestream Aviation and associated car parking South Camp Biggin Hill under Schedule 2, Part 18, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO)	AGREPD	15.07.2008
07/04676/AVIATN	Hangar with apron for maintenance and parking of aircraft with ancillary offices/ car parking/ security fence at South Camp. Consultation under Schedule 2 Part 18 Class of A of Town and Country Planning (General Permitted Development) Order 1995.	AGREPD	11.02.2008
08/00420/AVIATN	Replacement security hut at the entrance to the main terminal area, London Biggin Hill Airport. Retrospective Consultation under Schedule 2 Part 18 Class A of The Town and Country Planning (General Permitted Development) Order 1995 (GPDO)	AGREPD	14.02.2008

08/01402/AVIATN	Erection of two replacement buildings for flying clubs at South Camp. Consultation under Schedule 2, Part 18 Class A of the Town and Country (General Permitted Development) Order 1995	AGREPD	08.05.2008
08/01988/AVIATN	Aviation fuel tank at East Camp (Consultation under Schedule 2 Part 18 of the Town and Country Planning (General Permitted Development) Order 1995)	AGREPD	25.06.2008
08/02567/AVIATN	Replacement fire station and associated accommodation Consultation under Schedule 2, Part 18 Class A of the Town and Country (General Permitted Development) Order 1995	AGREPD	18.08.2008
08/03229/AVIATN	General Aviation aircraft hangar, aircraft apron parking, car parking, realigned airport perimeter road, entrance road and security fence at South Camp. Consultation under Schedule 2 Part 18 Class A of the Town and Country Planning (General Permitted Development) Order 1995	AGREPD	12.11.2008
08/04042/AVIATN	Erection of modular building for Bluestream Aviation and construction of landscape bund at South Camp. Consultation under Schedule 2 Part 18 Class A of Town and Country Planning (General Permitted Development) Order 1995	AGREPD	13.01.2009
09/01649/AVIATN	Additional Apron Area for light aircraft parking at South Camp. Consultation under Schedule 2 Part 18 Class A of the Town and Country Planning (General Permitted Development) order 1995	AGREPD	14.07.2009
09/02310/AVIATN	Additional Apron Area, replacement car parking and security fence at East Camp. Consultation under Schedule 2 Part 18 Class A of the Town and Country Planning (General Permitted Development) Order 1995	AGREPD	03.12.2009
10/00683/AVIATN	Security gate house, extensions to Rizon Hangar at South Camp comprising store and porch/ entrance canopy alteration to fence line. Consultation under Schedule 2 Part 18 Class A of the Town and Country Planning (General Permitted Development) Order 1995	AGREPD	20.05.2010
10/01371/AVIATN	Proposed erection of replacement hangar, enlarged aprons and additional car parking at West Camp; consultation under Schedule 2 Part 19 Class A of the Town and Country Planning (General Permitted Development) Order 1995	NOTPD	21.06.2010
10/01811/AVIATN	Replacement fire station and associated accommodation Consultation under Schedule 2, Part 18 of the Town and Country (General	AGREPD	04.08.2010



Permitted Development) Order 1995.  
(Amendment to scheme ref: 08/02567/AVIATN

### **APPEALS LODGED**

01/08163/HIST1	Appeal against the Council's refusal of planning permission for the erection of an aircraft hangar, parking apron and car parking spaces to the land south of the executive terminal. access from Main Road.	ALLOW	17.01.2003
02/08291/HIST3	Planning Appeal	ALLOW	
06/00241/S78	Hotel (with approximately 100 beds) and restaurant and associated access road together with service area and car parking	DISMIS	06.09.2007
07/00078/S78	Hotel (with approximately 100 beds) and restaurant and associated access road together with service area and car parking	DISMIS	26.11.2007

### **Planning Applications lodged**

01/00399/FULL1	Aircraft hangar, parking apron and car parking spaces (Land south of executive terminal accessed from Main Road).	REF	27.06.2001
0/00555/RENEW	Application under Section 73 of the Town and Country Planning Act 1990 to vary condition 1 of permission 95/02445 for part 2/part 3 storey 50 bedroom hotel with associated restaurant, conference facility and 75 parking spaces to extend the period of implementation (Land south of Fayreholm, Main Road with entrance to Biggin Hill Airport)	PER	24.07.2001
01/01224/FULL1	Replacement single storey portable building (Building 518 Scott-Chard Centre).	PER	25.07.2001
01/03291/OUT	Erection of 100 bedroom hotel, 2 aircraft hangars, aviation business centre, and access road, service areas and 197 car parking spaces Land junction of Main Road and Churchill Way (OUTLINE)	REF	08.10.2002
02/04450/OUT	2 aircraft hangars, aviation business centre, access road and car parking (land at South Camp) (OUTLINE)	PER	28.08.2003
06/00220/FULL1	Hotel (with approximately 100 beds) and restaurant and associated access road together with service area and car parking	REF	12.04.2006
06/03035/RENEW	Renewal of permission 01/00555 for part 2/3 storey 50 bedroom hotel with associated restaurant, conference facility and 75 parking spaces to extend the period of implementation (Land south of Fayreholm, Main Road with entrance to Biggin Hill Airport)	PDE	
06/03089/OUT	Renewal of permission 02/04450 for 2 aircraft hangars and aviation business centre and	PER	07.11.2006

access road and car parking (land at South Camp) (OUTLINE)

06/04482/FULL1	Hotel (with approximately 100 beds) and restaurant and associated access road together with service area and car parking	REF	06.03.2007
07/03085/FULL1	First floor extension to provide ancillary office accommodation (Main Terminal Building)	PER	13.11.2007
08/02950/FULL1	First floor extension to provide ancillary office accommodation at Main Terminal Building (amendment to permission ref 07/03085)	PER	13.10.2008
09/01194/FULL1	Hotel comprising 76 bedrooms with restaurant, viewing terrace, meeting/ training rooms, administration area, gym/ sauna, function room, pilots lounge and associated facilities together with car parking and service area, and new access road	PER	14.08.2009

**Requests as to whether development requires an EIA**

01/02258/EIA	Application for an Environmental Impact Assessment screening opinion for; Erection of 100 bedroom hotel, restaurant, 3 aircraft hangars, aviation business centre, access road, service areas and 194 car parking spaces.	OBJNO	21.08.2007
07/04675/EIA	Application for environmental impact assessment screening opinion for: proposed erection of hangar, aircraft parking apron, car parking, access roads and security fence at south camp.	NOEIA	22.01.2008
08/03224/EIA	General Aviation hangar, aircraft apron parking, car parking, realigned airport perimeter road, entrance road and security fence at South Camp. Request for formal screening opinion for EIA under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999	NOEIA	13.10.2008
09/00846/EIA	Hotel comprising 76 bedrooms with restaurant, viewing terrace, meeting/ training rooms, administration area, gym/ sauna, pilots lounge and associated facilities together with car parking and service area, and new access road at South Camp. Request for Screening Opinion for EIA under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999	NOEIA	05.05.2009
10/01372/EIA	Proposed erection of replacement hangar, enlarged aprons and additional parking at West Camp. Request for formal screening under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999	PCO	

**Appendix C – plan of MDS at Biggin Hill**



# Biggin Hill Major Developed Site

BH 1

