

**Second Draft Planning Contributions SPD Consultation
CONSULTATION SCHEDULE AND COUNCIL RESPONSE, SEPTEMBER 2019**

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Additional Draft SPD text is shown underlined

Question 1: Do you have any comments on Section 1: Introduction?

Name	Comment	Response
Maureen Prescott (Surrey County Council)	Thank you for consulting Surrey County Council on the SPD. We have no comments on the document.	Noted.
Sharon Jenkins (Natural England)	<p>While we welcome this opportunity to give our views, the topic this Supplementary Planning Document covers is unlikely to have major impacts on the natural environment. We therefore do not wish to provide specific comments, but advise you to consider the following issues:</p> <p><u>Biodiversity enhancement</u> This SPD could consider incorporating features which are beneficial to wildlife within development, in line with paragraph 118 of the National Planning Policy Framework. You may wish to consider providing guidance on, for example, the level of bat roost or bird box provision within the built structure, or other measures to enhance biodiversity in the urban environment. An example of good practice includes the Exeter Residential Design Guide SPD, which advises (amongst other matters) a ratio of one nest/roost box per residential unit.</p>	<p>Noted.</p> <p>Paragraph 13.24 of the second draft SPD, states that <i>“Contributions will be used to sustain and improve the quality of the Borough’s parks to support the four priority themes: Manage the Lon-term resilience of the parks in relation to usage, biodiversity and climate change”</i> (bullet point 3).</p> <p>Consolidated Local Plan Policy CE4 g. also requires <i>“development proposals to create opportunities, where possible, for attracting biodiversity and habitat creation,</i></p>

Name	Comment	Response
	<p><u>Landscape enhancement</u> The SPD may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green infrastructure provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider how new development might make a positive contribution to the character and functions of the landscape through sensitive siting and good design and avoid unacceptable impacts.</p> <p><u>Protected species</u> Natural England has produced Standing Advice to help local planning authorities assess the impact of particular developments on protected or priority species.</p>	<p><i>having regard to the national, regional and local biodiversity and ecosystem targets.” This policy remains in the Local Plan Partial Review.</i></p> <p>This is not within the scope of the SPD which details the type of planning contributions that may be required, the qualifying development thresholds and the level of financial contribution where appropriate.</p> <p>This is addressed in Consolidated Local Plan Policy CR 6 Trees and Landscape and other specific policies in Local Plan including Local Plan Partial Review Site Allocations policies.</p> <p>The Council Consults Natural England on planning applications.</p>
Michael Atkins (Port of London Authority)	Thank you for consulting the Port of London Authority (PLA) on the Royal Borough of Kensington and Chelsea’s second draft Planning Contributions Supplementary Planning Document (SPD). I have now had the opportunity to review the submitted documents and can confirm that the PLA has no further comments to make.	Noted.
Councillor Spalding (RBKC)	A copy of POLICY C1 could be included here as a helpful guideline for prospective applicants	A hyperlink to LPPR Policy C1 has been included at paragraph 1.1.

Name	Comment	Response
		<p><i>“This Supplementary Planning Document (SPD) provides guidance on the delivery of Local Plan Policy C1 Infrastructure¹. Delivery and Planning Contributions.</i></p> <p><i><u>¹LPPR Policy C1 Infrastructure Delivery and Planning Contributions”</u></i></p>
<p>Katie Parsons (Historic England)</p>	<p>In general, we support the SPD, but we would encourage you to ensure that the implications of this important document do not adversely affect or undermine the historic, physical and social value of the historic environment. In particular, we would seek to ensure that the benefits gained from this SPD would help enhance and protect the Borough’s heritage assets, their setting, below ground archaeological resources, and the wider historic environment.</p> <p>Potential beneficiaries of historic environment planning obligations could include heritage assets currently at risk from neglect, decay, under-use or redundancy. Support for heritage assets on the national Heritage at Risk (HAR) register may be achieved by creating a policy basis for contributions levied at development within proximity/affecting any designated asset on the register in order to secure enhancements.</p> <p>Where appropriate, types of contribution can include; repair, restoration or maintenance of a heritage asset(s) and their setting; increased public access and improved signage to and from heritage assets; interpretation panels/ historical information and public open days; production and implementation of up-to-date Conservation Area management plans and appraisals; measures for preservation or investigation and recovery of archaeological remains and sites; display of archaeological sites and dissemination of information for public/ school education and research. This list is by no means exhaustive but provides an indication of the type of planning obligations that are used.</p>	<p>Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. The Community Infrastructure Levy Regulations set out statutory tests for S106 planning obligations, they must be directly related to the development, and fairly and reasonably related in scale and kind. If these tests are met, planning obligations for historic buildings can be sought.</p>

Name	Comment	Response
Josephine Vos (Transport for London)	As a general point, TfL has noted that sections 8-13 do not refer to the draft London Plan and suggest that these sections should be updated to reflect the policies in the plan and the growing weight that should be given to it as it moves closer to adoption.	<p>The purpose of the Supplementary Planning Documents is to “build upon and provide more advice or guidance on the policies in the Local Plan” (NPPG on Local Plans).</p> <p>The draft London Plan is currently subject to Examination in Public and is expected to be adopted in 2020. This SPD is not the appropriate place to specify the weight to be given to the emerging London Plan. Due regard has been given to the current and emerging London Plan in formulating this SPD.</p>
Ian Fergusson (Barton Willmore)	<p>These representations do not address the overarching approach taken by the draft Planning Contributions SPD. They also do not address viability appraisals or matters relating to affordable housing.</p> <p>Instead, these representations focus only on individual items identified within the SPD for which formula-based methodologies are proposed to be used to calculate planning contributions from commercial development (such development is not liable to the Borough’s CIL). Our representations have been informed in part by an email exchange which we have held with Officers.</p> <p>We are aware that the latest (August 2018) iteration of the Council’s ‘Section 106 calculator’ generates formula-based contributions from commercial development for specific items. Whilst the previous ‘calculator’ contained a similar approach, in our experience such contributions were not, in practice, sought from commercial development.</p>	<p>Planning contributions from commercial development have historically been sought as set out in the currently adopted Planning Obligations SPD. Regulations allow planning contributions to be sought where there is a development impact. This approach is continued in the updated SPD.</p> <p>Worked examples are not necessary as the currently adopted SPD from 2010 will be superseded by the updated SPD.</p>

Name	Comment	Response
	<p>As per the above, we have not commented since August 2018 and do not comment in these representations on whether or not it is acceptable to seek such formula-based obligations from commercial development.</p> <p>We expect all these matters will undergo scrutiny by lawyers.</p> <p>Finally, we note the draft SPD does not include a worked example for a hypothetical commercial development scheme. It would be helpful if another worked example was provided for comparison, setting out how schemes are assessed under the adopted SPD from 2010. This would then make clear the extent of change from the adopted position.</p>	
<p>Kayley Smith (Highways England)</p>	<p>Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and, as such, Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs, as well as in providing effective stewardship of its long-term operation and integrity. We will therefore be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN.</p> <p>Having examined the consultation document, we are satisfied that its policies will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT C2/13 para 10 and DCLG NPPF para 32). Accordingly, Highways England does not offer any comments on the consultation at this time.</p>	<p>Noted</p>
<p>Henry Peterson (Kensington Society)</p>	<p>This response from the Society reflects the views of its trustees, including those on the Society's planning committee. The Society has 700 members and its activities cover the northern half of the Royal Borough.</p> <p>Summary In the context of the Council's current efforts to rebuild trust with local people, and to act and communicate in ways which ensure openness and transparency, we consider that this SPD needs to include additional material on the following:</p>	<p>The focus of the SPD is to clearly set out the s106 contributions that will be sought from relevant development. This includes the basis for seeking the contributions and the amounts that will be sought. The purpose the SPD is to provide</p>

Name	Comment	Response
	<ul style="list-style-type: none"> • The RBKC processes through which S106 and CIL receipts are allocated and spent, as well as how they are collected • The Neighbourhood element of CIL – how it works and what these receipts can be spent on • The Council’s approach to Neighbourhood CIL, and what progress has been made on arrangements for community consultation on the allocation of these resources. <p>More detailed comments and suggestions on the draft text are offered below. These involve adding to the document rather than any fundamental re-drafting. We hope that the Council will show willingness to take these points on board.</p>	<p>guidance to applicants/developers when submitting planning applications. Ensuring transparency in seeking these contributions is a key aim of the SPD. Spending of s106 and CIL are reported in the Council’s monitoring report. New CIL Regulations coming into force on 1 September 2019 make it a requirement to produce Infrastructure Funding Statement from 2020. The Government will be producing standard templates to submit this information.</p> <p>The Council reports on the amount of CIL collected and spent in its annual monitoring report. The full monitoring report is available at: https://www.rbkc.gov.uk/planning-and-building-control/planning-policy/monitoring-reports</p> <p>A summary of CIL receipts and expenditure is also reported on the council’s Community Infrastructure Levy webpage: www.rbkc.gov.uk/CIL</p> <p>Contributions are ring-fenced by service areas to be spent in accordance with the terms of the</p>

Name	Comment	Response
		<p>legal agreements which secure them. Funds within identified service areas are allocated to be spent on projects when they come forward in accordance with the s106 terms specified. The legal agreements are available on the council's website.</p> <p>Whilst related, CIL is a different regime governed by specific regulations. The CIL process is currently administered through the Council's Charging Schedule and Regulation 123 list: www.rbkc.gov.uk/CIL</p> <p>The Council will be undertaking a separate consultation on neighbourhood CIL. This will include an explanation of what it is, what it can be spent on and arrangements for community engagement.</p> <p>Additional wording on s106 spending will be included at paragraph 2.5:</p> <p><i><u>"The contributions collected are ringfenced to be used by the Council on an item of infrastructure according to the terms of the legal agreement."</u></i></p>

Name	Comment	Response
Henry Peterson (Kensington Society)	<p>Paragraph 1.1 describes the purpose of the SPD as to set out the Royal Borough of Kensington and Chelsea’s approach and procedures in respect of planning contributions. The document appears to be aimed mainly at developers and applicants.</p> <p>It says very little about public involvement in how S106 contributions are negotiated, how the council assesses priorities for S106 and CIL spend, and nothing about the neighbourhood element of CIL. An additional paragraph 1.3 needs to be added. Paragraph 1.2 and its reference to ‘open book’ financial viability appraisals is welcome. More ways need to be found to allow some public involvement (e.g. via scrutiny bodies) in making SPD negotiations more transparent to the public, including regular information on how S106 proceeds are being applied and the sums involved.</p>	<p>Paragraph 2.1 and 2.4 of the SPD states that s106 required to mitigate impact of development. There is no negotiating, the process is an evidence based one. As set out in the document the contributions must be calculated as per the formula set out under each item. Any changes to the payable amounts must then be justified through the submission of an ‘open book’ financial viability appraisal. The document has been amended to clarify that planning contributions are determined through the use of formula set out in the SPD.</p>
Henry Peterson (Kensington Society)	<p>Glossary and overall content of the SPD Given that neighbourhood planning and Neighbourhood CIL are a significant part of the Government’s framework for CIL, it would be helpful if these terms were included and explained in the glossary to the document.</p> <p>In publishing any form of document on the planning process, we suggest that the Council needs to use every opportunity to communicate to residents that it will engage in genuine dialogue (where the planning framework allows for public involvement). CIL is one such area where Government has purposefully created a framework for significant neighbourhood engagement.</p> <p>To ignore this aspect in a 2019 RBKC publication, even when this is a SPD that has</p>	<p>Additional explanation of Community Infrastructure Levy and the neighbourhood portion has been included in the Glossary as follows.</p> <p>“Community Infrastructure Levy (CIL). The mandatory charge on development which Local Planning Authorities are empowered to make in order to fund local infrastructure requirements. A levy allowing local authorities to raise funds from</p>

Name	Comment	Response
	<p>been prepared to meet certain statutory requirements, sends out the wrong message to residents and is a missed opportunity.</p> <p>We also suggest that the document could carry a sub-title such as Planning Obligations SPD – how your Council collects and spends developer contributions. This would give a better indication as to its content.</p>	<p>owners or developers of land undertaking new building projects in their area. <u><i>A portion of the levy is to be spent on local priorities; this is called Neighbourhood CIL and sits outside of this SPD. The neighbourhood portion is 15 per cent of CIL revenues and 25 per cent where a neighbourhood plan has been made.</i></u></p> <p>The Council is committed to engaging with its residents and agrees that it is imperative that neighbourhood CIL spending comes from the community. However, the purpose of this SPD is to provide clarity and transparency to applicants, residents and planning officers in calculating s106 contributions.</p> <p>The intention is to consult on NCIL processes in the near future.</p>
<p>Malcom Souch (NHS London Healthy Urban Development Unit)</p>	<p>The draft SPD doesn't refer to the Local Plan strategic objective for Keeping Life Local, in particular the use of planning obligations to support the delivery of new or enhanced social and community uses, including health infrastructure in the borough (Policy CK1). It focuses on contributions for infrastructure which are not included on the Council's CIL Regulation 123 List and those contributions which may be required from commercial development with a nil CIL rate. The Regulation 123 list refers to 'health' as a possible recipient of CIL. The draft SPD does not mention health infrastructure</p>	<p>Health is currently a CIL funded item.</p> <p>The Government has amended the CIL Regulations which came into effect on the 1 September 2019. The government has clarified that the amended regulations allow for the</p>

Name	Comment	Response
	<p>and it is implied that s106 contributions from residential developments will not be sought for health infrastructure under any circumstances.</p>	<p>same piece of infrastructure to be funded through s106 planning obligations and CIL.</p> <p>Therefore, planning contributions or obligations may be sought to mitigate the specific impacts of development providing the governments s106 tests and exceptions in the Council's Regulation 123 list are met.</p>
<p>Sam Pullar Sainsbury's Supermarkets Limited and the Ballymore Group</p>	<p>We welcome the Council's approach to Opportunity Areas set out in Section 5.1, recognising the Mayor's encouragement of boroughs to take a more localised approach to planning contributions including affordable housing, local CIL exemption and acknowledgement that the infrastructure requirement for the Kensal Canalside Opportunity Area will be addressed separately.</p> <p>Notwithstanding this, the following reference in Paragraph 5.2 should be deleted: "Therefore, the starting point is the infrastructure set out in the Local Plan site allocations and Opportunity Area Supplementary Planning Documents and this SPD."</p> <p>As set out in the preceding sentence of Paragraph 5.2, the starting point for determining the infrastructure requirements are the Development Plan policies. The proposed amendments as set out in MM31 of the Main Modifications (July 2018) to the emerging Local Plan Policy CA1 indicate that the infrastructure requirements will be determined through further technical and feasibility testing either through an SPD or planning application. On this basis, the reference to the need for an Opportunity Area SPD to determine the infrastructure requirements should be removed.</p> <p>Section 13 sets out the planning contributions sought from nil CIL development. We welcome acknowledgement in Paragraph 13.1 that development impacts will</p>	<p>This sentence will remain.</p> <p>The sentence will remain, any further technical and feasibility work will inform the Opportunity Area SPD.</p> <p>Cross reference included at paragraph 13.1.</p>

Name	Comment	Response
	<p>be assessed on a case by case basis and contributions sought will be appropriate. However, Paragraph 13.1 should cross refer to Section 5 and the Council's approach to Opportunity Areas. Section 13.1 should clarify that S106 contributions will be applied flexibly within Opportunity Areas having regard to site specific infrastructure and viability considerations.</p>	<p><u><i>“The approach to opportunity Areas is set out at section 5.”</i></u></p>

Question 2: Do you have any comments on Section 2: What are Planning Contributions?

Name	Comment	Response
<p>Councillor Spalding (RBKC)</p>	<p>List the CIL types and projects to clarify what is covered by CIL, and therefore what remains for s106 (as listed in section 3)</p> <p>2.5 Planning obligations compensate for “loss or damageor..... impact on the local area”</p> <p>Some typical examples would be helpful here.</p>	<p>Paragraph 3.1 clarifies the focus of the SPD are those contributions not covered by CIL. Paragraphs 3.1 and 3.2 of the SPD set out what planning obligations will be sought through s106. These reflect the main s106/infrastructure categories.</p> <p>The types of planning obligations will vary between developments depending on its impacts. Therefore, the list of contributions as indicated at paragraphs 3.1 and 3.2 are appropriate and provide flexibility.</p> <p>The Council's Regulation 123 list sets out what types of infrastructure are covered by CIL. For clarity a reference to the Regulation 123 List has been inserted at paragraph 3.1.</p>

Name	Comment	Response
		<p><i><u>“6 The Regulation 123 List sets out the infrastructure categories/ types covered by CIL</u></i> www.rbkc.gov.uk/CIL”</p> <p>We note that CIL regulations have been amended to replace regulation 123 lists with infrastructure funding statements. This provides additional flexibility on what infrastructure CIL and s106 can fund. Therefore, including a detailed list may restrict this flexibility.</p>
Ian Fergusson (Barton Willmore)	Please see response to Q1	Please see response to Q1
Kayley Smith (Highways England)	<p>Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and, as such, Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs, as well as in providing effective stewardship of its long-term operation and integrity. We will therefore be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN.</p> <p>Having examined the consultation document, we are satisfied that its policies will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT C2/13 para 10 and DCLG NPPF para 32). Accordingly, Highways England does not offer any comments on the consultation at this time.</p>	Noted.
Henry Peterson	Section 2 on CIL needs an explanation for a lay audience as to how CIL operates as a form of development tax. These two paragraphs below, taken from the Planning Portal	As set out at paragraph 3.1 the purpose of the SPD is to provide

Name	Comment	Response
(Kensington Society)	<p>would be a good starting point: The Community Infrastructure Levy (CIL) is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010. Development may be liable for a charge under the CIL if your local planning authority has chosen to set a charge in its area. Most new development which creates net additional floor space of 100 square metres or more, or creates a new dwelling, is potentially liable for the levy.</p> <p>Neighbourhood CIL The current draft makes no mention of this important part of the national CIL regime. It is not clear why, when this is a topic of growing public interest across London. 17 London local planning authorities already have arrangements in place, for consultation with their communities on how the 15% element of Neighbourhood CIL should be allocated. The Borough includes two areas with ‘made’ neighbourhood plans, where the neighbourhood forums need to be consulted closely on the allocation of 25% of CIL receipts in these areas. While the Council may consider the level of CIL receipts collected to date to be modest (as compared to some Boroughs) these sums are significant when seen from the perspective of community organisations struggling to maintain buildings and other infrastructure. As we understand from the 2018 Annual Monitoring Report, the 15% element for that year was £755,000. Presumably a similar sum has been collected in the past year? NPPG paragraphs Paragraph: 001 Reference ID: 25-001-20140612 onwards explains how CIL is collected and spent, in language that is clear and not too hard for residents to understand. NPPG paragraphs also cover Neighbourhood CIL, and the additional flexibilities for use of these funds for non-infrastructure purposes. A shortened version of this text, tailored to the context of the Borough, could form the basis of an additional section to the SPD. These funds are a potentially important resource for local communities to be able take</p>	<p>clarity and transparency to applicants, residents and planning officers in calculating planning contributions. CIL is a different regime governed by specific regulations. The CIL process is administered through the Council's Charging Schedule and Regulation 123 list: www.rbkc.gov.uk/CIL</p> <p>The Council is committed to engaging with its residents and agrees that it is imperative that neighbourhood CIL spending comes from the community. However, the purpose of this SPD is to provide clarity and transparency to applicants, residents and planning officers in calculating s106 contributions. Additional wording has been included at paragraph 1.3.</p> <p><u><i>“1.3 A portion of the levy is to be spent on local priorities; this is called Neighbourhood CIL and sits outside of this SPD. The Council is committed to engaging with its residents on neighbourhood CIL spending.”</i></u></p> <p>The Council reports on the amount of CIL collected and spent in its annual monitoring report. The full</p>

Name	Comment	Response
	<p>part in prioritisation and allocation, as well as accessing for suitable projects. At present there is little public understanding in RBKC about CIL and Neighbourhood CIL. This has not been helped by the apparent reluctance of the Planning Department to progress work on Neighbourhood CIL, first promised in 2015. Please contrast with the material from LB Brent (attached).</p> <p>The relevant NPPG material is below:</p> <p>Spending the levy What can the Community Infrastructure Levy be spent on (and by whom)? The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities (for further details, see section 216(2) of the Planning Act 2008, and regulation 59, as amended by the 2012 and 2013 Regulations). This definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant Plan (the Local Plan in England, Local Development Plan in Wales, and the London Plan in London). Charging authorities may not use the levy to fund affordable housing.</p> <p>Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed. The levy is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development.</p> <p>The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development. In London, the regulations restrict spending by the Mayor to funding roads or other transport facilities, including Crossrail, to ensure a balance between the spending priorities of the boroughs and the Mayor.</p>	<p>monitoring report is available at: https://www.rbkc.gov.uk/planning-and-building-control/planning-policy/monitoring-reports</p> <p>A summary of CIL receipts and expenditure is also reported on the council's Community Infrastructure Levy webpage: www.rbkc.gov.uk/CIL</p>

Name	Comment	Response
	<p>Local authorities must allocate at least 15% of levy receipts to spend on priorities that should be agreed with the local community in areas where development is taking place. This can increase to a minimum of 25% in certain circumstances.</p> <p>What is the neighbourhood portion of the levy? Fifteen per cent of Community Infrastructure Levy charging authority receipts are passed directly to those parish and town councils (in England) and community councils (in Wales) where development has taken place (see regulation 59A for details). Where chargeable development takes place within the local council area, up to £100 per existing council tax dwelling can be passed to the parish, town or community council (see regulation 58A for details) this way each year to be spent on local priorities (see regulation 59C for details). Areas could use some of the neighbourhood pot to develop a neighbourhood plan where it would support development by addressing the demands that development places on the area.</p> <p>In England, communities that draw up a neighbourhood plan or neighbourhood development order (including a community right to build order), and secure the consent of local people in a referendum, will benefit from 25% of the levy revenues arising from the development that takes place in their area.</p> <p>This amount will not be subject to an annual limit. For this to apply, the neighbourhood plan must have been made (see section 61E of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38C of the Planning and Compulsory Purchase Act 2004) before a relevant planning permission first permits development (as defined by regulation 8, as amended by the 2011 Regulations and the 2014 Regulations of the Community Infrastructure Levy Regulations). This higher amount will also apply when the levy is paid in relation to developments which have been granted permission by a neighbourhood development order (including a community right to build order) (see related guidance). Neighbourhood planning does not apply in Wales, so neither does the enhanced neighbourhood funding element linked to it.</p> <p>In areas where there is a neighbourhood plan or neighbourhood development order in</p>	

Name	Comment	Response
	<p>place, charging authorities can choose to pass on more than 25% of the levy, although the wider spending powers that apply to the neighbourhood funding element of the levy will not apply to any additional funds passed to a parish, town or community council. Those additional funds can only be spent on infrastructure, as defined in the Planning Act 2008 for the purposes of the levy.</p> <p>Charging authorities do not have to pass on a neighbourhood portion of a levy charge if they issued the liability notice for that development before 25 April 2013.</p> <p>Where there is no parish, town or community council, who receives the neighbourhood portion?</p> <p>Communities without a parish, town or community council will still benefit from the 15% neighbourhood portion (or 25% portion, if a neighbourhood plan or neighbourhood development order has been made). If there is no parish, town or community council, the charging authority will retain the levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. Charging authorities should set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools eg website, newsletters, etc. The use of neighbourhood funds should therefore match priorities expressed by local communities, including priorities set out formally in neighbourhood plans.</p> <p>The government does not prescribe a specific process for agreeing how the neighbourhood portion should be spent. Charging authorities should use existing community consultation and engagement processes. This should include working with any designated neighbourhood forums preparing neighbourhood plans that exist in the area, theme specific neighbourhood groups, local businesses (particularly those working on business led neighbourhood plans), and using networks that ward councillors use. Crucially this consultation should be at the neighbourhood level. It should be proportionate to the level of levy receipts and the scale of the proposed development to which the neighbourhood funding relates.</p>	

Name	Comment	Response
	<p>Where the charging authority retains the neighbourhood funding, they can use those funds on the wider range of spending that are open to local councils (see 'Can the levy be used to deliver Suitable Alternative Natural Greenspace?', and regulation 59C). In deciding what to spend the neighbourhood portion on, the charging authority and communities should consider such issues as the phasing of development, the costs of different projects (eg a new road, a new school), the prioritisation, delivery and phasing of projects, the amount of the levy that is expected to be retained in this way and the importance of certain projects for delivering development that the area needs. Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development. They should also have regard to the infrastructure needs of the wider area. The charging authority and communities may also wish to consider appropriate linkages to the growth plans for the area and how neighbourhood levy spending might support these objectives.</p> <p>A summarised version of the above, making clear that this 'neighbourhood pot' is intended to be available for priorities derived from consulting local people (and not necessarily on infrastructure alone) would be a welcome addition to the draft SPD.</p>	
Malcom Souch (NHS London Healthy Urban Development Unit)	<p>Paragraph 2.9 refers to the Government consultation on developer contributions in March 2018. The Government has responded to this consultation and is currently consulting on amendments to the regulations. The amendments include removing the s106 pooling restriction and replacing the Regulation 123 List with an annual Infrastructure Funding Statement. This allows local authorities to use both the Levy and s106 planning obligations to fund the same item of infrastructure. Therefore, there is the need to adopt a more flexible approach to the use of developer contributions, to deliver the infrastructure requirements currently set out in the Infrastructure Delivery Plan and in future the Infrastructure Funding Statement. For example, a new health facility could be secured as an on-site s106 obligation and other s106 contributions and/or CIL could be allocated to help deliver the facility, for example fit-out costs where no NHS capital is available. This approach has been adopted in other London boroughs.</p>	<p>Noted. The Government's intention that both s106 and CIL can be used to fund the same infrastructure items has been incorporated. Paragraphs 2.7 to 2.9 have been amended accordingly. A flexible approach to the use of developer contributions will be reflected through a future Infrastructure Funding Statement and any update to the infrastructure delivery plan.</p> <p>The Council has published a list of infrastructure types and projects that</p>

Name	Comment	Response
		<p>it intends, will be, or may be, funded wholly or partly by its CIL charge which is known as the Regulation 123 List. Paragraphs 2.7 to 2.9 have been amended:</p> <p><i>“2.7 CIL Regulation 123 restricts the use of planning obligations for infrastructure that is capable of being funded by CIL to ensure that there is no duplication between the two types of developer contributions. In the future the Regulation 123 List will be replaced by an Infrastructure Funding Statement⁶.</i></p> <p><i>2.8 CIL Regulation 123 also restricts the pooling of s106 contributions so that no more than five developments may contribute to the same item of infrastructure. However, the government’s Planning Practice Guidance also makes clear that for provision not capable of being funded by CIL, such as affordable housing and other non-infrastructure obligations e.g. training, local planning authorities are not restricted in terms of the number of obligations that may be pooled, however, they must have regard to the wider policies on planning obligations set out in the National</i></p>

Name	Comment	Response
		<p><i>Planning Policy Framework (NPPF).</i></p> <p><i>2.9 The government's response³ to the Supporting Housing Delivery Through Developer Contributions consultation (March 2018) confirms that pooling restrictions will be lifted⁴ and restrictions will be removed to allow section 106 planning obligations to be sought for infrastructure included on a Charging Authority's Regulation 123 List. <u>2.8 Amended CIL regulations came into effect on the 1 September 2019. This and the NPPG¹ confirm that s106 planning obligations and CIL can be used to pay for the same piece of infrastructure.</u></i></p>
<p>Thomas Wessely (Lambert Smith Hampton) Obo Metropolitan Police Service (MPS)</p>	<p>The Royal Borough of Kensington and Chelsea's Second Draft Planning Contributions SPD, does not currently include a section on crime. It is prudent therefor that a section on crime is incorporated into the Local Plan at the next consultation stage. The London Plan (2016), states that 'Boroughs and others should seek to create safe, secure and appropriately accessible environments where crime and disorder, and the fear of crime do not undermine quality of life or community cohesion'.</p> <p>The draft London Plan targets the delivery of 4,880 new homes (in Kensington and Chelsea) by 2028/9. This represents an annualised average target of 488 new homes per year.</p>	<p>Paragraph 3.2 of the Draft SPD sets out that contributions from nil CIL rated development includes "Community safety, policing resources and other emergency services." [Emphasis added]. The requirements are set out in Section 13 of the second draft SPD which also encompasses designing out crime.</p>

¹ NPPG on Planning Obligations paragraph 006

Name	Comment	Response
	<p>The proposed growth in homes, offices and other uses will significantly increase the need for policing and the cost for associated infrastructure. This represents a legitimate infrastructure requirement that should be accounted for within Section 106 Agreements and/or Community Infrastructure Levy sought by the London Borough of Kensington and Chelsea. Appendix A (attached) includes the justification of policing infrastructure as a legitimate S106 and CIL Charging Item, and the breakdown of infrastructure sought by the MPS.</p> <p>We consider that until such time as CIL is collected for police infrastructure, funding should be collected through Section 106 contributions from individual developments to ensure that the necessary funding is accounted for in the meantime. We consider that it would be sensible to arrange a meeting to discuss the CIL contributions to mitigate the impact on crime. We would also be grateful if you could keep us informed of any future stages of the plan.</p> <p>Appendix A: CIL/S106 representation Acceptance of Policing Infrastructure as a Legitimate S106 and CIL Charging Item It is widely accepted and documented that policing infrastructure represents a legitimate item for inclusion within the CIL and S106. A number of policing authorities have sought legal advice on this issue and received confirmation of this. The advice also confirms that S106 and CIL infrastructure is not limited to buildings and could include equipment such as surveillance infrastructure and CCTV, staff set up costs, vehicles, mobile IT and PND. A breakdown of non-building related infrastructure sought by MPS is detailed below.</p> <p>For example, in the case of <i>The Queen (on the application of The Police and Crime Commissioner for Leicestershire) v Blaby District Council</i> [2014] EWHC 1719 (Admin), Judge Foskett stated: 61... "I do not, with respect, agree that the challenge mounted by the Claimant in this case can be characterised as a quibble about a minor factor. Those who, in due course, purchase properties on this development, who bring up children there and who wish to go about their daily life in a safe environment, will want to know that the police service can operate efficiently and effectively in the area. That would plainly be the</p>	<p>Paragraph 13.33 requires "<i>Direct provision by the developer, the end user, or financial contributions will be sought where appropriate to secure facilities or services to improve community safety, policing and emergency services in the vicinity of the development</i>" [Emphasis added]</p> <p>The Draft SPD also clarifies that this will be "<i>Negotiated Secured on a case by case basis dependent on the specific impact of the development proposal identified by the Council's Community Safety Team and Metropolitan Police Authority.</i>" [Emphasis added]</p> <p>Local Plan Policies CR1 f. and CL2a. require development and street networks to minimise opportunity for crime and optimise community safety.</p> <p>The Councils Regulation 123 List clarifies that CIL is collected for policing infrastructure from CIL liable development which could also be directed towards a range of police resources.</p>

Name	Comment	Response
	<p>“consumer view” of the issue. The providers of the service (namely, the Claimant) have statutory responsibilities to carry out and, as the witness statement of the Chief Constable makes clear, that in itself can be a difficult objective to achieve in these financially difficult times. Although the sums at stake for the police contributions will be small in comparison to the huge sums that will be required to complete the development, the sums are large from the point of view of the police.</p> <p>62. I am inclined to the view that if a survey of local opinion was taken, concerns would be expressed if it were thought that the developers were not going to provide the police with a sufficient contribution to its funding requirements to meet the demands of policing the new area.”</p> <p>The above conclusions echo those reached in an earlier appeal case of Land off Melton Road, Barrow-upon-Soar (APP/X2410/A/12/2173673), in which the Secretary of State endorsed the following findings of the Inspector:</p> <p>291... “the twelfth core planning principle of the Framework... can only be served if policing is adequate to the additional burdens imposed on it in the same way as any other local public service. The logic of this is inescapable. Section 8 of the Framework concerns the promotion of healthy communities and planning decisions, according to paragraph 69, should aim to achieve places which promote, inter alia, “safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion.</p> <p>292. Adequate policing is so fundamental to the concept of sustainable communities that I can see no reason, in principle, why it should be excluded from the purview of S106 financial contributions, subject to the relevant tests applicable to other public services. There is no reason; it seems to me, why police equipment and other items of capital expenditure necessitated by additional development should not be so funded alongside, for example, additional classrooms and stock and equipment for libraries.” (Emphasis added)”</p> <p>There is an extensive array of Secretary of State and Planning Inspectorate decisions that compellingly support the above conclusions, including two in July 2017.</p> <p>Breakdown on Infrastructure sought by MPS</p> <p>A breakdown of non-building related infrastructure likely to be sought by the MPS is as follows:</p> <p>Staff set up costs</p>	

Name	Comment	Response
	<ul style="list-style-type: none"> - Uniforms. - Radios. - Workstation/Office equipment. - Training. <p>15 Vehicles</p> <ul style="list-style-type: none"> - Patrol vehicles. - Police community support officers (PCSO) vehicles. - Bicycles. <p>Mobile IT: The provision of mobile IT capacity to enable officers to undertake tasks whilst out of the office in order to maintain a visible presence. CCTV technologies: Automatic Number Plate Recognition (ANPR) cameras to detect crime related vehicle movements. Police National Database (PND): Telephony, licenses, IT, monitoring and the expansion of capacity to cater for additional calls.</p>	

Question 3: Do you have any comments on Section 3: What Planning Obligations will be Sought?

Name	Comment	Response
Councillor Spalding (RBKC)	<p>Could include "AIR QUALITY and AIR CLEANSING and GREENING INFRASTRUCTURE "</p> <p>(eg City trees and pollution removal technology)</p>	<p>The Draft SPD includes a carbon offset fund. Air quality is currently funded through CIL. The Draft SPD is seeking an Air Quality contribution from nil CIL rated development as set out in section 13. Green infrastructure must be delivered on-site as part of the</p>

Name	Comment	Response
		development. The emerging London Plan is introducing a new policy on Urban Greening Factor. The next review of the Local Plan will strengthen local policies in this regard.
Ian Fergusson (Barton Willmore)	Please see response to Q1	Please see response to Q1
Malcom Souch (NHS London Healthy Urban Development Unit)	<p>Paragraph 3.3 of the draft SPD states that site specific contributions may be required to make a development acceptable in planning terms, which will be determined on a case-by-case basis subject to the Regulation 122 tests. Therefore, to address this and to secure on-site provision on sites allocated in the Local Plan and in Opportunity Areas, we suggest that the list in paragraph 3.1 is expanded to include 'site specific social and community infrastructure'. As a result, a new section 'Keeping Life Local' may need to be added to the SPD.</p> <p>Paragraph 3.3 also recognises that there may be cases where infrastructure provision cannot be delivered on site, where an off-site contribution is preferred. There is a strong emphasis on making best use of current NHS estate. Therefore, the priority will be to increase the capacity of existing premises wherever possible, before investing in new buildings. This could involve extending or reconfiguring buildings, which will incur capital investment. The SPD should acknowledge that financial contributions to improve existing premises may be necessary, for example to increase the capacity at nearby GP premises where the impact and need can be demonstrated in line with the Regulation 122 tests. Also, given the long timescales involved in large-scale development, the requirement for a new on-site facility may change and it may be beneficial to secure a commuted financial payment to contribute to alternative provision as a 'fall-back' arrangement.</p>	<p>Health is currently a CIL funded item.</p> <p>The Government has amended the CIL Regulations which came into effect on the 1 September 2019. The government has clarified that the amended regulations allow for the same piece of infrastructure to be funded through s106 planning obligations and CIL.</p> <p>Therefore, planning contributions or obligations may be sought to mitigate the specific impacts of development providing the governments s106 tests and exceptions in the Council's Regulation 123 list are met. The impact of development on nearby health services will need to be established on a case by case basis. The NHS CCG is consulted</p>

Name	Comment	Response
		<p>on major planning applications and its advice on the capacity of existing nearby healthcare facilities and any resultant planning obligation or contribution is welcomed.</p>
<p>Henry Peterson (Kensington Society)</p>	<p>Section 3 on What Planning Obligations will be sought This section is understandably aimed mainly at an audience of developers and applicants. A brief explanation of why the Council has chosen the set of contributions in 3.1. would be helpful. The inclusion of Public Art may not be seen as amongst the highest of priorities, at a time when RBKC budgets are now under huge pressure in the years ahead.</p>	<p>The items listed are based on the Council's Regulation 123 list and nil CIL rated development from the Council's CIL Charging Schedule as set out in paragraph 3.1 and 3.2 of the Draft SPD. The items have not been specifically chosen.</p> <p>Further clarification to Paragraph 3.2 has been included to explain where these items have come from.</p> <p><u><i>“Development that is not liable to pay Community Infrastructure Levy as set out the Council's CIL Charging Schedule”</i></u></p> <p>Paragraph 3.3 further explains <i>“that this is not an exhaustive list of planning obligations which might be required in every case, but details the standard obligations and charges that will be frequently sought. Some developments may require a specific form of mitigation to be acceptable in</i></p>

Name	Comment	Response
		<p><i>planning terms and mitigate all site specific impacts; and this will be determined on a case by case basis. There may be also be cases where infrastructure provision necessary to make a development acceptable cannot be delivered on site, in which case the Council will expect off-site contributions, whether as alternative provision or a commuted sum.” [emphasis added]</i></p> <p>Paragraph 9.4 of the SPD clarifies that “<i>The overall public art provision will be subject to consideration in light of other planning obligations sought, and the design and architectural merits of the development proposed.</i>”</p>

Question 4: Do you have any comments on Section 4: Policy Context?

Name	Comment	Response
Councillor Spalding (RBKC)	4.3 Could list the types of s106 contributions	Paragraphs 3.1 and 3.2 of the SPD clarify what types of planning obligations will be sought through s106.

Name	Comment	Response
		<p>The types of planning obligations will vary between developments depending on its impacts. Therefore, the list of contributions as indicated at paragraphs 3.1 and 3.2 are appropriate and provide flexibility.</p> <p>Paragraph 3.3 further states “<i>that this is not an exhaustive list of planning obligations</i> which might be required in every case, but details the standard obligations and charges that will be frequently sought. <i>Some developments may require a specific form of mitigation</i> to be acceptable in planning terms and mitigate all site specific impacts; and <i>this will be determined on a case by case basis.</i>” [emphasis added]</p> <p>A hyperlink to the Local Plan Partial Review Policy C1 has also been included at Paragraph 1.1</p> <p><u><i>“1 LPPR Policy C1 Infrastructure Delivery and Planning Contributions”</i></u></p>
Josephine Vos (Transport for London)	Generally, TfL supports the approach set out and only have the following minor observations to make:	Noted

Name	Comment	Response
	<p>Para 4.1: For clarity you may wish to add that the Crossrail SPG is expected to be superseded by MCIL2 on 1 April 2019. You may also wish to refer to the draft London Plan, particularly Policy DF1 Delivery of the Plan and Planning Obligations which sets out the Mayors approach to planning obligations.</p> <p>Para 4.3: The words 'of the' are repeated in first line.</p>	<p>Please see response to Question 1 above. Additional wording has been included at Paragraph 4.1:</p> <p><u><i>“The Mayor has prepared a new draft London Plan which is currently subject to examination in public and expected to be adopted in 2020. When adopted, policies relevant to planning contributions and this SPD will also apply.”</i></u></p> <p>Paragraph 10.11 of the SPD “Crossrail/ Elizabeth Line (Central Activities Zone only)” refers to MCIL2 and that this will come into operation in April 2019. This has been updated to:</p> <p><i>“10.11 The Mayor published a Draft Charging Schedule for a second Mayoral CIL (MCIL2) which was subject to Examination in Public in September 2018. This proposes a Mayoral CIL rate of £80 per sqm in the borough. It is intended that the MCIL2 will be collected to fund Crossrail 2, and will be charged from April 2019 once the current Mayoral CIL ends in March 2019. Further details of how MCIL and MCIL2 operate are set out on the Mayor’s CIL website¹⁸. MCIL2 will</i></p>

Name	Comment	Response
		<p><u>be collected to fund Crossrail 2, and has been charged since 1 April 2019. Further details are set out on the Mayor's CIL website²².</u></p> <p>Text has been corrected to:</p> <p><i>"Paragraph 29.2.6 of the of the Local Plan outlines"</i></p>
Ian Fergusson (Barton Willmore)	Please see response to Q1	Please see response to Q1

Question 5: Do you have any comments on Section 5: Approach to Opportunity Areas?

Name	Comment	Response
Ian Fergusson (Barton Willmore)	Please see response to Q1	Please see response to Q1
Sam Pullar Sainsbury's Supermarkets Limited and the Ballymore Group	<p>We welcome the Council's approach to Opportunity Areas set out in Section 5.1, recognising the Mayor's encouragement of boroughs to take a more localised approach to planning contributions including affordable housing, local CIL exemption and acknowledgement that the infrastructure requirement for the Kensal Canalside Opportunity Area will be addressed separately.</p> <p>Notwithstanding this, the following reference in Paragraph 5.2 should be deleted: "Therefore, the starting point is the infrastructure set out in the Local Plan site allocations and Opportunity Area Supplementary Planning Documents and this SPD."</p>	Please see response to Q1

Name	Comment	Response
	<p>As set out in the preceding sentence of Paragraph 5.2, the starting point for determining the infrastructure requirements are the Development Plan policies. The proposed amendments as set out in MM31 of the Main Modifications (July 2018) to the emerging Local Plan Policy CA1 indicate that the infrastructure requirements will be determined through further technical and feasibility testing either through an SPD or planning application. On this basis, the reference to the need for an Opportunity Area SPD to determine the infrastructure requirements should be removed.</p>	

Question 6: Do you have any comments on Section 6: Negotiating Planning Obligations?

Name	Comment	Response
<p>Councillor Spalding (RBKC)</p>	<p>6.2 Define “discussions with the Council”.</p> <p>“The Council” is not just Planning Officers, but should include relevant Ward Councillors and Scrutiny/Lead Members.</p> <p>There is no mention of the directly affected local residents, which is contrary to the new policy, Change of Culture at the Council.</p> <p>There is a role for representative RAs and accredited Societies in helping to formulate planning policy and planning obligations. (This has worked well in the past eg on the Earl’s Court Opportunity Area)</p> <p>Otherwise, a set of non-resident planning officers will be negotiating with a set of non-resident developers over what they perceive to be the “loss, damage or impact” of the development on local residents. The latter do not get a say, or even a consultation,</p>	<p>Paragraph 6.2 has been amended to:</p> <p><i>“6.2 <u>Developers are required to complete a draft heads of terms setting out the planning obligation requirements as part of the pre-application stage.</u> Developers should start discussions on planning obligations requirements with the Council as soon as possible, ideally during the pre-application stage where appropriate.”</i></p>

Name	Comment	Response
	<p>which is contrary to the “Change of Culture at the Council”</p> <p>The Officers and Developers may not be best placed to judge the mitigations needed and could very well benefit from actual local residents’ experiences, simply as a matter of feedback and local knowledge.</p> <p>6.11 The Mayor is referred to by the personal pronoun “he” throughout. Perhaps this should be “s/he” or similar formulation.</p>	<p>The Director of Planning and Place has delegated authority, under the Council’s Constitution, to determine planning applications. Planning applications can also be decided by Planning Committee. The Council’s Planning Committees are able to determine planning applications in a number of circumstances as set out in the Council’s Constitution (3.B.12 and 3.B.12).</p> <p>https://www.rbkc.gov.uk/planning-and-building-control/planning-applications/guidance-and-advice/considering-application-0</p> <p>The Council is committed to resident engagement. The Draft SPD is setting out clarity and transparency for planning contributions. Residents also have the opportunity to comment on planning applications and highlight any development impacts and potential mitigation measures for the council to consider as part of the planning application determination process</p>
Josephine Vos (Transport for London)	<p>Para 6.4: It may be helpful for applicants to include a reference in this paragraph to TfL’s pre-application services, details of which can be found at https://tfl.gov.uk/info-for/urban-planning-and-construction/planning-applications/pre-application-services</p>	<p>It is noted that TfL offer pre application services which the</p>

Name	Comment	Response
		developers can make use of at their discretion.
Ian Fergusson (Barton Willmore)	Please see response to Q1	Please see response to Q1
Henry Peterson (Kensington Society)	<p>Sections 6 and 7 on Negotiating Planning Obligations and Viability Assessments This section is aimed at applicants and explains the Council’s approach to S106 negotiations. Viewed through the lens of local residents, it would be helpful to have some assurances that the Council will seek to maximise contributions and how it assesses whether this has been achieved. There is a widely held perception across London that developers and their consultants routinely succeed in emerging from such negotiations at an advantage.</p> <p>Paragraphs 7.7 and 7.8 on transparency are welcomed. It is recognised by the Society that the Council’s approach to these issues, and to the release of ‘open book’ information on FVAs is more positive than in many London Boroughs – even if not leading edge.</p>	<p>Paragraph 2.1 and 2.4 of the Draft SPD states that s106 required to mitigate impact of development and meet the s106 tests set out in national legislation. The Council has considered the cumulative impact of its policy requirement on development viability as part of the preparation of the local plan and CIL charging schedule to maximise the contributions. The maximum contributions are determined as per the formula specified in the Draft SPD. The process for ensuring that contributions will be maximised are set out in Section 7, in summary where a proposal does not accord with the relevant policies in the development plan viability assessments will be required.</p> <p>Noted.</p>

Name	Comment	Response
	Given the very high land values in the Royal Borough, these parts of the draft SPD are very important to the public. The message to developers, including the reference to the council taking third party advice on the details of FVAs, needs to carry conviction.	Noted, this is a continuation of current practice.
Malcom Souch (NHS London Healthy Urban Development Unit)	Paragraph 6.1 refers to the Planning Obligations Calculator. The calculator includes a calculation for a health contribution from residential development, but states that it would not be payable as s106 but as borough CIL. We suggest that the calculator is revised to indicate that a contribution could be payable as s106 to address a site-specific impact subject to the Regulation 122 tests. The SPD or calculator could also refer to the use of the HUDU Planning Obligations Model which could be used on a case-by-case basis to calculate a financial contribution and size and cost a new on-site facility (see paragraph 11.1.37 of the draft new London Plan).	The calculator is to be updated. A reference may be included in the update.

Question 7: Do you have any comments on Section 7: Assessing Viability?

Name	Comment	Response
Ian Fergusson (Barton Willmore)	Please see response to Q1	Please see response to Q1
Henry Peterson (Kensington Society)	Sections 6 and 7 on Negotiating Planning Obligations and Viability Assessments This section is aimed at applicants and explains the Council's approach to S106 negotiations. Viewed through the lens of local residents, it would be helpful to have some assurances that the Council will seek to maximise contributions and how it assesses whether this has been achieved. There is a widely held perception across London that developers and their consultants routinely succeed in emerging from such negotiations at an advantage. Paragraphs 7.7 and 7.8 on transparency are welcomed. It is recognised by the Society	Please see response to Q6

Name	Comment	Response
	<p>that the Council's approach to these issues, and to the release of 'open book' information on FVAs is more positive than in many London Boroughs – even if not leading edge.</p> <p>Given the very high land values in the Royal Borough, these parts of the draft SPD are very important to the public. The message to developers, including the reference to the council taking third party advice on the details of FVAs, needs to carry conviction.</p>	

Question 8: Do you have any comments on Section 8: Diversity of Housing?

Name	Comment	Response
Councillor Spalding (RBKC)	<p>8.3 "To the satisfaction of the 'Council' "</p> <p>'Council' is not defined, but clearly is not limited to just Planning Officers. Does it include Scrutiny/Lead members, Planning Committee, or Planning Applications Committee?</p> <p>This needs clear definition and specification.</p>	<p>The Director of Planning and Place has delegated authority, under the Council's Constitution, to determine planning applications. Planning applications can also be decided by Planning Committee. The Council's Planning Committees are able to determine planning applications in a number of circumstances as set out in the Council's Constitution (3.B.11 and 3.B.12). Therefore, the use of "Council" encompasses Planning Committee and Planning Applications Committee.</p>
Ian Fergusson (Barton Willmore)	Please see response to Q1	Please see response to Q1

Question 9: Do you have any comments on Section 9: An Engaging Public Realm?

Name	Comment	Response
<p>Katie Parsons (Historic England)</p>	<p>Contributions to the historic environment can also be signposted throughout the various chapters of the SPD. For example, we would recommend that contributions for public realm improvements could be expanded upon to 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 etc.</p> <p>It must be noted that this advice does not affect our obligation to advise you on, and potentially object to any specific development proposal which may subsequently arise from this request and which may have adverse effects on the historic environment. We trust this advice is of assistance in the preparation of your guidance.</p>	<p>Paragraphs 3.1 and 3.2 of the SPD set out what planning obligations will be sought through s106. These reflect the main s106/infrastructure categories and includes <i>“Site specific highways, transport and public realm measures”</i></p> <p>The types of planning obligations will vary between developments depending on its impacts. Therefore, the list of obligations as indicated at paragraphs 3.1 and 3.2 are appropriate and provide flexibility.</p> <p>This is also already a requirement of CLP / LPPR Policy CR4 Streetscape: <i>“The Council will require improvements to the visual, functional and inclusive quality of our streets, ensuring they are designed and maintained to a very high standard, that street clutter is removed and that street furniture, advertisements and signs are carefully controlled to avoid clutter to support the Council’s aim of driving up the quality of the</i></p>

Name	Comment	Response
		<p><i>borough's streetscape. Further guidance is also provided to developers in the Council's Streetscape Guidance."</i></p> <p>Policy CR5 of the Local Plan: Parks, Gardens, Spaces and Waterways resists the loss of existing private communal open space and private open space where the space gives visual amenity to the public...resists development that has an adverse effect upon the environmental and open character, appearance and function of Conservation Areas, Metropolitan Open Land or sites which are listed within the Register of Parks and Gardens of Special Historic Interest in England, or their setting... resists development at has an adverse effect on garden squares and communal gardens, including proposals for basements.</p>
Ian Fergusson (Barton Willmore)	We support the statement that <i>'The overall public art provision will be subject to consideration in light of other planning obligations sought, and the design and architectural merits of the development proposed'</i> .	Support Noted.

Question 10: Do you have any comments on Section 10: Better Travel Choices?

Name	Comment	Response
Councillor Spalding (RBKC)	<p>Examples of fundable infrastructure and projects could be listed eg</p> <ul style="list-style-type: none"> New bus stops Amended bus routes and services Extra bus stop seating Digital information boards at bus stops New pedestrian crossings Step-free access at stations 	<p>Paragraphs 3.1 and 3.2 of the SPD clarify what types of planning obligations will be sought through s106.</p> <p>The types of planning obligations will vary between developments depending on its impacts. Therefore, the list of contributions as indicated at paragraphs 3.1 and 3.2 are appropriate and provide flexibility.</p>
Josephine Vos (Transport for London)	Section 10 (Policy and Guidance): For clarity you may wish to add a footnote to the Crossrail Funding SPG stating that MCIL2 is expected to supersede the SPG on 1 April 2019.	Reference to the Crossrail Funding SPG has been removed.
Ian Fergusson (Barton Willmore)	No comments at this time	Noted.
Kayley Smith (Highways England)	<p>Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and, as such, Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs, as well as in providing effective stewardship of its long-term operation and integrity. We will therefore be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN.</p> <p>Having examined the consultation document, we are satisfied that its policies will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in</p>	Noted

Name	Comment	Response
	DfT C2/13 para 10 and DCLG NPPF para 32). Accordingly, Highways England does not offer any comments on the consultation at this time.	

Question 11: Do you have any comments on Section 11: Renewable and Decentralised Energy?

Name	Comment	Response
Andy Goymer (Environment Agency)	We are pleased the SPD references that ‘flooding and drainage’ and ‘biodiversity’ are included in paragraph 29.2.6 (supporting policy C1 of the Local Plan) as items which the Council may seek planning contributions for. The SPD includes further detail about seeking contributions for carbon offsetting, renewable energy and decentralised energy under section 11 ‘Respecting Environmental Limits.’ Ideally we would have liked to have seen a brief paragraph within the SPD in this section to recognise the role planning contributions may have in reducing flood risk on site and ensuring the development is protected from future climate change impacts. This could, for example, acknowledge that on occasion it may be necessary to seek planning contributions to ensure flood defences can protect a site for the lifetime of development, (e.g. on-site or off-site works to raise, repair or replace flood defences). Similarly a S106 may be required for biodiversity improvements including works or contributions to off-site biodiversity enhancements where on-site mitigation or compensation is unachievable.	<p>The Council’s Regulation 123 List lists flooding and biodiversity as types of infrastructure that the council intends, will be, or maybe, wholly or partially funded by CIL. An exception to this is an item of infrastructure that is specifically required to make a development acceptable, subject to the “S106 Tests” and pooling restrictions, or if onsite provision of infrastructure is required in accordance with the development plan. The CLP / Local Plan Partial Review addresses these in CLP/ LPPR Policy CE2 Flooding and CLP Policy CE4 Biodiversity.</p> <p>The Government has amended the CIL Regulations which came into effect on the 1 September 2019. The government has clarified that the amended regulations allow for</p>

Name	Comment	Response
		<p>the same piece of infrastructure to be funded through s106 planning obligations and CIL.</p> <p>Therefore, planning contributions or obligations may be sought to mitigate the specific impacts of development providing the governments s106 tests and exceptions in the Council's Regulation 123 list are met.</p> <p>Paragraph 3.3 explains "<i>that this is not an exhaustive list of planning obligations which might be required in every case, but details the standard obligations and charges that will be frequently sought. Some developments may require a specific form of mitigation to be acceptable in planning terms and mitigate all site specific impacts; and this will be determined on a case by case basis. There may be also be cases where infrastructure provision necessary to make a development acceptable cannot be delivered on site, in which case the Council will expect off-site contributions, whether as alternative provision or a commuted sum.</i>" [emphasis added]</p>

Name	Comment	Response
Councillor Spalding (RBKC)	<p>11.3 add....."and mitigated by green planting to absorb CO2 (broad leaf plants, trees, city trees, green roofs, green walls, etc)"</p> <p>Add new 11.12 Air cleansing infrastructure and technology to mitigate effects on local air pollution</p>	<p>Paragraphs 3.1 and 3.2 of the SPD clarify what types of planning obligations will be sought through s106.</p> <p>The types of planning obligations will vary between developments depending on its impacts. Therefore, the list of contributions as indicated at paragraphs 3.1 and 3.2 are appropriate and provide flexibility.</p> <p>Paragraphs 13.27 to 13.29 set out the s106 requirements relating to air quality from nil CIL development. The Councils Regulation 123 List clarifies that CIL is collected for air quality infrastructure from CIL liable development which could also be directed towards a range of air quality infrastructure.</p> <p>The Government has amended the CIL Regulations which came into effect on the 1 September 2019. The government has clarified that the amended regulations allow for the same piece of infrastructure to be funded through s106 planning obligations and CIL. Therefore,</p>

Name	Comment	Response
		planning contributions or obligations may be sought to mitigate the specific impacts of development providing the governments s106 tests.
Ian Fergusson (Barton Willmore)	No comments at this time	Noted.

Question 12: Do you have any comments on Section 12: Fostering Vitality?

Name	Comment	Response
Councillor Spalding (RBKC)	<p>12.16 “target of 10% of total value of the construction contract.....”</p> <p>By means of: Directory of Local Suppliers Performance Monitoring</p> <p>Who scrutinises this supply chain and its effectiveness?</p>	<p>Additional wording added 12.16, bullet point 1.</p> <p>“target of 10% <i>per cent</i> of the total value of the construction contract, excluding professional fees incurred or committed to prior to the development receiving planning consent <i>by means of Directory Local Suppliers and Performance Monitoring.</i>”</p> <p>Developers and their contractors are required to work with the Economic Development Team to provide and promote tender opportunities for local small and</p>

Name	Comment	Response
		<p>medium size enterprises. These are re-iterated in each agreement.</p> <p>The RBKC Local Supply Initiative, led by the Economic Development Team provides a co-ordinated local approach. S106 contributions support this work and ensure continuous support for local businesses.</p> <p>https://rbkcsupplychain.co.uk/</p>
<p>Ian Fergusson (Barton Willmore)</p>	<p>This section of the draft SPD includes 4 categories under which planning contributions may or will be sought.</p> <p>Our initial assessment indicates that the sums that may be sought are likely to be significantly higher than apply to schemes under the adopted SPD from 2010 (e.g. an increase of 50-100%).</p> <p>The justification for this approach and the sums sought is not clear. The draft SPD does not cite a relevant evidence base.</p> <p>The SPD should be redrafted in light of the above and should undergo further consultation with the evidence sought made available to consultees.</p> <p>Lastly, we note that the formula under the heading 'Construction Phase – Skills and Training Contribution' is missing 'B' and it is not clear how 'A' is extrapolated from the guidance.</p>	<p>The currently adopted SPD is now nearly 10 years and the amounts are expected to be increased.</p> <p>The requirement to seek planning contributions for local employment, skills and business commitments and contributions is no different from the previous SPD. This is in line with the London Plan and s106 best practice across London Local Authorities.</p> <p>The proposed approach provides greater transparency in the way commitments and contributions are sought. The updates include:</p> <ul style="list-style-type: none"> - a move away from sole reliance on construction cost (as that varies and is often difficult to

Name	Comment	Response
		<p>establish) to using floorspace instead (as it is a constant in a development</p> <ul style="list-style-type: none"> - a non compliance contribution in exceptional cases where the number of trainee / apprenticeship placements are not met onsite. This is to ensure that placements are provided by the developer/contractors. - Inclusion of Local Procurement contribution which has historically been sought through the Local Procurement Code. The inclusion of this increase's transparency <p>A typographical error has been corrected to make the formula for Construction Phase - Skills and Training Contribution clear.</p> <p>“ ... <i>Multiplied by</i></p> <p><u>BG</u> - Cost of supporting local resident into employment £3,500</p> <p>...</p> <p><i>B – Proportion of RBKC residents unemployed and seeking work. This will be reviewed every two</i></p>

Name	Comment	Response
		<p><i>years by Economic Development Team.</i></p> <p>€ – based on the Learning & Work and the National Audit Office data (NB. the cost of training will be index-linked and reviewed annually by the Economic Development Team).”</p>

Question 13: Do you have any comments on Section 13: Planning Contributions from nil CIL rated development: Library Facilities?

Name	Comment	Response
Mark Furnish (Sport England)	See comments about D2 uses in Sport and Leisure section.	See response to Question 14
Councillor Spalding (RBKC)	Perhaps this should also include reference to free WIFI access for residents, and/or provision of laptops or internet access for vulnerable residents.	Unfortunately, a contribution for this purpose would not comply with the s106 tests set out in national legislation and policy guidance.
Ian Fergusson (Barton Willmore)	Our initial calculations indicate that contributions sought under the draft SPD could be c. 50-100% higher than those generated by the August 2018 iteration of the ‘calculator’. In terms of the methodology, the draft SPD cites ‘recommendations’ from the Museums and Libraries Archive Council (MLA). The methodology cited does not seem to be in the public domain and so we are not able to assess its suitability or otherwise in this instance.	The approach is no different from the currently adopted SPD in seeking library facilities contributions. Where the s106 tests are met, a contribution can be sought.

Name	Comment	Response
	<p>The draft SPD also states that 'experience and practice elsewhere demonstrates that one fifth of library users are from outside of the Borough'. No sources are provided for this statement and so we are unable to comment on its suitability. The above also presumes that all these library users are non-resident employees, which may not be the case.</p> <p>The SPD should be redrafted in light of the above and should undergo further consultation with the evidence sought made available to consultees.</p>	<p>The Borough's Libraries are open to anyone to use and not just residents. Therefore, commercial development in proximity to libraries and where the s106 tests are met should be liable to make a contribution.</p> <p>The currently adopted SPD seeks £22.40 per employee from commercial development, whilst the updated SPD seeks £18 per employee.</p> <p>Additional clarification has been provided:</p> <p>C - £90*</p> <p><u>*The is £18 per employee</u> <u>Multiplied by number of employees"</u></p> <p>The Census 2011 indicates that approximately 89% of the Borough's workforce live outside of the borough. The figure has been used as a proxy for non-residential to which a proportion is applied to reflect that a proportion of users from commercial development are from outside of the borough. This</p>

Name	Comment	Response
		<p>proportion has been retained at 0.2 for simplicity.</p> <p>The MLA derived the figure on the basis of a minimum floorspace of per population taking into account build costs for libraries. It is therefore a per head figure and can be appropriately used as a proxy for non-residential development.</p>
Sam Pullar Sainsbury's Supermarkets Limited and the Ballymore Group	<p>Section 13 sets out the planning contributions sought from nil CIL development. We welcome acknowledgement in Paragraph 13.1 that development impacts will be assessed on a case by case basis and contributions sought will be appropriate. However, Paragraph 13.1 should cross refer to Section 5 and the Council's approach to Opportunity Areas. Section 13.1 should clarify that S106 contributions will be applied flexibly within Opportunity Areas having regard to site specific infrastructure and viability considerations.</p>	<p>Cross reference included at paragraph 13.1.</p> <p><u><i>"The approach to opportunity Areas is set out at section 5."</i></u></p>

Question 14: Do you have any comments on Section 13: Planning Contributions from nil CIL rated development: Sport and Leisure?

Name	Comment	Response
Mark Furnish (Sport England)	<p>Although the SPD does seek to secure contributions into the delivery of sport and leisure facilities, Sport England is concerned that D2 uses, which have a NIL CIL rate, would be required to provide planning obligations. This would have an impact on needed sports facilities being delivered within the borough. This added burden would be detrimental to sport and activity within the borough and could affect the type of facility that is delivered, for example omitting a certain facility from a proposal so that the obligation could be provided. Sport England is surprised that he Council are advocating such an approach</p>	<p>The SPD has been amended accordingly:</p> <p><u><i>"13.12.... Sports facilities development (within D2 use), will not contribute to sports and leisure planning contributions..."</i></u></p>

Name	Comment	Response
	<p>given that the borough's Community Sport and Physical Activity Strategy seeks to increase physical activity and improve the health and well-being of the borough's residents. This could only be achieved by providing a range of sport, leisure and recreation facilities which could be impeded by the proposed planning obligations. Sport England, therefore, objects to this approach.</p> <p>In addition, the SPD could result in the situation when a sports facility that falls within Use Class D2 requires to pay a planning obligation to sport and leisure facilities despite the proposal delivering a sport facility.</p> <p>In consequence, Sport England strongly advises that the SPD is amended so uses falling within Use Class D2 are not required to provide planning obligations</p>	
<p>Ian Fergusson (Barton Willmore)</p>	<p>Our initial calculations indicate that contributions sought under the draft SPD could be c. 66-125% higher than those generated by the August 2018 iteration of the 'calculator'.</p> <p>Part of the relevant methodology (Sport England Kitbag toolkit) does not seem to be in the public domain and so we are not able to assess its suitability or otherwise in this instance.</p> <p>We understand that this methodology also involves an assumption that one fifth of sport and leisure users are from outside of the Borough. We are not clear on what evidence supports this judgement, including what ratio of users from outside the Borough are specifically employees and not for example friends or relatives of residents.</p> <p>The SPD should be redrafted in light of the above and should undergo further consultation with the evidence sought made available to consultees.</p>	<p>Paragraph 167 of the NPPG on CIL states "There is still a legitimate role for development specific planning obligations, even where the levy is charged, to enable a local planning authority to be confident that the specific consequences of a particular development can be mitigated".</p> <p>The Council's CIL Regulation 123 List sets out exceptions for which provision will be made by S106s/S278s/on-site provision. Point 4 sets out that "<u>for commercial floorspace subject to zero Borough CIL rates, any infrastructure from all Categories (except A Affordable Housing and B Education) required in accordance with the Development</u></p>

Name	Comment	Response
		<p><u>Plan (such as infrastructure specified in SPDs or the IDP)" will be sought through s106's/s278s/on-site provision.</u> This is reflected in the SPD. Policy C1 of the Local Plan Partial Review provides the overarching basis for seeking planning contributions and paragraph 29.2.6 clarifies planning contribution measures, subject to the s106 tests.</p> <p>Further, the contributions being sought will be determined on a case-by-case basis as set out in paragraph 13.1 of the Draft SPD. The items in question are - library facilities, sports and leisure and parks and open space, air quality and community safety. A commercial development can have an impact on all of these. Inclusion within the SPD provides certainty, consistency and transparency to developers when calculating the potential contributions that may be sought. The NPPG supports transparency in planning obligations. The impact of non-residential development on these community facilities and/environment will be sought on a case by case basis in-line with</p>

Name	Comment	Response
		<p>regulations rather than imposed as a definite requirement. This approach has been in practice since the Council began operating CIL. The Council is fully aware that any contributions sought will need to comply with the tests set out in CIL Regs 122(2), these tests are set out in the introductory section of the Draft SPD (para 2.6).</p> <p>The approach is endorsed in the Government's response to 'Supporting Delivery Through Development Contributions' consultation which confirms that restrictions will be removed to allow s106 contributions and CIL to be sought for infrastructure on a Local Authority's Regulation 123 List. This would allow even further flexibility than what is proposed in the SPD. The amended CIL regulations came into effect on the 1 September 2019 and bring this approach into effect.</p> <p>The Sport England Planning for Sport Development Management Guidance states that "The circumstances in which developer contributions might be sought should be identified, such as where</p>

Name	Comment	Response
		<p>development will create additional demand and/or place additional pressure on existing sports facilities. Where it is not practicable to provide new facilities as an integral part of a new development, contributions towards off-site”.</p> <p>The approach is a continuation of the existing approach and practice for sports and leisure contributions in the planning obligations SPD. The figure can also be expressed as £72.60 per employee. The updated Sports England facilities calculator suggests a higher figure of £108 per head.</p> <p>The figure was derived from Sport England toolkit applying a 0.2 multiplier to reflect that a proportion of sports facilities users from commercial development will be from outside the borough. This is a conservative multiplier as the Census 2011 indicates that 75% of the Borough’s workforce live outside of the borough. The updated Sports England facilities calculator (available on Sport England website) suggests a higher figure of £108 per head.</p>

Name	Comment	Response
		<p>Additional formula clarification has been provided.</p> <p>“ ... <u>B - 0.2</u></p> <p><u>Multiplied by</u></p> <p><u>C - £363*72 per employee</u></p> <p><u>*The formula can also be expressed as £72.60 per employee</u> <u>Multiplied by number of new employees</u></p> <p>C — a proportion of likely sports and leisure facility users from outside the borough based on Sport England calculation of required provision with the Royal Borough, in terms of population.</p> <p><u>B - 0.2 to reflect that a proportion of users from commercial development are from outside the borough”</u></p> <p><u>C – cost per head of number of new employees. The amount is based on Sport England toolkit of required provision with the Royal Borough, in terms of population.”</u></p>

Name	Comment	Response

Question 15: Do you have any comments on Section 13: Planning Contributions from nil CIL rated development: Parks and Opens Spaces?

Name	Comment	Response
Mark Furnish (Sport England)	See comments about D2 uses in Sport and Leisure section.	The SPD has been amended accordingly: <i>“13.22 ... <u>Sports facilities development (within D2 use), will not contribute to parks and open spaces planning contributions...</u>”</i>
Councillor Spalding (RBKC)	<p>13.20 What is meant by “average of 11.1%” please clarify</p> <p>13.20/21 What is the RBKC TARGET?</p> <p>The deficiency is identified as currently 1ha for 3,867 residents when it should be 3.12ha, as defined by the national figure (at 0.8 ha per 1,000).</p> <p>So what is RBKC trying to achieve to rectify the deficiency ?</p> <p>13.25 There is no formula for the provision of open space, by area, for a given site.</p>	<p>This is open space as a proportion of land area. Para 13.20 has been amended.</p> <p><i>“The overall Greater London Average is 11.1%. The ratio of open space to the population in Kensington and Chelsea is by far the lowest in London (1ha serving 3,867 population) followed by The London Borough of Islington (1ha serving 1,990 population).”</i></p> <p>Deficiency in open space can only be really addressed with new</p>

Name	Comment	Response
		<p>developments and the incorporation of new open space into large developments.</p> <p>Local Plan Policy CR5 Parks, Gardens, Open Spaces and Waterways resists the loss of existing open spaces and requires development to make planning contributions towards improving existing or providing new publicly accessible opens space.</p>
<p>Ian Fergusson (Barton Willmore)</p>	<p>Our initial calculations indicate that contributions sought under the draft SPD could be more than c. 50-100% higher than those generated by the August 2018 iteration of the 'calculator'.</p> <p>The relevant methodology cited (Fields in Trust guidance) refers to residents and not employees.</p> <p>We understand that there is an assumption that one fifth of users of parks and open spaces are from outside of the Borough. We are not clear what evidence supports this judgement, including what ratio of users from outside the Borough are specifically employees and not for example friends or relatives of residents.</p> <p>The SPD should be redrafted in light of the above and should undergo further consultation with the evidence sought made available to consultees.</p>	<p>As explained in paragraph 13.20 of the SPD, there is a deficiency within the borough. The borough's parks and open spaces are available to use not just by borough residents but also employees of new commercial development, so a new non-residential development will have an impact on these. Commercial development in proximity to libraries and where the s106 tests are met should be liable to make a contribution.</p> <p>A per head of population figure is multiplied by the predicted number of new employees from outside the borough. The per head figure is £482, which is a continuation of the existing SPD.</p>

Name	Comment	Response
		<p>Additional formula clarification has been provided.</p> <p>“<u>...B - 0.2</u></p> <p><u>Multiplied by</u></p> <p><u>C - £482 *96 per employee</u></p> <p><u>*The formula can also be expressed as £96.40 per employee</u> <u>Multiplied by number of new employees</u></p> <p>...</p> <p>C – cost per head of employee to be multiplied by a proportion of likely users of the predicted number of new employees from outside the borough</p> <p><u>B - 0.2 to reflect that a proportion of users from commercial development are from outside the borough</u></p> <p><u>C – cost per head of new employee”</u></p>

Name	Comment	Response
Katie Parsons (Historic England)	<p>In general, we support the SPD, but we would encourage you to ensure that the implications of this important document do not adversely affect or undermine the historic, physical and social value of the historic environment. In particular we would seek to ensure that the benefits gained from this SPD would help enhance and protect the Borough's heritage assets, their setting, below ground archaeological resources, and the wider historic environment.</p> <p>Potential beneficiaries of historic environment planning obligations could include heritage assets currently at risk from neglect, decay, under-use or redundancy. Support for heritage assets on the national Heritage at Risk (HAR) register may be achieved by creating a policy basis for contributions levied at development within proximity/affecting any designated asset on the register in order to secure enhancements.</p> <p>Where appropriate, types of contribution can include; repair, restoration or maintenance of a heritage asset(s) and their setting; increased public access and improved signage to and from heritage assets; interpretation panels/ historical information and public open days; production and implementation of up-to-date Conservation Area management plans and appraisals; measures for preservation or investigation and recovery of archaeological remains and sites; display of archaeological sites and dissemination of information for public/ school education and research. This list is by no means exhaustive but provides an indication of the type of planning obligations that are used.</p> <p>Contributions to the historic environment can also be signposted throughout the various chapters of the SPD. For example, we would recommend that contributions for public realm improvements could be expanded upon to 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 etc.</p>	Please see responses to Q1 and Q9
Sharon Jenkins (Natural England)	<p>Biodiversity enhancement</p> <p>This SPD could consider incorporating features which are beneficial to wildlife within development, in line with paragraph 118 of the National Planning Policy Framework. You may wish to consider providing guidance on, for example, the level of bat roost or bird box provision within the built structure, or other measures to enhance biodiversity in the urban environment. An</p>	See response to Q1.

Name	Comment	Response
	<p>example of good practice includes the Exeter Residential Design Guide SPD, which advises (amongst other matters) a ratio of one nest/roost box per residential unit.</p> <p>Landscape enhancement The SPD may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green infrastructure provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider how new development might makes a positive contribution to the character and functions of the landscape through sensitive siting and good design and avoid unacceptable impacts.</p> <p>Protected species Natural England has produced Standing Advice to help local planning authorities assess the impact of particular developments on protected or priority species. Strategic Environmental Assessment/Habitats Regulations Assessment</p>	

Question 16: Do you have any comments on Section 13: Planning Contributions from nil CIL rated development: Air Quality?

Name	Comment	Response
Mark Furnish (Sport England)	See comments about D2 uses in Sport and Leisure section.	All development will have associated air quality impacts including sports and leisure uses, therefore it is appropriate to specify this contribution.
Councillor Spalding (RBKC)	13.29 Examples could be given of typical mitigations, infrastructure and projects and other measures	The mitigation and infrastructure measures will vary between

Name	Comment	Response
		developments. The Air Quality SPD provides offers guidance on measures to mitigate potentially harmful impacts of new developments.
Ian Fergusson (Barton Willmore)	<p>Our initial calculations indicate that contributions sought under the draft SPD are c. 100% higher (i.e. double) those generated by the August 2018 iteration of the 'calculator'.</p> <p>The draft SPD seems to provide no evidence-based justification for the sum sought (£10 per sq m of commercial floorspace).</p> <p>The SPD should be redrafted in light of the above and should undergo further consultation with the evidence sought made available to consultees.</p>	<p>The Air quality contribution has been derived based on the council's information on the cost of air quality monitoring stations including maintenance of equipment, monitoring data and/or air quality actions on site to ensure their compliance with planning requirements.</p> <p>Additional explanation has been added to the guidance for the Air Quality formula:</p> <p><u><i>B – Average cost of monitoring compliance and air quality monitoring Average cost of air quality monitoring stations including maintenance of equipment, monitoring data and/or air quality actions on site to ensure their compliance with planning requirements</i></u></p>

Question 17: Do you have any comments on Section 13: Planning Contributions from nil CIL rated development: Community Safety,

Policing resources and other emergency services?

Name	Comment	Response
Mark Furnish (Sport England)	See comments about D2 uses in Sport and Leisure section.	All development may have associated community safety impacts including sports and leisure uses, therefore it is appropriate to specify this contribution.
Councillor Spalding (RBKC)	13.33 No guidance on types, licensing, specifications for use by Police. No targets for a given development eg by area, by number of housing units, by planning-use categories	The types of planning obligations will vary between developments depending on its impacts. Mitigation measures will be assessed on a case by case basis following advice from MPA. Onsite delivery of security measures will be required.

Question 18: Do you have any comments on Section 14: Delivery of Planning Obligations?

Name	Comment	Response
Councillor Spalding (RBKC)	Error stray letter “f” in heading “fnon-.....”	Typographical error corrected
Ian Fergusson (Barton Willmore)	Our initial calculations indicate that contributions sought under the draft SPD (at least for schemes subject to contributions of more than £15,000) are significantly more than double those generated by the August 2018 iteration of the ‘calculator’.	The Council is required to monitor and report annually on planning contributions agreed and received.

Name	Comment	Response
	<p>The draft SPD seems to provide no evidence-based justification for the use of a 2.5% ratio for monitoring fees, which is in part the cause for this dramatic increase. The SPD should be redrafted in light of the above and should undergo further consultation with the evidence sought made available to consultees.</p>	<p>The governments response to Reforming Developer Contributions acknowledges the cost burdens to local authorities associated with monitoring and reporting of s106 agreements and permits monitoring fees to be charged.</p> <p>The application of 2.5% for legal agreements with financial contributions of £15,000 or more is a continuation of the approach in the Planning Obligations SPD and remains unchanged.</p> <p>The government proposes to provide guidance on the methods that could be used to calculate monitoring fees, therefore the approach may be refined when this is available.</p> <p>Paragraphs 14.5 has been updated and an additional paragraph added:</p> <p><u>“14.5 Fees will be charged by the Council under section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011. The government acknowledged the cost burdens to local authorities associated with monitoring and reporting of s106 agreements and</u></p>

Name	Comment	Response
		<p><u>permits monitoring fees to be charged. This is reflected in the amended CIL Regulations which came into effect 1 September 2019.</u></p> <p>The value of the fee will be:</p> <p>...</p> <p><u>14.6 The government proposes to provide guidance on the methods that could be used to calculate monitoring fees, therefore the approach may be refined when this is available.”</u></p>
Josephine Vos (Transport for London)	<p>Generally, TfL supports the approach set out and only have the following minor observations to make:</p> <p>Para 4.1: For clarity you may wish to add that the Crossrail SPG is expected to be superseded by MCIL2 on 1 April 2019. You may also wish to refer to the draft London Plan, particularly Policy DF1 Delivery of the Plan and Planning Obligations which sets out the Mayors approach to planning obligations.</p> <p>Para 4.3: The words ‘of the’ are repeated in first line.</p> <p>Para 6.4: It may be helpful for applicants to include a reference in this paragraph to TfL’s pre-application services, details of which can be found at https://tfl.gov.uk/info-for/urban-planning-and-construction/planningapplications/pre-application-services</p> <p>Section 10 (Policy and Guidance): For clarity you may wish to add a footnote to the Crossrail Funding SPG stating that MCIL2 is expected to supersede the SPG on 1 April 2019.</p>	See response to Q4

SEA/SA

Name	Comment	Response
<p>Sharon Jenkins (Natural England)</p>	<p>A SPD requires a Strategic Environmental Assessment only in exceptional circumstances as set out in the Planning Practice Guidance here. While SPDs are unlikely to give rise to likely significant effects on European Sites, they should be considered as a plan under the Habitats Regulations in the same way as any other plan or project. If your SPD requires a Strategic Environmental Assessment or Habitats Regulation Assessment, you are required to consult us at certain stages as set out in the Planning Practice Guidance.</p> <p>Should the plan be amended in a way which significantly affects its impact on the natural environment, then, please consult Natural England again.</p>	<p>The Council produced a Screening Statement on the Draft Planning Contributions Supplementary Planning Document (SPD) in September 2017. Natural England was consulted between 12 September 2017 and 24 October 2017. The Natural England response concluded "<i>Natural England would have no issue with the determination that there is no further assessment required under the SEA Regulations for the above two SPDs and as such would have no further comment to make with relation to this particular consultation at this time</i>".</p> <p>The SPD has not been amended in a way to significantly impact on the natural environment.</p>