

Camden Planning Guidance

# Planning Obligations

London Borough of Camden

CPG 8





## CPG8 Planning obligations

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# 1 Introduction

## What does this guidance cover?

- 1.1 The purpose of this guidance is to provide an indication of what may be required when the Council considers that a development proposal needs a planning obligation to be secured through a legal agreement. Planning obligations can be used positively and to address some of the negative impacts of development which would otherwise make a development unacceptable.
- 1.2 Planning obligations are normally secured under Section 106 (S106) of the Town and Country Planning Act 1990. However, the Government currently intends to introduce a Community Infrastructure Levy (CIL) in order to secure infrastructure funding from individual developments. This is intended to operate alongside the Section 106 system and will be explained further below.
- 1.3 The use of planning obligations is an important tool in ensuring the delivery of necessary infrastructure to support the Local Development Framework. They will be used to ensure that the strategic objectives of the LDF Core Strategy and Development Policies are met through requirements attached to individual development proposals.
- 1.4 The use of planning obligations is specifically required through policy CS19 - *Delivering and monitoring the Core Strategy* although a whole range of individual Development Policies may be used to justify an obligation, particularly those relating to affordable housing, sustainability and transport. This guidance is intended to provide general advice on how planning obligations operate. Large scale developments generally have more significant and complex obligations attached to them, but obligations may also be applied to small scale developments to achieve measures such as car free housing or to manage the impacts of construction.

## When will it apply?

- 1.5 This guidance applies to all development where proposals are likely to be subject to planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended). In dealing with planning applications, local planning authorities consider each proposal on its merits and reach a decision based on whether the application accords with the development plan, unless material considerations indicate otherwise. Where applications do not meet these requirements, they may be refused.
- 1.6 In some instances, however, it may be possible to make acceptable development proposals which might otherwise be unacceptable, through the use of planning conditions (see Department of the Environment Circular 11/95) or, where this is not possible, through planning obligations. Where there is a choice between imposing conditions or entering into a planning obligation a condition will be used.



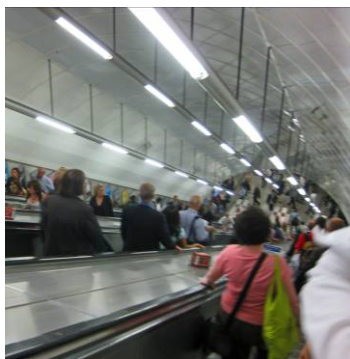
## 10 Transport

### Car free and car capped housing

- 10.1 In order to encourage use of other types of transport and reduce parking stress the Council will use legal agreements to make development car free or car capped. This will limit the number of new residents from being able to obtain on-street parking permits.
- 10.2 Agreements will require the owner of the property to inform the Council's Planning Obligations officer in writing of the official postal address of the property and to clearly identify the car free units before the development is occupied. The owner will also be required to inform any occupants of the property of any car free restrictions. Please refer to the Guidance note on car free and car capped developments for an explanation why the Council imposes these restrictions.
- 10.3 Once planning permission is granted which includes a car free restriction, a copy of the agreement will be passed to the Council's permit issuing team who will maintain a record of properties excluded from obtaining a parking permit. In cases where part of the property is subject to a car free restriction no parking permits will be issued until the owner or developer has clarified in writing with the Council's Planning Obligations officer the official postal address of the property and identified the unit(s) to which the car free restriction applies.

### Travel plans

- 10.4 The Council may use legal agreements to require travel plans to manage the impacts of the development where these measures are deemed necessary to control the impacts of the development. A contribution may be sought to cover the staff costs for overseeing the implementation of these plans. Please refer to guidance note on Travel Plans and Transport Assessment for further information



## Public transport contributions

### a) Contributions towards Crossrail

- 10.5 The collection of funds for Crossrail is required under Policy 6.5 of the London Plan 2011 (Funding Crossrail and other strategically important transport infrastructure) which states that:

*In view of the strategic regional importance of Crossrail to London's economic regeneration and development, and in order to bring the project to fruition in a suitably timely and economic manner, contributions will be sought from developments likely to add to, or create, congestion on London's rail network that Crossrail is intended to mitigate. This will be through planning obligations, arrangements for the use of which will be established at strategic level, in accordance with relevant legislation and policy guidance.*

- 10.6 In July 2010 Supplementary Planning Guidance was published by the Mayor explaining how the system will operate. In Camden it is that all office, retail and hotel development schemes in Central London and the Euston and Kings Cross Opportunity area which add more than 500sq m of floorspace will need to pay a charge. The charging rates and land uses are given in the table below and there will be a 20% reduction on charges paid before March 2013.

Use	Rate per sq m
Office	£137
Retail	£88
Hotels	£60

- 10.7 Applicants' are recommended to consult the final Crossrail Supplementary Planning Guidance Note which can be viewed on the Greater London Authority web site. The charge will be collected by Camden on behalf of the Mayor. The negotiation of the contribution towards Cross Rail will be carried out having regard to Policy 8.2 in the 2011 London Plan.

### b) Other public transport contributions

- 10.8 Where public transport provision is not adequate to serve a development (in terms of capacity, frequency, reliability, boarding points, access to boarding points and vehicles), the Council may seek a contribution to public transport provision. This will be assessed through the transport assessment. Please see guidance note on Assessing transport capacity.
- 10.9 The Council will therefore consider mechanisms such as those listed below to reconcile development proposals with the public transport services which will serve them:



- seeking contributions to existing provision so that they can serve the development better (examples could include enhancing pedestrian routes to stops, providing shelters, better seating and real-time information at stops, or increasing service frequencies); and
  - seeking contributions towards pooled funds to be used towards a particular provision or type of provision once accrued funds are adequate (examples could include funds for bus priority measures extending some distance along a route, for an extension to a route, or for a co-ordinated series of measures across an area to make public transport safer at night).
- 10.10 The Council will generally consider seeking contributions towards facilities that assist the use of public transport services which have an existing or proposed boarding point within a convenient walking distance of the development. For bus services, a convenient walking distance is generally up to 400 metres. For rail services, a convenient walking distance is generally up to 800 metres.

### **Pedestrian, cyclist and environmental improvements**

- 10.11 Developments that lead to an increase in trips in the borough have a cumulative impact on Camden's transport network, particularly the public transport network and pedestrian flows. To help mitigate this impact, the Council may seek contributions to improve provision for pedestrian and cyclists as well as making the public realm more accessible and attractive.
- 10.12 Therefore for larger developments (above 1,000 sq m), the Council may seek contributions toward pedestrian, cyclist and environmental improvements in the local area in addition to any works which might be required to integrate the development with the surrounding public highway network. The Council will seek flexibility in the S106 to allow funds to be spent on an agreed range of relevant transport projects. This will allow co-ordination with other projects in the area, which may have a variety of funding sources.

## 2 Background

### Legal and national policy background

- 2.1 The power of a local planning authority to enter into a planning obligation with the owner of land in its area is contained within Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991). Planning obligations made under Section 106 comprise both planning agreements and unilateral undertakings (where a developer independently offers to meet certain requirements, including a contribution towards infrastructure).
- 2.2 Current government advice on the application of Section 106 is contained within Circular 05/2005 as amended by the Community Infrastructure Levy (CIL) Regulations 2010 (122 and 123) which came into effect on 6th April 2010. The Council's approach is based on this national guidance.

### Legal tests

- 2.3 The CIL regulations limit the use of planning obligations so that planning permission should only be granted subject to completion of a planning obligation where it meets all of the following tests. A planning obligation should be:

#### **(i) Necessary to make the development acceptable in planning terms:**

- 2.4 Planning obligations should be used to make acceptable development which would otherwise be unacceptable in planning terms in accordance with published local, regional or national planning policies.

#### **(ii) Directly related to the development**

- 2.5 Planning obligations should be so directly related to proposed developments that the development ought not to be permitted without them. There should be a functional or geographical link between the development and the item being provided as part of the agreement.

#### **(iii) Fairly and reasonably related in scale and kind to the development**

- 2.6 For example, developers may reasonably be expected to pay for or contribute to the cost of all, or that part of, additional infrastructure provision which would not have been necessary but for their development.
- 2.7 Legal agreements can be used to prescribe that certain things should happen (e.g. requiring affordable housing or limiting a use); to compensate for the loss of something (e.g. open space); and/ or to mitigate the impact of a development (e.g. contribute to community infrastructure or improve public transport accessibility). Such

agreements may require the direct provision of a facility either on or off the development site or a financial contribution towards the provision of that facility.

- 2.8 Funds may also be pooled between a number of legal agreements provided that there is a 'direct relationship between the development and the infrastructure and the fair and reasonable scale of the contribution being sought.' Camden will operate a pooling system in line with the CIL regulations.

### **Community Infrastructure Levy**

- 2.9 The Community Infrastructure levy (CIL) is a new charge which local authorities will be able to collect on development in their area. It will be based on a formula relating to the type and size of development. The funds gathered must on be spent on infrastructure as defined in the 2008 Town and County Planning Act which includes the following:
- roads and other transport facilities;
  - flood defences;
  - schools and other educational facilities;
  - medical facilities;
  - sporting and recreational facilities; and
  - open spaces.
- 2.10 Local authorities who wish to set a CIL must produce a draft charging schedule which will be subject to a public examination by an independent inspector. CIL can only be collected once the schedule has been adopted following consultation and examination. The process will be similar to that for planning policy documents adopted as part of the Local Development Framework.
- 2.11 The schedule will set out the proposed CIL rate(s) per square metre for eligible types of development. Economic viability will be a key consideration and authorities will be expected to undertake an assessment of land values in their area based on a sample of sites. The Council will be drawing up an approach to the new CIL and S106 system in the future and this will be subject to separate guidance and consultation.

### **Development Plan polices affecting planning obligations**

- 2.12 The content and nature of any legal agreements in Camden needs to be considered having regard to the London Plan 2011 and the Camden Local Development Framework. Policy 8.2 (Planning Obligations) of the London Plan indicates that:

*Development proposals should address strategic as well as local priorities in planning obligations. Affordable housing; supporting the funding of Crossrail where this is appropriate (see Policy 6.5 – explained in the transport section of this*

*guidance); and other public transport improvements should be given the highest importance.*

*Where it is appropriate to seek a Crossrail contribution in accordance with Policy 6.5, this should generally be given higher priority than other public transport improvements. Importance should also be given to tackling climate change, learning and skills, health facilities and services, childcare provisions and the provision of small shops.*

- 2.13 The use of planning obligations has an important role to play in meeting the strategic objectives of the Council's Core Strategy and in particular ensuring that the infrastructure is provided to support new growth, meet Camden's needs for new homes jobs and facilities, and to provide an attractive and sustainable environment as in policy CS19 – *Delivering and monitoring the Core Strategy*.

*'The Council will work with Camden's Local Strategic Partnership and its other partners to deliver the vision, objectives and policies of this Core Strategy. We will:*

*work with relevant providers to ensure that necessary infrastructure is secured to support Camden's growth and provide the facilities needed for the borough's communities. Information on the key infrastructure programmes and projects in the borough to 2025 are set in Appendix 1;*

*use planning obligations, and other suitable mechanisms, where appropriate, to:*

- support sustainable development,*
- secure any necessary and related infrastructure, facilities and services to meet needs generated by development, and*
- mitigate the impact of development ...'*

### **Main categories of planning obligations**

- 2.14 The areas which may need to be addressed through the use of legal agreements tend to fall under the following broad categories:

- affordable housing;
- transport and other infrastructure;
- tackling climate change and environmental impacts;
- works to streets and public spaces;
- community facilities and services, including education, health and open space;
- training, skills and regeneration; and
- community safety.

- 2.15 This list is not exhaustive and proposals can individually or cumulatively introduce a range of issues, requirements and potential impacts that may require the use of planning obligations to make them acceptable.

As proposals differ in terms of scale, nature, location and impacts the relative priorities of the areas listed above will differ on a case-by-case basis. What may be required will be established through the key policies and associated planning guidelines. When assessing the scope of planning obligations the Council will also take into account the range of other benefits provided by a particular development and financial viability issues.

- 2.16 Housing is the identified priority land use of the LDF and the delivery of affordable housing will be a high priority in terms of planning obligations. This also accords with the London Plan. The local impacts of individual and cumulative schemes on the local environment and local community infrastructure, and how they are designed and integrated physically and socially with existing neighbourhoods are also very important issues.
- 2.17 Where the impacts of a use and/or a design go beyond the boundary of the site then these will need to be addressed and this may be through the use of planning obligations. As Design and Access Statements will be required for most planning applications, these will be useful tools for developers to assess how their development integrates with local areas in terms of local streets, public spaces and local facilities.
- 2.18 In some cases developers may wish to argue as a background consideration that the economic viability of their development may be compromised by the range and/or scale of any obligations being sought. The Council will expect developers to co-operate on an “open book” basis to provide information to demonstrate these circumstances. Developers should always make themselves aware of the Councils policies at early stage, so that the policy requirements and potential cost of obligations is fully factored into any land purchase or development decisions.
- 2.19 The Council will take the implementation costs of any obligations into account and will expect there to be a neutral impact on Council expenditure and resources. Obligations may need to include fees or associated costs for delivery of obligations where such costs fall to the Council.
- 2.20 The Council encourages developers to initiate and carry out local consultation where appropriate and take into account local issues in drawing up their Design and Access Statements and detailed proposals. The use of forums such as the Development Management Forum can also be useful in presenting potential schemes and identifying local issues.
- 2.21 The use of planning obligations must be governed by the CIL regulations and Circular 05/2005 and the fundamental principle that planning permission may not be bought or sold. It is not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms. Nor is it legitimate to refuse an application that is acceptable on spatial planning grounds and



meets planning policy in other respects because an applicant is not willing to agree to provide unrelated benefits.

### **Expenditure of funds**

- 2.22 To enable the Council to make the most effective infrastructure provision and area enhancement as a result of financial contributions secured through legal agreements the Council will not normally accept clauses in agreements that place unrealistic time constraints on expenditure of funds. Projects such as transport infrastructure and schools can take many years to deliver. Rather, the Council's usual approach will be for the agreement to specify that monies should be spent on an agreed scope of works or projects and the Council wishes to work with developers and landowners to carry out those works in good time.
- 2.23 The Council will also look to work with developers and landowners to look at opportunities for contributions (and remaining balances from contributions) to be pooled and applied to complementary and beneficial works in the vicinity of the site that may be funded by other developers, the Council or other agencies. For example, this could mean contributions and unspent balances of funds for highways works might be used for other complementary highways or public realm works in that area.
- 2.24 This approach will enable an effective pooling of resources to carry out wider improvements or enhancements in the area of that development, and which can be of benefit to that development. The scope for spending these funds on other works will be agreed with the developer and will be reflected in the clauses of that agreement.

### **General Procedures**

#### **Pre-application stage**

- 2.25 The Council offers a formal pre-application advice service to assist potential applicants when proposals are being drawn up and applicants should familiarise themselves with related LDF policies and this supplementary guidance. The pre-application service will be useful in identifying areas that may be subject of planning obligations prior to submission of a planning application.
- 2.26 Where formally required, supporting documents such as a Design and Access Statement, an Environmental Statement and a Transport Assessment will be expected to consider the relevant range of impacts of the proposed development and set out measures proposed to deal with them. Indeed on larger development applicants will be expected to provide a statement setting out their planning obligations strategy.

#### **Application stage**

- 2.27 The final content and scope of planning obligations will be negotiated through the planning application process which will be carried out by the Council's Development Management Team. Applicants will be expected

to enter into an agreement based on the Council's model agreement and standard clauses.

- 2.28 Once an application is identified as potentially requiring planning obligations, the Council's legal team will be instructed to produce an early "without prejudice" draft for discussion. Applicants will be required to agree and submit items such as an undertaking in respect of costs, legal title and contact details as soon as possible in the application process.

#### **After planning permission has been granted**

- 2.29 When planning permission has been granted and the legal agreement issued, copies of the documentation will be forwarded to the Council's Planning Obligations officer. The officer will maintain a record of the planning obligation requirements and will monitor the implementation of the legal agreements signed by developer. It is important that notices of implementation, any plans, payments or other details required through a legal agreement should be sent to the planning obligations officer in the first instance.

#### **Costs and Charges relating to Planning Obligations**

- 2.30 As a principle the Council will seek to recover all of its costs in relation to the preparation and monitoring and processing of planning obligations and the work arising out of them. These charges fall into two categories –(i) those relating to work undertaken by legal and other officers in preparing the legal agreement containing the obligations ("Legal and Preparation Charges") and (ii) those relating to work undertaken by officers post completion of the Agreement in monitoring implementing and processing obligations contained in the agreement. ("Processing and Monitoring Charges").
- 2.31 All charges will be based on a standard Charging Schedule referencing the number and type of Heads of Terms in an Agreement. In terms of Legal and Preparation Charges these will be charged at a different rate for major and non major schemes. To facilitate preparation of agreements standard legal templates will be made available on the Camden web site to give an indication of the likely format of an agreement but the final drafting will be carried out by Camden Legal Services. More detail about the principles underpinning Processing and Monitoring Charges are set out in the paragraphs below.
- 2.32 Any changes to charges are subject to Cabinet approval and will be available through the Council's website. All charges will be payable at the time that a Section 106 agreement is completed

#### **Processing and Monitoring Charges**

- 2.33 The processing, monitoring and implementation of planning obligations after completion of the Agreement requires the input of significant Council resources. This relates to a range of activities which arise directly from the grant of planning permission for development and are

necessary to ensure that measures required to mitigate the development impacts are properly carried out. Costs associated with this work are distinct from any costs associated with processing a planning application and legal fees and in many cases will be ongoing after a development has been completed. Hence it is appropriate that charges relating to such obligations are borne by the developer.

2.34 Examples of activities carried out by the Council to facilitate planning obligations:

- Ensuring the details of all agreements are accurately recorded on a database and Monitoring agreements (including site visits to check for implementation, as necessary);
- Correspondence associated with requirements and payment of financial contributions (including index linked calculations);
- Receipt and monitoring of receipt of financial contributions and reminders/enforcement action taken if appropriate; and ensuring that contributions are spent in accordance with the terms of agreements including any expenditure deadlines;
- Coordinating and assessing discharge of both non-technical and technical plans and strategies (e.g. sustainability and energy efficiency plans);

2.35 The Processing and Monitoring Charges, have been established by taking into account financial and non-financial clauses and reflect the size and potential complexity of the agreement. In respect of very significant major schemes bespoke charges will be negotiated with reference to the scale and complexity of the agreement.

**(a) Minor schemes**

2.36 The Processing and Monitoring Charge per head of term is £365

**(b) Major Schemes**

2.37 The Processing and Monitoring Charge per head of term is £515

2.38 Both these charges will be subject to review and will be updated on an annual basis and subject to Cabinet approval.

2.39 Monitoring charges are payable upon scheme implementation.



### 3 Amenity

- 3.1 Development can be positive, but it can also have a significant environmental impact on the amenity of those who live near the development site. It can sometimes cause general nuisance and disturbance, vibration, noise pollution and dust pollution. Development can also have an impact on the surrounding landscape and biodiversity.
- 3.2 The negative impacts of development on amenity can be and short term and connected to the construction phase of the development, or they can be long term and connected to the day to day operation of the development. The negative impact of a development on the amenity of the surrounding area can normally be offset by good design, planning conditions and controls covered by other legislation.
- 3.3 Where these measures are not adequate to deal with the potential negative environmental impacts of a proposed development which is deemed generally acceptable, a S106 Agreement can be drawn up between the Council and the developer, requiring the developer to undertake certain actions to offset those impacts.
- 3.4 The Council will seek to manage the impact of development when considering a development proposal in line with Development Plan policies DP26 and DP28. However, certain aspects of demolition and construction have specific planning implications and may need to be addressed through planning conditions or planning obligations entered into through a Section 106 Agreement.



#### **Construction**

- 3.5 Where demolition and construction is likely to affect local amenity, it is better to consider the environmental impacts at the planning stage and seek ways to minimise them. Many concerns can be addressed through adoption of a co-operative stance between all parties involved and developers should refer to and utilise the Considerate Constructors Scheme.



- 3.6 Many of the environmental impacts of construction works are covered by specific legislation to control pollution, maintain clean air and minimise disturbance. Because of this and other controls small construction projects cause relatively minor amounts of local disturbance and in most cases will not require a section 106 agreement to deal with construction management. However, in the case of large construction and demolition works, planning obligations may be used to minimise the environmental impacts and address the consequences of construction (e.g. to manage construction traffic and/or reinstatement surfaces to a condition that existed prior to construction).
- 3.7 In most cases planning obligations will involve a demolition and/or construction management plan. Please refer to Camden Planning Guidance 6 Amenity, Section 8 for further detail on Construction Management Plans. In these plans the developer undertakes to carry out the demolition or construction works in strict accordance with a plan approved by the Council. The plan may include provisions for phasing, sequential development, management of waste, controlling noise and access during construction. When drawing up the construction or demolition management plan the developer will be required to consult with officers of the Council, the police and local residents and businesses. Local businesses could also be used to supply materials and services in relation to development and construction in order to minimise travel distances and transport costs.
- 3.8 The Council may require the developer to set up a Construction Community Working Group in order to discuss, advise and, where appropriate, make recommendations to the developer in relation to construction management. The Working Group should be made up of an appropriate number of representatives from local residents and/or business associations, a nominee of the Council and/or the Council's Culture and Environment Department, and a project manager and/or Liaison Officer who would act as a point of contact between the local community and the developer.
- 3.9 The Construction Community Working Group can have an input into a Construction or Demolition Plan or Method Statement for Construction, which the developer should submit for the approval of the Council before implementation. The plan or statement should cover the following:
- the programme for construction works;
  - site conditions;
  - erection of hoardings and scaffolding;
  - time of operations;
  - noisy activities;
  - time of deliveries;
  - dealing with construction traffic, vehicles and other likely traffic and parking issues;
  - temporary road and footway closures and surfacing reinstatement/repair proposals; and

- consideration of complaints from the business and residential community.

3.10 Construction should proceed at all times in accordance with this plan or Method Statement.

### **Construction waste**

3.11 The Council will seek to minimise the amount of waste generated by a development and to maximise the amount of waste that is reused or recycled. Developers should try to ensure that construction waste is minimised. Recycling of demolition waste can help reduce the amount of aggregates that have to be transported through London and contribute to the saving of resources.

3.12 Construction waste needs to be disposed of safely and the vicinity of the construction site should be kept in a clean and safe condition. The Council may require the developer to submit for approval a Construction Waste Management Plan separately, or as part an overall Construction and Demolition Plan, which the Developer will be obliged to follow during the period of construction.

### **Noise**

3.13 Noise pollution has a major effect on amenity and on quality of life in general. The Council will not grant permission for noise sensitive development in locations where there is noise pollution, unless appropriate attenuation measures are taken. Policy DP28 *Noise and vibration* sets out the acceptable thresholds for noise in relation to sensitive uses. If suitable separation cannot be achieved the Council will consider whether it is practical to control or reduce noise levels through the use of conditions, planning obligations or other environmental legislation.

3.14 Whilst design measures and planning conditions will often be sufficient to address noise impacts within the development site, planning obligations may require financial contributions to fund:

- noise mapping;
- noise monitoring to identify the number of people adversely affected by noise from road traffic and railways, and to validate noise levels calculated by noise mapping; and/or
- a post development survey to confirm that requisite measures have been implemented successfully.

3.15 In addition the Council may require a noise management plan through a legal agreement, which may require a developer to:

- put in place a scheme for the sound insulation of affected dwellings in order to safeguard amenity;

- reduce noise at source, e.g. by vehicle fleet selection to minimise noise generated by individual vehicles such as delivery lorries, cars and railway vehicles;
- implement off-site noise mitigation measures against traffic noise and vibration such as noise barriers and sound insulation of residential properties and other noise sensitive receivers;
- provide and maintain off-site tree and landscape buffers;
- put into operation a traffic management scheme to reduce road traffic noise; and/or
- work with the local highways authority to implement requisite highways works and a maintenance programme incorporating provision of quieter road surfaces, such as porous asphalt.

### **Contaminated land**

- 3.16 Contamination of the ground and underground water can affect human health, cause harm to the natural environment and damage buildings and underground services. The Council will require measures to remove unacceptable risk from contaminated land and thus make the site suitable for its new use by way of planning conditions.
- 3.17 Where a development includes any potentially contaminative uses the Council will expect proposals to be submitted to prevent future contamination of land or groundwater and may impose planning conditions to that effect. Land contamination issues must be fully addressed in any environmental assessment or statement to accompany a planning application.
- 3.18 For those developments in or adjacent to areas where objectives for land contamination are unlikely to be met by condition (i.e. where there is still a residual impact), the Council will require a S106 planning obligation. The planning obligation will be directed towards measures designed to deal with the contamination, including during construction works, and to make the site suitable for its intended use.
- 3.19 The Council may require a developer to provide a financial contribution for:
- site investigation and remediation works which would include any measures to prevent hazards arising from future use of the site and the disposal or containment of any contaminants;
  - for monitoring following the completion of the development, e.g. measuring gas or water contamination in boreholes or installing permanent monitoring equipment; and/or
  - a post-development survey to confirm that requisite measures have been implemented successfully.
- 3.20 A management plan may also be necessary requiring the maintenance of remedial works such as landscaping or water treatment facilities, or imposing restrictions on the land to minimise and control future potentially hazardous or contaminating development or use of the site.

## **Microclimate**

- 3.21 Large developments have the potential to change the microclimatic conditions in the surrounding area, for example by overshadowing a public space for large parts of the day, or by causing windy conditions around the development. The Council will expect that in the case of a development that has the potential to have an adverse effect on the environmental conditions in a nearby street or public space relevant attenuation measures should be integrated into the proposals.
- 3.22 On-site attenuation measures can also be specified in the planning conditions attached to a planning permission. The Council may require a developer to undertake an assessment (e.g. a wind assessment) of the development as part of the planning application submission. The developer may be required to integrate any findings or recommendations into the finished development. The Council may also require the developer to manage and maintain a development in accordance with an environmental plan, which may need to be approved as part of an application.
- 3.23 In certain cases the adverse effects of a development on the environmental conditions of the public spaces around and within the development may be attenuated by off site measures such as planting trees as a windbreak. Other off-site shading or shielding devices may be required to control or improve the environmental conditions in public and semi public spaces around the proposed development. The Council may require the developer to pay a financial contribution to secure these works.





## 6 Affordable housing and housing in mixed-use development

- 6.1 The Council will use planning obligations to secure the provision of:
- an appropriate proportion of housing in mixed-use developments; and
  - an appropriate proportion of affordable housing in residential and mixed-use developments.
- 6.2 Contributions to housing and affordable housing may be required under Development Policy DP1 – *Mixed-use development* and Development Policy DP3 – *Contributions to the supply of affordable housing*. Policies DP1 and DP3 indicate that the contributions should normally be made on the development site that generates the policy requirement, but the policies provide for off-site contributions in a limited set of circumstances, and these contributions may exceptionally take the form of a payment in lieu.
- 6.3 CPG2 Housing sets out all the Council's usual arrangements for the provision of housing and affordable housing through policies DP1 and DP3, and housing in mixed-use, particularly section 1 Affordable housing and housing in mixed-use development. CPG2 gives guidance on providing housing and affordable housing on-site and off-site, including the use of planning obligations. Paragraphs 2.68 to 2.88 set out the limited circumstances where on off-site contribution may be accepted and the exceptional circumstances where this may take the form of a payment in lieu.
- 6.4 This section of the guidance provides guidance on how payments in lieu of housing/ affordable housing are calculated, but does not provide guidance on any other aspects of policy DP1 and policy DP3. To find out whether a payment in lieu might be acceptable, please also refer to paragraphs 2.68 to 2.88 of CPG2 Housing.



- 6.5 In summary:
- payments-in-lieu will only be accepted under exceptional circumstances where provision cannot practically be made on site

and the applicant demonstrates that no alternative site is available in the area;

- payments-in-lieu of housing and payments-in-lieu of affordable housing will be pooled into an affordable housing fund and used to assist provision of affordable housing
- where a payment-in-lieu at the level anticipated by this guidance would not be viable, arrangements for financial viability appraisal apply, as set out in paragraphs 2.59 to 2.67 of CPG 2 Housing; and
- where development proposals involve a shortfall of the housing or affordable housing required under Policies DP1 or DP3, the Council may negotiate a payment in lieu of the unmet requirement.

### **How the payment levels have been set**

- 6.6 The Council has commissioned research on standard payment-in-lieu figures for housing and affordable housing based on the Camden Affordable Housing Viability Study 2009. The first part of this research (published as the Payments in Lieu Working Paper 2010 – see the evidence base and monitoring section of our Local Development Framework pages at [www.camden.gov.uk/ldf](http://www.camden.gov.uk/ldf)) compared the residual value of a range of market housing development types with and without the affordable housing element sought by Development Policy DP3. These comparisons show the additional value created by omitting affordable housing from the development. This has been converted to a payment per square metre of on-site affordable housing sought.
- 6.7 The second part of the research (published as the Mixed Use PIL Working Paper 2011 – see the evidence base and monitoring section of our Local Development Framework pages at [www.camden.gov.uk/ldf](http://www.camden.gov.uk/ldf)) compared the residual value of a range of Central London office developments with and without the housing element sought by mixed-use Development Policy DP1. These comparisons show the additional value created by omitting housing from the development. This has been converted to two figures for payment per square metre of on-site housing sought, one for small floorspace additions and one for larger floorspace additions (for these larger schemes the housing sought would include affordable housing).

### **The payment levels**

- 6.8 The three discrete payment levels are set out in the table below. One level applies to residential schemes where a contribution to affordable housing is sought under Development Policy DP3. Two payment levels apply to non-residential schemes where a contribution to housing is sought under mixed use Policy DP1. The higher level applies to larger non-residential schemes which would also trigger an affordable housing requirement under Policy DP3. The higher figure takes account of the impact of affordable housing on viability, so it is not necessary to combine the different payment levels.

- 6.9 All figures are expressed as £ per square metre (gross external area). The figures are applied to the **on-site** target for housing/ affordable housing. They should not be applied to the total or additional floorspace of the proposed development, or to the off-site target for affordable housing.

**Figure 3. Housing/ affordable housing payment levels**

<b>Development type/ policy requirement</b>	<b>Level of payment in lieu</b>
Market residential scheme/ affordable housing policy DP3	£2,650 per sq m x on-site target for affordable housing
Non-residential with less than 2,000 sq m additional floorspace (gross external area)/ mixed-use policy DP1	£700 per sq m x on-site target for housing
Non-residential with 2,000 sq m additional floorspace or more (gross external area)/ policies DP1 and DP3	£1,350 per sq m x on-site target for housing

- 6.10 The payment levels in Figure 3 for non-residential schemes have been derived on the basis of developments that omit *all* types of housing requirement (under DP1 and DP3), and are based on costs and values for office developments. These figures may not be appropriate for a large non-residential scheme that only omits affordable housing, or where the primary use is a non-office use such as retail or a hotel. Where the type of development proposed is substantially different from the developments used to set the payment levels, or the payment levels indicated in Figure 3 would not be viable, the Council will:
- apply the arrangements for financial viability appraisal set out in paragraphs 2.59 to 2.67 of CPG2 Housing; and
  - negotiate a payment on the basis of the financial viability of the particular development.
- 6.11 For a primarily residential scheme with a non-residential element of less than 1,000 sq m gross, if the Council agrees that a payment in lieu of affordable housing is appropriate, the level of payment will be guided by policy DP3 and the figure of £2,650 per sq m of on-site target for affordable housing.

**GROSS EXTERNAL AREA**

Calculations in this guidance are based on Gross External Area (GEA). This is generally the total area of every floor in the building including common areas and external walls. Payment-in-lieu figures have been calculated on that basis.

Floorspace measurements are sometimes provided which exclude common areas and exterior walls of the building (this often applies to flats), or just exclude the exterior walls (this often applies to houses). Where a figure for Gross External Area including common areas is not available, the Council will consider using a conversion factor to assess the housing/ affordable housing requirement and to calculate the payment in lieu.

- To convert to GEA where common areas and exterior walls have been excluded - multiply by 1.25.
- To convert to GEA where only exterior walls have been excluded – multiply by 1.053.

A fuller explanation of the terms Gross External Area and Gross Internal Area is given in paragraph 2.25 of CPG2 Housing.

**How to calculate affordable housing payments under policy DP3**

- 6.12 Where the payment is in lieu of affordable housing under Development Policy DP3, calculations of the payment will proceed in accordance with CPG2 Figure 2 and paragraphs 2.31-2.32 and 2.35, as follows:
- the capacity of the site will be assessed and be converted into a percentage target for on-site affordable housing;
  - the percentage target for on-site affordable housing will in turn be assessed and converted into a floorspace figure (GEA);
  - the target for off-site affordable housing floorspace will be multiplied by the payment per square metre figure of £2,650.
- 6.13 Please refer to CPG2 for full details of the factors which influence capacity and on-site affordable housing target. In summary:
- assessment of capacity is based on the number of additional homes proposed and the gross floorspace addition including common areas;
  - capacity is assessed as the number of additional homes proposed or 1 home per additional 100 sq m (gross), whichever is the greater;
  - capacity is rounded to the nearest whole number;
  - the on-site affordable housing target is assessed as 10% where capacity is 10 additional homes plus 1% for every further increase of capacity by 1 home, up to a target of 50% where capacity is 50 additional homes.

**Figure 4. Example calculations:  
payments in lieu of affordable housing under policy DP3**

<b>Example 1</b> 21 additional homes with a built floorspace of 1,750 sq m gross	Site capacity = 21 homes
Percentage target for on-site affordable housing	= 21%
Floorspace target for on-site affordable housing	= 1,750 x 21% = 367.5 sq m
Payment-in-lieu of affordable housing	= 367.5 sq m x £2,650 = £973,875
<b>Example 2</b> 22 additional homes with a built floorspace of 2,360 sq m gross	Site capacity = 24 homes
Percentage target for on-site affordable housing	= 24%
Floorspace target for on-site affordable housing	= 2,360 x 24% = 566.4 sq m
Payment-in-lieu of affordable housing	= 566.4 sq m x £2,650 = £1,500,960

#### **How to calculate housing payments under policy DP1**

6.14 Where the payment is in lieu of housing under Development Policy DP1, calculations of the payment will proceed as follows:

- the additional floorspace proposed will be multiplied by the 50% target for on-site housing to produce a floorspace target (GEA);
- where the additional floorspace proposed is less than 2,000 sq m (GEA)
  - the on-site housing floorspace target is less than 1,000 sq m (GEA)
  - consequently no contribution to affordable housing would be sought under policy DP3
  - the target for on-site housing floorspace will be multiplied by the payment per square metre figure of £700;
- where the additional floorspace proposed is 2,000 sq m (GEA) or more
  - the on-site housing floorspace target is 1,000 sq m (GEA) or more
  - consequently an on-site contribution to affordable housing would be also be expected under policy DP3
  - the target for all on-site housing floorspace will be multiplied by the higher payment per square metre figure of £1,350.



**Figure 5. Example calculations:  
payments in lieu of housing under policy DP1**

<b>Example 1</b>	
Total floorspace addition	= 800 sq m
Target for on-site housing	= 800 x 50% = 400 sq m
Affordable housing sought?	No
Payment level	£700 psm
Payment-in-lieu of market housing	= 400 sq m x £700 = £280,000
<b>Example 2</b>	
Total floorspace addition (NB an on-site housing contribution would be required unless there is clear evidence that off-site provision is more appropriate)	= 2,400 sq m
Target for on-site housing	= 2,400 x 50% = 1,200 sq m
Affordable housing sought?	Yes
Payment level	£1,350 psm
Payment-in-lieu of all housing	= 1,200 sq m x £1,350 = £1,620,000

## 7 Sustainability

- 7.1 Promoting a sustainable Camden is an integral element of our Local Development Framework strategy. Core Strategy policy CS13 - *Tackling climate change through promoting higher environmental standards* sets out a key part of our overall approach to tackling climate change, which includes promoting higher environmental standards in design and construction.
- 7.2 Core Strategy policy CS13 states that the Council will have regard to the costs and feasibility of measures to tackle climate change within developments (paragraph 13.4). This approach also applies to policy DP22. We will also take into account the cumulative costs of not responding to the need to mitigate and adapt to climate change as well as the long term cost savings, such as on energy and water bills, to future occupiers. Measures to tackle climate change are integral in the development process and are a priority of the Council, therefore, they should not be seen as 'add-ons'. They are an essential element of sustainable development. For further information on ways to achieve carbon reductions and more sustainable developments please refer to Camden Planning Guidance note 3 – Sustainability.



### **Biodiversity/habitats;**

- 7.3 Planning obligations may be used to require developers to carry out works to secure or reinstate existing habitat features, enhance existing features, create new features or to undertake habitat creation schemes. In those very exceptional cases where a developer cannot protect an ecological habitat adjacent to or within the boundaries of the site and in other respects the development is acceptable they will be required to provide an alternative compensatory measure of equal or greater value. These measures could be land off-site on which the Council or other responsible agency can carry out works and recover the reasonable costs from the developer, or assistance in enlarging or enhancing existing nature conservation assets and habitats and make provision for maintenance of the site.

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

### **Sustainable Design and Construction**

- 7.5 Policy DP22 – *Promoting sustainable design and construction* contributes towards delivering the strategy in policy CS13 by providing detail of the sustainability standards we will expect development to meet. Meeting the requirements for sustainable design and construction is often achieved in the detailed design or construction phases. Normally, requirements for environmental design will be dealt with using conditions, but in some circumstances, a Section 106 agreement may be required to secure an environmental assessment of the proposed development carried out by an impartial assessment body or a sustainability plan to provide and maintain the highest environmental standards of development.
- 7.6 If they cannot be implemented through the approved design or satisfactorily secured through conditions, the following design features may be specified through a sustainability plan required to be submitted as part of a s106 Agreement:
- energy efficient design measures;
  - renewable energy facilities;
  - waste and recycling storage facilities;
  - water retention and recycling facilities;
  - heating or cooling systems;
  - internal water consumption levels; and
  - materials sourcing proportions.
- 7.7 Other specific management plans may normally be required through a condition of a planning approval. However, some proposals or aspects of a proposal might generate a requirement for a management plan to deal with some of the following issues, depending on the scale, nature and location of the scheme:
- waste management;
  - energy including renewable energy on site and energy efficiency;
  - facilities management;
  - construction and demolition;
  - water efficiency;

- Sustainable Drainage Systems (SUDs)
- community safety;
- contamination;
- hazardous substances; and
- biodiversity.

This list is not exhaustive, and the requirements will be relevant, proportionate and related to the specific nature and potential impacts of the development proposed.

- 7.8 Camden Planning Guidance 3, Sustainability provides further detail on the appropriate standards for different types of development – BREEAM, Ecohomes or the Code for Sustainable Homes. A Section 106 Agreement may be used by the Council to require the developer to carry out and submit a post-construction review to ensure that the development has met the criteria which were approved earlier as part of the estimate and design stage assessments. The Council will not permit occupation of the development until a satisfactory post-construction review has been provided and any issues identified in that review have been satisfactorily addressed

### **Decentralised energy networks**

- 7.9 Developments are expected to connect to a decentralised energy network and use the heat, unless developers can demonstrate it is not technically feasible or financially viable. Developers should use guidance in CPG3 – Sustainability chapter 5, to determine whether connection to a decentralised energy network, a combined heat and power plant or a contribution towards a decentralised energy network will be expected.
- 7.10 Where appropriate s106 agreements will be used to secure:
- the installation of CHP/CCHP and the generation and use of energy;
  - details that ensure the plant and its operation is carbon dioxide efficient with regards to operating hours, compatibility with the need (amount and timing) for heat, and requirements for a heat store;
  - details that ensure the design of the heating system is compatible with any nearby decentralised energy network;
  - the export of heat, cooling and/or electricity;
  - development use heat, cooling and or electricity from a decentralised energy network;
  - sufficient space is provided for future plant, heat exchanges, connection points to either generate, export and take heat, cooling and/or electricity; and
  - a financial contribution towards future decentralised energy networks.

- 7.11 The financial contribution expected will be in line with the following table taken from CPG 3 - Sustainability (chapter 5):

<b>Size of development</b>	<b>Residential (per dwelling) or per 300sq m of non-residential floorspace</b>
Over 20 storeys	£2,800
8-20	£2,500
5-7	£2,800
3-4	£4,100
2-3	£5,300
Single dwelling houses or Single storey commercial developments	£8,600

Source: Community energy: Urban planning for a low carbon future

## 8 Employment and business support

- 8.1 Local businesses can provide employment for local people and new business development can benefit the local economy and existing businesses through the use of local shops, facilities and services. Core Strategy Policy CS8 – *Promoting a successful and inclusive Camden economy* and Development Policy DP13 – *Employment premises and sites* aims to ensure that the borough’s economy will be strong and diverse and that Camden’s residents can play a role in this by supporting training and employment opportunities.
- 8.2 There is an identified skills gap between Camden residents and the jobs on offer in the Borough. Currently, only 23% of the workforce in Camden is resident in the Borough. Local employment and training initiatives can open up job opportunities for people from many sectors of the community, who may otherwise find it difficult to access employment offered by existing and new businesses, helping to bridge the identified skills gap.
- 8.3 The Council may require developers to assist with training and employment initiatives via section 106 Agreements where the development impacts on the availability of jobs for Camden residents, including the following types of development:
- Any commercial land use where the proposed development could offer local employment opportunities, or would have the potential to provide it on account of its floorspace (i.e. greater than 1000 square metres or 50 jobs);
  - A development in a location where there are identified employment and training issues (e.g. higher than Borough-average levels of unemployment, lower than Borough-average levels of skills/education attainment);
  - Where major developments result in the loss or displacement of existing employment opportunities; and
  - Major infrastructure or development projects involving significant construction contracts (e.g. over £3 million).
- 8.4 A financial contribution to assist local residents to receive training in the skills that would enable them to access the types of job created by new development may be sought. These monies will be held by the Council and used in suitable partnership projects with recognised training and employment organisations and partnerships.
- 8.5 The contributions would be paid to the Council and then allocated by the Council’s Economic Development Team to a recognised local and/or specialist training provider. Alternatively, developers and/or occupiers of development may, in conjunction with the Council’s Economic Development Team, be able to develop and offer tailored in-house training or work experience schemes for local residents (this could be offered through local schools and colleges).



- 8.6 Developers may need to provide a financial contribution to support the employment and training elements of local regeneration initiatives or partnerships. This could extend to funding or providing construction training opportunities for local residents related to a development, either through recognised local initiatives or partnerships (e.g. Kings Cross Construction Skills Centre), or through in-house training schemes operated by their contractors and agreed with the Council's Economic Development Team.
- 8.7 Measures will also be sought to maximise the opportunities offered by new major developments for local residents and local businesses that might be affected. Developers and occupiers of new development will be strongly encouraged to put in place measures to seek to recruit widely from Camden's resident population, for example by registering all vacancies with the local Job Centre, by advertising in the local press and running local recruitment events.

### **Developments which result in a loss of employment space**

- 8.8 Policies CS8 and DP13 aim to protect employment sites which provide employment opportunities. However, in exceptional circumstances we may agree that change of use is acceptable. In these circumstances, where the loss of employment use can be expected to result in a reduction of job opportunities for Camden residents, developers may be required to contribute towards training and employment measures to enable Camden residents to access alternative employment.
- 8.9 In line with paragraph 13.11 of Policy DP13, the term 'business' and 'employment' refer to B1, B2, B8 uses and other sui generis uses of a similar nature.
- 8.10 A contribution will only be sought in cases where:
- the net loss of employment space is 500sq m or more;
  - where the building is occupied by a commercial tenant or has only recently been vacated; and
  - the building has design features which make it suitable for continued employment use.
- 8.11 The calculation will take account of the proposed alternative use of the floorspace, such as for education or training use, and whether this use can be expected to create employment or training opportunities for Camden residents.
- 8.12 The planning obligation for loss of employment floorspace will be based on the following formula:

Gross employment floorspace lost / 19sqm (space requirement per full time employee) = full time jobs lost.  
 Full time jobs lost x 23% [% of Camden residents in the workforce] x £2,750 [cost to provide training per employee] = contribution

These figures will be subject to review and may be updated to reflect the latest information.

#### **Worked example 1: Change of use from employment to residential**

- 8.13 If the existing building provides 1,000sqm of employment floorspace and a change of use to residential is proposed, we will expect a contribution of £33,000 to cover training and employment support measures.

Net fulltime jobs lost, in this case the no. of full time jobs expected if use continues:

$1000\text{sqm} / 19\text{sqm} = 53$  FT jobs lost (floorspace / avg space per worker):

No. of jobs lost which would be expected to be filled by Camden residents:  
 $53 \times 23\% = 12$  jobs (FT jobs lost  $\times$  23%)

Cost of retraining and supporting number of Camden residents who would be expected to be employed in former use:

$12 \times \text{£}2,750 = \text{£}33,000$  (No. of jobs lost which would be expected to be filled by Camden residents multiplied by retraining costs)

#### **Worked example 2: Change of use from employment to hotel**

- 8.14 If the existing building provides 4,000sqm of employment floorspace and a change of use to hotel is proposed we will expect a contribution of £101,750 to cover employment training. This takes account of the hotel use providing 50 FTE jobs.

The contribution required would recognise that the hotel would generate some employment opportunities for Camden residents but the number of full time jobs created would be less than if the building remained in its former use. The contribution is based on the difference between the number of jobs expected to be supported if a building remained in its existing employment generating use and the number of jobs expected to be generated by the hotel use.

No. of full time jobs expected in an employment generating use (floorspace / avg space per worker):  
 $4,000 / 19 = 211$  FT jobs

Net job lost (FT jobs expected in employment use minus FT jobs in new (hotel) use):  
 $211 - 50 = 161$  FT jobs

No. of net jobs lost expected to be filled by Camden residents (net loss of FT jobs  $\times$  23% [% of Camden residents in the workforce]):  $161 \times 23\% = 37$  jobs

Cost of retraining and supporting number of Camden residents who would be expected to be employed in former use:  $37 \times \text{£}2,750 = \text{£}101,750$  (No. of jobs expected to be filled by Camden residents multiplied by retraining costs)

#### **Employment and local procurement during construction**

- 8.15 In line with Core Strategy Policy CS8, large schemes are expected to produce an Employment and Training Strategy which will be secured through a S106 agreement. This applies to all major developments

which will result in an increase of 1,000 sq m or more employment space, including office, hotel and retail developments.

- 8.16 The strategy will involve the developer/point of contact meeting with Camden Council and their nominated partner at pre-tender stage/pre-implementation to discuss an Employment and Skills Plan for every phase of the development and liaising with local employment providers to fill vacancies.
- 8.17 Developments over £3 million will be required to recruit one construction apprentice through Camden Council, or its nominated partner, for every £3million of build where the length of the project allows (generally, where the contract is 52 weeks or more) A support fee of £1,500 per apprentice placement will also be payable in order to cover:
- pre-employment;
  - recruitment process;
  - training provider brokerage; and
  - post-employment mentoring and support.
- 8.18 Where the length of the project/build does not allow for an apprenticeship placement, a £7,000 fee per apprentice will be payable to allow for the creation of training opportunities elsewhere in the borough.
- 8.19 Developers will also be required through a legal agreement to sign up to the Camden Local Procurement Code where the value of the scheme exceeds £1,000,000. This will involve the developer/point of contact meeting with Camden Council and their nominated partner prior to the implementation of their scheme to discuss potential for local businesses becoming part of the supply chain and to draw up a Local Procurement plan in line with the Local Procurement Code.

### **Employment in development after completion**

- 8.20 Camden Council encourages the creation of apprenticeships and training placements to help to close the skills gaps between the jobs on offer in the borough and the skills of the local workforce, allowing companies to recruit and retain local people into work. This approach is supported through policy CS8 of the LDF and applies to major commercial developments which will result in a NET increase of 1,000sq m or more of employment space including office, hotel and leisure developments.
- 8.21 The Council will seek to negotiate a s106 contribution to be used by the Council's Economic Development service to support training and provide employment advice to help local residents access local jobs and to support local procurement initiatives in Camden. The contribution is lower than for developments involving a loss of employment space. To reflect the fact these developments are providing new employment opportunities will be calculated as follows:

**Employment space**

Net increase in floorspace / 19sqm [space requirement per full time employee]  
= full time jobs created

Full time jobs created x 23% [%of Camden residents in the workforce] x 35 [%  
of employees requiring training] x £1,500 [£ per employee requiring training]

**Hospitality**

No of bedrooms / 0.5 [number of employees per bedroom] = full time jobs  
created

Full time jobs created x 23% [%of Camden residents in the workforce] x 35 [%  
of employees requiring training] x £1,500 [£ per employee requiring training]

Note: The cost of employment and recruitment training and support per employee is based on the amount asked for by KX construction centre (£1,500)

- 8.22 Where the end use occupier is known, as part of the s106 we will seek an agreement with the developer to provide a specified number of apprentice or trainee places within the development. Where the end use occupier is not known, the Council will seek an agreement to ensure that its aims and objectives, in respect of employment and skills, are promoted by brokering a meeting between the new occupier and the Economic Development team.

