

**The Royal Borough of Kensington and  
Chelsea**

*CREST WILL BE  
ADDED HERE, AS AND  
WHEN REQUIRED, BY  
GOVERNANCE  
SERVICES*

**Key Decision Report dated  
20 July 2010**

**For Decision by Councillor Moylan, Deputy  
Leader and Cabinet Member for Planning  
and Housing Policy**

**Report by the Executive Director of Planning  
and Borough Development**

**PLANNING OBLIGATIONS SUPPLEMENTARY  
PLANNING DOCUMENT –ADOPTION**

**1. Introduction**

1.1 I am writing to seek your approval of the adoption of the Planning Obligations Supplementary Planning Document (the SPD). The SPD was issued for consultation earlier this year, and comments received have been taken into account in preparing the final draft for adoption.

**2. Background**

2.1 Over the past 5 years, the Council has experienced an increase in planning applications that fall within the scope of mitigation through the use of planning obligations. This is particularly the case with major applications or types of development causes much concern amongst neighbouring residents. A fundamental component of the Local Development Framework is delivery, and planning obligations are instrumental in ensuring that acceptable development comes forward, whether it be on the Borough's strategic sites or as part of a small development proposal where the cumulative impact needs to be taken into account.

2.2 Section 106 agreements cover a range of issues to ensure that new development is acceptable in planning terms and to offset negative impacts that result from development. They ensure that potential impacts of development are reduced and ameliorated and that wider impacts are offset (e.g. through improving and increasing the capacity of infrastructure and services that may be affected by new development). The SPD updates and provides justification for obligations and contributions that the Council will seek. This will add speed, certainty, transparency and consistency to the process, helping to ensure that targets for the determination of planning applications are met.

- 2.3 The SPD will strengthen the Council's position when negotiating with developers, and will also provide a more robust approach when defending the Council's requirements at planning appeal. Such an approach is also required under government guidance. As such the SPD should help to secure additional facilities and contributions for a range of purposes such as improvements to transport facilities and the improved open space and play space, employment and training opportunities for residents, improved sports and community facilities. The full scope is set out in Appendix 1, together with a summary of the comments received as part of the consultation process, and how they have been addressed.
- 2.4 The standard charges proposed in the SPD set out an indication of the level of contributions that will be required from new development. These have been updated taking into account the latest evidence available regarding the level of mitigation required from new development and current standards for provision. The charges will be monitored and reviewed annually based on up-to-date information. Updates have also been made in response to the Mayor of London consultation on the London Plan Alterations, and Mayor's SPG on a proposed 'Crossrail charge'.
- 2.5 The Draft SPD was issued for consultation between January and March 2010. Twenty-four consultee responses were received on the Planning Obligations SPD, generating over 200 separate responses. These are summarised in the Consultation Statement and Summary of Comments Report included at Appendix 1 to this report. This also includes responses to the comments received and a summary of changes to the document. A final draft of the SPD is attached at Appendix 3, based on these comments and responses, demonstrating the amendments where needed.
- 2.6 The main comments received can be summarised as follows:
- A number of external agencies sought references in the document to the potential use of additional planning obligations relating to issues such as policing facilities, town centre management and historic environment conservation. Where appropriate additional references have been added to the SPD which includes a list of 'other' obligations that the Council may seek in addition to 'standard' obligations where these are necessary to ensure that a development is acceptable in planning terms .
  - Comments were made seeking clarification on various issues and further information has been provided within the SPD where this is available .
  - Responses were made on behalf of developers and land owners objecting to the nature of some requirements included in the SPD. It

is considered that the obligations have been justified in terms of policy; assessments of the provision of infrastructure and facilities; the impacts of the development itself and government guidance .

- The document has also been updated to reflect changing circumstances since the draft was published, following the end of the consultation.
- 2.7 Whilst it is no longer a requirement to produce Sustainability Appraisals for SPDs, a Sustainability Appraisal scoping exercise has been undertaken to ensure that the best options have been selected.
- 2.8 The Planning Obligations Supplementary Planning Document provides a justification for standard obligations and charges to be applied on new development. This will strengthen the Council's position when seeking to address the impacts of new development and help to secure additional in kind provision within development sites and contributions for improving and increasing the capacity of infrastructure and facilities in the Borough
- 2.9 The Cabinet Member for Planning Policy is therefore asked to approve the Planning Obligations SPD for formal adoption. This will be the result of a Key Decision, taken in July 2010, with the recommendation that the SPD becomes effective from September 2010.
- 2.10 There is a need to announce the implementation date of September. This will give a 'lead-in' period prior to using the document, that will allow potential developers to be aware of its adoption, and also to ensure that Council procedures internally are sufficiently prepared for operation of the SPD.

### **3. Need**

- 3.1 There are several reasons why the adoption of this SPD is necessary and timely, namely:
- the Council receives a large number of planning applications requiring an associated S106 Agreement for mitigation;
  - there is public concern, either real or perceived, regarding some of the issues and impacts of this type of development and the fact that the Council should do more to mitigate the negative externalities;
  - further guidance on the Council's policy approach to planning obligations and infrastructure delivery alongside known development, is required;
  - the government is making changes to the Planning Obligations regime (See section 5); and
  - the SPD is required in accordance with the Council's Local Development Framework, particularly with regard to the issue of deliverability.

### **4. Consultation**

- 4.1 The draft SPD was approved for consultation in January 2010. Consultation was conducted in accordance with Regulation 17 of the Town and Country Planning (Local Development) (England) Regulations 2004 and the Council's adopted Statement of Community Involvement (December 2007), for a period of six weeks from **29<sup>th</sup> January to 12<sup>th</sup> March 2010**.
- 4.2 Appendix 1 sets out the responses to consultation; how stakeholders were consulted, a summary of the main issues raised and how those issues have been addressed in the SPD.

### **5. Assessing the Impact of the SPD**

- 5.1 It is proposed within the SPD to keep all matters under review. In particular, the recent publication of new Regulations for the Community Infrastructure Levy, mean that minor changes have been needed to the draft document in order to 'future proof' the SPD. The Regulations place on a statutory basis, three of the five policy tests contained within Circular 05/2005. These statutory tests are now reflected in the SPD.
- 5.2 In particular, the new regulations will prevent, from 2014, authorities from pooling more than five S106 contributions to a single price of infrastructure. The SPD has already been amended in light of these changes.
- 5.3 The performance of the SPD will be reported annually in the Annual Monitoring Report, and its assumptions checked. Factual updating

on the costs underpinning the SPD will be reported through that process. Policy changes or approaches, or new sections to the SPD will be the subject of full consultation.

## **6. Options**

- 6.1 There are the following options:
- proceed to adoption of the Planning Obligations SPD, to be effective from September 2010, based on the responses set out in appendices and the text showing the changes, as a Key Decision;
  - proceed to adoption the SPD, effective from September 2010, subject to further amendments to be incorporated in the Key Decision Report; or
  - choose not to adopt the SPD.

## **7. Financial, Legal, Sustainability, Risk, Personnel and/or Equalities Implications**

- 7.1 It is estimated that the adoption of the Planning Obligations SPD will result in a saving to the Council of about £65k per year which will cover the costs of a S106 monitoring post within the Planning and Borough Development Department.
- 7.2 The cost of producing the SPD and consultation has been met through existing budgets within the department. This document is intended to be a SPD (Supplementary Planning Document) not a statutory DPD (Development Plan Document). It will inform and supplement policies in the Core Strategy and other documents which have gone through the process for adoption. The SPD itself does not have DPD policy status for determination of planning applications under Section 38 of the P & C P Act 2004. However, once adopted along this SPD will be a material consideration in determining individual planning applications. Legal comments and the legal implications are included in this report.
- 7.3 The SPD seeks to mitigate any sustainability concerns by requiring appropriate measures, as explained in the SPD. These would be required in conformity with Circular 05/2005, and the 2010 CIL Regulations.
- 7.4 All risks have been identified in this report and risk mitigation actions addressed wherever possible.
- 7.5 The adoption of the Planning Obligations SPD will not have any equality implications.

**8. Recommendations**

- 8.1 I recommend that:  
i) the Planning Obligations SPD, proceed to adoption as a Key Decision.

Jonathan Bore  
Executive Director of Planning and Borough Development

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**FOR COMPLETION BY AUTHOR OF REPORT:**

**Date of first appearance in Forward Plan:** 8<sup>th</sup> July 2010

**Key decision reference identifier from Forward Plan:** 03380/10/P/A

**Background papers:** draft Planning Obligations SPD, Jan 2010;

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**FOR COMPLETION BY GOVERNANCE SERVICES:**

**Report published on:** [28]

**Report circulated to:** [29] on [30]

Cleared by Finance (officer's initials)	CJ
Cleared by Legal (officer's initials)	HT

## Appendix 1: Summary of issues raised

A total of 210 representations were received, comprising 168 objections and 42 supporting comments.

The Council has taken these representations into account in preparing the revised of the SPD as set out in Appendix 3.

The main issues of objection were:

- there should be greater community input into section 106 decision making process
- Retail developments should not be required to contribute to open space
- Objection to the requirement that all major retail and office floorspace must make a contribution to a workplace co-ordinator to enable unemployed people to access new jobs.
- That policy should place greater emphasis on revenue payments, in addition to capital payments.
- Objection to the justification for charging an administration fee
- Education contributions should be made towards childrens' and youth services as well as mainstream education.
- The standard charge for education facilities is too low
- Significant planning contributions may be a deterrent to bringing forward brownfield regeneration sites.
- Objection to the use of pooled contributions to deal with the "cumulative effect" of a number of development sites on the provision of local infrastructure.
- Objection to the requirement for developers fund local infrastructure that should be funded through taxation.
- The cost of providing new school places is too high.
- It is not clear that public open space provided by developers as part of a development site will be taken into account when applying a standard charge for open space.
- That 100% affordable housing schemes should be exempt from planning obligations.
- That it is not clear what threshold applies for commercial floorspace, and whether calculations are based on new or improved space.
- That child yield figures used in the education calculation are incorrect.
- The target to fill 8.4% of new jobs (35% of 24%) in offices with local unemployed people is too ambitious
- That the open space calculation is incorrect as it should include the working as well as residential population.
- The definition of where health contributions will be spent on is not clear.
- That calculation of planning obligations should take into account the land value of an area.

- That the calculation of employment contributions should take in account the difference in employee density between office and retail developments.
- That it is unclear what contributions would be made towards site-specific transport infrastructure on the Transport for London network.
- That contributions should be sought to pay for Transport for London buses.
- There is insufficient detail around how the SPD will work in practice.
- That education contributions should be sought for 1 bed units as well as units larger than 2 bedrooms.
- That central government has released revised figures for the capital cost of building a school in RBKC.

### **Summary of officer comments**

If adopted, the SPD will be afforded significant weight to assess the appropriate level of developer contributions. It accords with the policies in the London Plan, Government guidance and supplements the adopted UDP and Core Strategy, which is now at an advanced stage in its adoption process. A full database of Officer comments to the representations is available via the Council's website. A schedule of detailed comments follows this summary.

A summary of the key changes to the document as a result of the representations are included below, with further information given in appendix 2, the consultation statement required by the regulations.

### **Planning Obligations – General Principles**

- Representations were received seeking a clearer interpretation of central government Circular 05/2005. Additional references to, and clarification of the policies of circular 05/2005 have been inserted throughout the document. Additionally, the document has been amended to comply with the Community Infrastructure Levy Regulations 2010.
- The list of planning obligations, which are sought on a case-by-case basis have been updated.

### **Affordable Housing**

The Core Strategy has introduced a floorspace requirement for affordable housing, and this is explained further in this SPD. It also sets out the parameters for securing payments in lieu of provision of affordable housing in cases where the floorspace is between 800 and 1,200 square metres (gross external area). The requirement is for £2,500 per square metre above the initial threshold of 800 square metres, resulting in a payment of between £2,500 and £1M. Representations were received, some seeking a lower cost payment, while others felt the contribution to be about right. It is a cost based on the Total Cost Indicators, updated for recent changes to the various parameters (build costs, and costs etc.). It is considered to be a robust basis for the contribution, and is not proposed



for amendment. However, it will need to be the subject of review. The delivery of affordable housing will be monitored as part of the Core Strategy process and the success of the policy will be assessed on this basis.

### **Education**

Representations were received querying why there is no distinction in the child yields between social housing for rent, and intermediate units. As a result, the child yield for education payments has been amended so that the intermediate units generate the same yield as a private unit.

- Representations were received seeking clarity as to how contributions would be spent, and the scope for spending contributions on children's and youth services, and other education. In response a new paragraph has been inserted giving additional advice as to how contributions for education will be spent.

### **Employment**

- A number of representations sought clarity about the exact threshold which applies for commercial floorspace, and whether calculations are based on new or improved space. The SPD has been amended to state that contributions will be required for a *net increase* of 1000sqm or more in office or retail floorspace.
- A representation was made highlighting that the calculation of employment contributions should take in account the difference in employee density between office and retail developments. The SPD has been amended to reflect this.
- A representation was made seeking the inclusion of apprenticeship schemes as part of the standard charge for employment and enterprise. The SPD has been amended to include "apprenticeship schemes" to the list of employment and enterprise initiatives that may be sought in addition to the standard charge for co-ordinators that will be considered on a case-by-case basis.
- Representations were received seeking clarity as to whether an applicant could provide or host an employment or enterprise programme as an alternative to making a contribution to the Council. The SPD has been amended to clearly state that any contribution sought will be reduced in lieu of a developer hosting an approved WPC or other employment programme as part of the development.
- As requested by respondents, additional information has also been provided to source the workplace co-ordinator programme, which has been used to develop a standard charge for employment and enterprise contributions.

### **Open space**

- A number of representations sought clarity about the exact threshold which applies for commercial floorspace, and whether calculations are based on new or improved space. The SPD has been amended to state that contributions will be required for a *net increase* of 1000sqm or more of office floorspace only.

- Additional guidance has been provided emphasising that public open space provided by developers as part of a development site will be taken into account when applying a standard charge for open space.
- The standard charge investment amount for open space has been confirmed to reflect the overall cost of providing open space for the resident *and worker* population, and the calculation is clearly shown in the footnotes of the relevant section.
- The calculation for childrens' play equipment has been amended to be based on child yield rather than residential occupancies, to reflect the actual number of children using the equipment, and excluding the number of adults occupying a development.

### **Transport**

- A number of representations were received querying how strategic transport sums would be spent, and requesting the justification for pooling contributions to deliver strategic transport improvements. It is considered that the SPD sets out a clear and robust basis for seeking and spending contributions linked directly linked to the programme of projects.
- In accordance with the approach to employment and open space, the draft SPD has been amended to state that contributions will be required for a *net increase* of 1000sqm or more of office floorspace only. By removing the requirement to seek contributions to "improved," the Council is concerned that impact of re-providing floorspace (partial demolition and rebuild) may result in extensive damage to site-specific transport infrastructure (such as bus stops, cycleways, crossings and so on).

### **Public Realm**

- A representation stating that there should be no assumption that public realm works will be carried out by "Councils' contractors." The SPD has been amended to clearly state that works will be carried out by "contractors employed by the Council", rather than implying that all works will be carried out specifically by the Councils' term contractor.
- As above, the SPD has been amended to state that contributions will be required for a *net increase* of 1000sqm or more of office floorspace only.

### **Health**

- A new paragraph has been inserted giving additional advice as to how contributions for health will be spent, and providing a hyperlink to the Primary Care Trust asset management strategy.
- A number of representations sought clarity on how the HUDU (Healthy Urban Development Unit) model would be used as a basis for the standard charge. The SPD has been amended to clarify that the capital only element of the HUDU model would be charged (the revenue element only on a site specific basis as dictated by specific circumstances).
- The option for applicants to run the HUDU model themselves as an alternative to the standard charge average cost per unit has been included in the SPD.

### **Monitoring charge**

- A number of representations sought clarity as to how the administration charge would be spent. The SPD has been amended to clearly state that the work will be carried out by a team of finance, monitoring, and project officers to ensure a consistent and efficient approach. It is considered that the percentage charge is a reasonable overhead based on the cost of managing previous section 106 agreements.

### **How will the SPD be monitored?**

Monitoring allows the Council to identify if a particular planning policy is having the intended outcomes.

The most appropriate mechanism with which to monitor the SPD is the Annual Monitoring Report (AMR). The AMR monitors the type of development that is occurring as a result of the Council's planning policy and guidance and what effects the development is having in terms of meeting Core Strategy objectives and monitoring indicators.

The monitoring framework used for the AMR includes indicators that measure the effects of development in the Borough, such as school capacity, open space provision and transport modes of travel. As the SPD seeks to maximise the sustainability of development, it is considered that the Core Strategy contains appropriate indicators to measure the success of policies in the Plan and the effectiveness of the Planning Obligations SPD.

The AMR framework also includes an indicator that sets out the planning contributions received each year and the topic areas for which they have been collected. Targets will need to be established for the collection of contributions to allow interpretation of how effective the SPD is. These will include the average contribution for each topic area, compared with the amount sought by the SPD.

In addition to monitoring the effects of the Core Strategy policies and the effectiveness of the SPD, several development contributions contained within the SPD will need to be kept under specific review to ensure that they continue to maximise the benefits of development over the long term.

These include:

- The assumptions that underpin the standard charges, such as occupancy rates, population projections and standards of provision, to ensure standard charges are an accurate reflection of the cost of mitigating a scheme;
- Changes to legislation and planning obligations regime, including the 2010 Community Infrastructure Levy Regulations, and consultation on changes to Planning Obligations Circular;

- Emerging standards, such as children's play standards and any review of the National Parks and Playing Fields Association standards for open space;
- Changing local priorities, such as those identified in emerging planning guidance or Area Action Plans.

## **Appendix 2: Planning Obligations SPD Consultation Statement – As required by the regulations**

- A2.1 The draft SPD was approved for consultation in January 2010. Consultation was conducted in accordance with Regulation 17 of the Town and Country Planning (Local Development) (England) Regulations 2004 and the Council's adopted Statement of Community Involvement, December 2007, for a period of six weeks from **29<sup>th</sup> January to 12<sup>th</sup> March 2010**.
- A2.2 During this period, the draft SPD, together with the Statement of SPD Matters and standard response form, was made available for inspection at the Kensington Town Hall, all local libraries and on the Council's website. Approximately 300 people viewed the webpage during this period. A press release was also produced and circulated.
- A2.3 Notice of the consultation arrangements was published in the Kensington and Chelsea News on 5<sup>th</sup> February 2010, the Council's LDF newsletter and sent to all Councillors and approximately 400 consultees on the LDF database.
- A2.4 The Council received 54 representations (200+ comments) from various organisations and local residents, including the Environment Agency, Thames Water, Greater London Authority, various residents associations, planning and development practices and amenity groups. Representations from English Heritage, The Kensington Society, the public and elected members were received.
- A2.5 The draft SPD was, generally well supported, with a range of groups welcoming a more transparent approach to securing planning obligations. Matters of detail, however, have proven to be more contentious, with a wide range of comments received. Each of these has been addressed, and changes made where necessary to overcome specific justified concerns. Where no change is proposed, a reason is stated.
- A2.6 The consultation findings can be summarised under the following themes.

### **Affordable Housing (Section A):**

The document sets out the basis for seeking affordable housing and gives guidance on this topic area. Planning policy regarding affordable housing evolves quickly, the section needs to be as up-to-date as possible to ensure that it provides effective support to the affordable housing policies contained within the Core Strategy. In particular this relates to the threshold for qualifying sites which will relate to the London Plan, and set the Borough's affordable housing threshold.

The affordable housing section sets out the definitions of what is, and by implication what is not, considered as affordable housing, and how affordable housing is expected to be delivered. The types of units that are required under the SPD takes account of the local evidence base, in particular the Strategic Housing Market Assessment (SHMA). It sets out the preference for on-site provision. In terms of what is delivered, the expectation is that affordable housing should be of good quality design, taking account of Housing Quality Indicators and other standards, whilst always ensuring that the cost to the occupier remains affordable.

The Core Strategy has introduced a floorspace requirement for affordable housing, and this is explained further in this SPD. It also sets out the parameters for securing payments in lieu of provision of affordable housing in cases where the floorspace is between 800 and 1,200 square metres (gross external area). The requirement is for £2,500 per square metre above the initial threshold of 800 square metres, resulting in a payment of between £2,500 and £1M. Representations were received, some seeking a lower cost payment, while others felt the contribution to be about right. It is a cost based on the Total Cost Indicators, updated for recent changes to the various parameters (build costs, and costs etc.).

### **Education, Social and Community Facilities (Sections B and C):**

*Education:* The basis for seeking education contributions is set out in the Supplementary Planning Document. Education contributions have been sought for a number of years across London Boroughs, and the formula and approach has been updated taking account of formulas in other boroughs which have been adopted. In particular, the costs per school place have been updated, and the formula includes best available data on the likely child yield from developments. The section received fewer comments, comparatively than others, possibly a reflection that contributions to school places are now common-place.

*Sports and Recreation:* The section sets out how Council will seek contributions from new residential developments towards provision or improvement of local recreational, leisure, and sports facilities to ensure that adequate provision is made. A standard charge formula is set out within the document. Again this now takes account of up-to-date information.

*Play space:* Where provision of children's play space is not made on-site, a contribution will be sought towards provision or enhancement of play facilities in the vicinity of the site. A formula for calculating the standard charge is set out within the document. Provision should always be made within the development where

possible, particularly for young people. The section has received valuable input from the Council's Play Partnership to make sure that the impacts of new developments take account of the need for provision of play space.

*Health:* Where there is an identified need for further medical and health facilities, the Council will seek to ensure that planning permission is granted only where such facilities can be provided. The contribution model, developed by the Healthy Urban Development Unit (HUDU) is referred to in order to estimate the cost of the required facilities, and take account of any existing capacity. Comments received criticised the HUDU model, and drew attention to its perceived shortcomings. The SPD therefore does not require its use whole-sale. It states, though, that there is an expectation that provision towards health must be made within large development schemes. This could be achieved through provision in-kind, or through financial contribution. The HUDU model acts as just one mechanism for quantifying the impact of development.

*Community centres, and other community facilities:* For larger new residential development, contributions may be sought towards the provision, enlargement or improvement of community centres, youth centres and halls etc. No specific formula is applied, but the requirement for provision in certain circumstances is set out in the document. The section received several comments, in particular from the Kensington Society. Changes have been made to reflect concerns that community provision is a principle required within developments, in particular affordable premises for voluntary or community groups.

### **Public Realm (Section D):**

*Public art:* The Council shall seek to ensure that major developments make provision for public art, either on-site or via a contribution towards the provision of public art in the vicinity of the development.

*Parks and Open Space:* The Council will seek on-site open space where possible, or financial contributions towards the provision or enhancement of public open space off-site. The SPD sets out the formula for calculating the level of contributions to be sought from developers for off-site provision. This includes contributions to local amenity areas.

*Private Residential Amenity Space:* The Council requires private amenity space to be provided on-site. Where a development does not provide the full amount of private amenity space provision on-site, a contribution may be sought towards the provision or

enhancement of public open space in the vicinity of the site. The formula for calculating the contribution is set out in the document. It confirms the position that this should only be in exceptional circumstances, e.g. where there is good existing public provision of amenity space, and therefore the contributions take account of the deficiency.

*Streetscape:* Developments will be expected to make provision for environmental improvements to the public realm, such as paving, landscape works, street furniture and lighting, as an integral part of the development. For off-site works that are necessary in order to make the development acceptable, planning obligations will be sought. A standard charge formula is set out within the document.

*Community Safety and Security/Landscaping Works:* In most cases, safety and security measures, landscaping, and archaeological works will be provided as an integral part of the development, or will be required by planning condition. In exceptional cases, a planning obligation may be sought to ensure that the necessary measures are undertaken in order to make the development acceptable.

### **Transport (Section E)**

*Development Specific Transport Works:* Development-specific transport works are an integral and essential part of a development scheme, without which planning permission would not be granted. Planning obligations will be sought to secure the provision of transport works that are required to make a scheme acceptable in planning terms.

*Sustainable Transport:* Planning obligations will be sought to secure the provision of, or improvements to, sustainable transport infrastructure and services, including public transport, pedestrian, and cycling facilities. The formula for calculating the required contribution is set out within the document.

It is recognised that the process and mechanism for securing major strategic transport improvements requires a range of organisations such as Transport for London, and changes have been made to the document in response from TfL and the Highways Agency.

*Travel Plans:* Travel Plans are designed to manage the transport impact of a development in a more efficient and environmentally friendly way. Travel Plans submitted in conjunction with a planning application can be made binding through the use of a planning obligation. The document cross-refers to Transport for London guidance on development control and Travel Plans which provides an introduction to travel plans, outlines when a travel plan is required, gives advice on preparing a travel plan document, guides



on the legal mechanisms for securing travel plans and their implementation.

**Sustainability Measures (Section F):**

*Flooding/Energy Efficiency/Air Quality:* The use of planning conditions will normally be sufficient but a section 106 agreement may be required to ensure that any necessary works are undertaken, or mitigation measures are secured. In terms of air quality, reference is made to the Air Quality Action Plan and to the Air Quality SPD, and those measures within which help to improve air quality in the Borough.

*Renewable Energy:* In line with the London Plan and Mayor's Energy Strategy, and in accordance with UDP policy, the Council will expect qualifying developments to demonstrate that a proportion of the energy requirements of the development can be met by on-site renewable energy production.

**Town Centres, Employment and Shopping (Section G):**

*Development Specific Mitigation:* Where an otherwise acceptable development would result in the loss of employment floor space or loss of jobs, the Council may seek mitigation measures. These may include new or replacement premises, training and development and local labour agreements.

*Training:* For new employment generating schemes the Local Planning Authority may consider obligations in order to maximise local employment opportunities.

**Schedule of representations and Council's Response**  
**List of Organisations**

- 1 Metropolitan Police Authority.
- 2 Sainsbury's Supermarkets Ltd.
- 3 Capital & Counties on behalf of Earl's Court and Olympia Group.
- 4 Chelsfield.
- 5 Sun Life Assurance.
- 6 London Fire Brigade.
- 7 English Heritage.
- 8 Thames Water.
- 9 HUDU.
- 10 St Helen's Res Assoc.
- 11 Port of London Authority.
- 12 West London Line.
- 13 The Kensington Society.
- 14 The Theatres Trust.
- 15 Welcome Trust.
- 16 Cllr Keith Cunningham.
- 17 Brookfield.
- 18 Native Land.
- 19 The Royal Brompton and Harefield NHS Trust.
- 20 100 West Cromwell Road.
- 21 Sloane Stanley Estate.
- 22 Cadogan Estates.
- 23 Martin's Properties.
- 24 Kensington & Chelsea PCT/ NHS K&C.

**RBKC/22**

<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
13	General	<p>Editing</p> <p>The paragraph numbering system is unconventional – the “0” serves absolutely no purpose. This could be simplified.</p> <p>References to “the Borough” should use an initial capital – as in the Core Strategy.</p>		<p>Agree. This was a publishing/formatting issue, by publishing through Limehouse. It facilitated detailed comments to paragraphs, however, the final adopted version of the document will be simpler with only 1 level of sub-paragraphs therefore removing the “0”.</p> <p>Amendments for consistency with capitalization have also been made.</p>	Changes to be made throughout SPD
Gen	General	The SPD cannot be supplementary to the Core Strategy until it is adopted.	Clarity is required in relation to the SPD's policy context.	<p>The adopted UDP retains weight as a material consideration until such time as replaced by the Core Strategy. It is therefore necessary to supplement both existing policy in the UDP, and the Core Strategy which will soon be adopted.</p> <p>Since the draft SPD the Core Strategy has been</p>	Changes to be made throughout SPD.

**RBKC/22**

<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
				submitted, and EIP timetabled. The SPD can proceed to adoption supplementing existing policies, and those of the Core Strategy which will replace them shortly without the need to reissue the Planning Obligations SPD. Updating of those paragraphs labeled 'policy context' has therefore been undertaken.	
7	General	Contributions to the historic environment can also be signposted in the other types of planning obligation included in the SPD.  For example, 'regeneration', 'environment and outdoor recreation' and 'community and cultural facilities' planning obligations.	English Heritage would expect potential contributions towards the public realm 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.	Noted. The scope of the SPD extends to these already.	No change to SPD.
15	Gen	The Council needs to ensure that the cumulative effect of the various financial contributions is not so great as to undermine development viability and stifle	In order to ensure that the Council puts into practice the timeframes suggested, RBKC must ensure that sufficient resources from both its planning and legal	Noted, and agreed. The matter is covered by separate legislation, and as such, the SPD could not override these. However, the SPD sets out	Changes made to SPD.

**RBKC/22**

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		regeneration particularly in difficult economic times;	teams are devoted to the planning obligations process and that there are excellent lines of communication and case management between the two departments. Delay imposes costs on development and regeneration and can threaten the implementation of a scheme. At the recent Development Management Users Forum it was stated that cuts would be made in planning and the effect of this on the implementation of this proposed policy concerns us and also its relationship to the target dates for decision making. Applicants should not have to withdraw applications if the Council has run out of time.	the Council's view on procedures and is useful for developers.	
Gen	General	<p>Definition of Major Development</p> <p>The document is not consistent in its references to "major developments" – often it is unqualified, when it</p>	This needs to be clarified at the first reference, not just in section 34, and clear throughout.	Agree to amendments for clarification.	Changes to be made throughout SPD..

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		might just be referring to all residential developments and mixed-use developments, whilst elsewhere it is designed to refer to all "major developments", as defined in paras 34.0.6, 34.0.22 and 35.0.5.			
2	General	Just because a development is 'major' does not mean it should contribute or require a planning obligation.		Thresholds have been set and explained within the SPD. These are standard thresholds above which the Council's view is that there may be a need for planning obligations, and so the SPD is enacted. In conformity with Circular 05/2005 and CIL Regulations 2010, obligations can only be sought where they comply with the statutory requirements. The SPD complies with these. If it is considered that a particular obligation or contribution will not comply with legislation then it could not be sought.	No change to SPD.
8	Gen	Regarding the funding of water and sewerage infrastructure through the		Noted.	No change to SPD..

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		<p>planning system, it is our understanding that Section 106 Agreements are not usually suitable to secure water and waste water infrastructure upgrades to provide additional infrastructure. However, it is essential to ensure that such infrastructure is in place to avoid unacceptable impacts on the environment such as sewage flooding of residential and commercial property, pollution of land and watercourses. Therefore we welcome reference to flooding within the document.</p>			
13	Gen	<p>The SPD should increasingly rely on the LDF Core Strategy and should therefore use as its policy basis Chapter 30 and, by the time it is adopted, could drop the frequent use of "emerging". The development plan policy basis for the SPD should be acknowledged at the end of the Introduction or the beginning of section on the role of the SPD – it should appear before paragraph 2.0.9.</p>	<p>For the most part, the SPD's main sections do indicate the "policy framework" often relying mainly on the UDP, which suggests that the Core Strategy may need to be more explicit in indicating when planning obligations will be sought. It should be possible to have a specific policy references. All statements which say "the Council will..." need to be checked against the Core</p>	<p>The adopted UDP retains weight as a material consideration until such time as replaced by the Core Strategy. It is therefore necessary to supplement both existing policy in the UDP, and the Core Strategy which will soon be adopted.</p> <p>Since the draft SPD the Core Strategy has been submitted, and EIP timetabled. The SPD can</p>	<p>Changes to be made throughout SPD..</p>

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
		The SPD, when dealing with the specific subjects, should be based on and directly referenced to the LDF policy it supports/elaborates. Several sections, such as those on affordable housing, appear to reinterpret the policy and/or reasoned justification rather than restate it.	Strategy for the policy backing it provides for these statements.	proceed to adoption supplementing existing policies, and those of the Core Strategy which will replace them shortly without the need to reissue the Planning Obligations SPD. Updating of those paragraphs labeled 'policy context' has therefore been undertaken.	
13	Gen	<p>Appropriate use of planning obligations</p> <p>Planning obligations should not be used to try to justify otherwise unacceptable development proposals. The main problem area is using them to try to bail out major trip-generating development located in areas where there is poor public transport accessibility. Such developments are in conflict with the locational requirements in the development plan - the London Plan and the LDF – and no amount planning obligations is likely to overcome the access problems of a poor choice of</p>	This is not to say that some transport-related improvements should not be sought from proposals where the locational requirements are or will be met, but should not justify major developments in areas poorly served by public transport. Sections 43-46 need to be qualified.	Noted. Various changes to the relevant sections have been made to the SPD.	Changes to be made throughout SPD



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		location.			
13	Gen	<p>Definition of Social and Community Facilities</p> <p>The definition of social and community facilities needs to be extended:</p> <ul style="list-style-type: none"> <li>• to include all those facilities mentioned in para 30.3.4 of the Core Strategy, such as care homes, care facilities and housing for elderly people; community/meeting halls and rooms; hostels; launderettes; libraries; petrol filling stations; bespoke premises for the voluntary sector; and</li> <li>• to include further facilities requested to be included in this list, including post offices, pharmacies</li> </ul>		Noted. Updating to take account and bring fully in line with the Core Strategy is required.	Changes to be made throughout SPD
13	Section 1	<p>1.0.1: Delete penultimate sentence – duplication.</p> <p>1.0.2 Delete third sentence – and fourth? This paragraph</p>		Agree to amendments for clarification.	Changes to be made throughout SPD

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		<p>needs rethinking!</p> <p>1.03 There is a need to emphasise that many S106 agreements are not about handing over money but restricting or requiring various types of action. (see para 4.0.3) Presenting this as bullets would make this clearer, but it also needs emphasising.</p>			
Gen	1.0.2	<p>Paragraph 1.0.2 – The first sentence of this paragraph explains that “all” parties with an interest in a development site “must” be a party to a Section 106 Agreement. This approach is overly restrictive and will add significant unnecessary delay and complication to the completion of Section 106 Agreements. It also fails to comply with the guidance set out in Circular 05/05.</p> <p>The Circular, at paragraph B54, explains that “all those who might need to be directly involved in complying” with the provisions of a Section 106 Agreement should enter</p>	<p>In the context of the above, paragraph 1.0.2 of the SPD should be amended to comply with paragraph B54 of Circular 05/05.</p> <p>Furthermore, the SPD should also take into account the latest Government consultation on "Improving the use and discharge of planning conditions". This consultation considers the opportunity to impose conditions requiring an applicant to enter into a Section 106 agreement in situations where the applicant (at the time of</p>	<p>The SPD has been updated to take full account of current guidance.</p>	<p>Changes to be made throughout SPD</p>

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		in to it. This is a different and more sophisticated approach to that taken in the SPD. For example, there are many situations where tenants with minor leasehold interests do not need to be a party to a Section 106 Agreement on the basis that they will never be involved in complying with the terms of the agreement.	determination) only has a legal interest in part of an application site.		
3	1.0.1	Paragraph 1.0.1 – The purpose of the SPD is described as setting out "RBKC's approach, policies and procedures in respect of planning obligations". This description is misleading because SPDs are not able to create policy.	Paragraph 6.1 of PPS12 clearly describes and intends for SPDs to provide greater detail on the policies contained in Development Plan Documents. Particular emphasis is given to the fact that SPDs should not be prepared with the aim of avoiding the need for the examination of policy.	All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.	No change to SPD..
3	1.0.7	Paragraph 1.0.7 – Reference is made here to the planning obligations tests in Circular 05/05. Paragraph B5 of the Circular emphasises that planning obligations are only sought where they meet <i>all</i> of	The preparation of policy and guidance specifically relating to planning obligations is contained in Circular 05/05. Paragraphs B25 and B26 of the Circular clearly explain	All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any	No change.

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		<p>the tests. It is not clear from paragraph 1.0.7 that obligations are to meet all of the tests and should be amended accordingly.</p>	<p>that general policies about the principles and use of planning obligations should be set out in Development Plan Documents. More detail about applying the principles set out in Development Plan Documents should then be set out in an SPD.</p> <p>Paragraph 1.0.1 should be amended to explain clearly the purpose and role of the SPD in the context of PPS12 and Circular 05/05.</p>	<p>planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.</p>	
<p>3, 4, 17, 18, 19, 20, 21, 22, 23</p>	<p>2.0.4</p>	<p>Paragraph B2 of the Circular explains that "it may be possible to make acceptable development proposals which might otherwise be unacceptable, through the use of planning conditions or, where this is not possible, through planning obligations."</p> <p>Paragraph B51 of the Circular states that the imposition of a condition is preferable to entering into a planning obligation.</p>	<p>This needs to be reflected in paragraph 2.0.4 of the SPD.</p> <p>Paragraph 2.0.4 should be amended as follows:</p> <p><del>"In conformity with Circular 05/05, the Council will secure planning obligations in respect of measures which are essential for the development to proceed and measures which are required to mitigate the impact of development. Where planning</del></p>	<p>The SPD is to be amended to take full account of latest government guidance set out in the 2010 CIL Regulations.</p> <p>In addition, recognition of the use of conditions, an amendment will be made as suggested.</p>	<p>Changes incorporated into SPD</p>

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			<p><u>applications do not meet Development Plan requirements, it may be possible to make acceptable development proposals which might otherwise be unacceptable, through the use of planning conditions or, where this is not possible, through planning obligations."</u></p>		
3, 4, 17, 18, 19, 20	2.0.7	<p>Status of the Draft SPD – the status of the Draft SPD is unclear and should be clarified. Paragraphs 2.0.7–2.0.10 of the document explain that it is supplementary to the UDP.</p>	<p>In numerous places it is evident that the Draft SPD is substantially reliant upon emerging Core Strategy policies. It would therefore appear premature for the Draft SPD to be adopted prior to the adoption of the Core Strategy. In particular, the public examination of the Core Strategy will consider a variety of key planning topics and the inspector's conclusions will no doubt have implications for the content of the Draft SPD.</p>	<p>The adopted UDP retains weight as a material consideration until such time as replaced by the Core Strategy. It is therefore necessary to supplement both existing policy in the UDP, and the Core Strategy which will soon be adopted.</p> <p>Since the draft SPD the Core Strategy has been submitted, and EIP timetabled. The SPD can proceed to adoption supplementing existing policies, and those of the Core Strategy which will replace them shortly without the need to</p>	<p>Changes to SPD throughout in relation to UDP and Core Strategy.</p>

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
				reissue the Planning Obligations SPD. Updating of those paragraphs labelled 'policy context' has therefore been undertaken.	
3, 4, 17, 18, 19, 20	6.0.3	Evidence base and viability assessment – the evidence and justification for the majority of formula-based standard charges together with assumptions associated with requirements and needs is unclear. The evidence base for the document needs to be clearly explained and disclosed. In particular, paragraph 6.0.3 of the Draft SPD refers to “assessments of viability.” This is an important and critical evidence base to the SPD and is key to its robustness and soundness as a document that can effectively be used as a material consideration in the determination of planning applications.	Discussions with RBKC officers have revealed that this work has been undertaken by a specialist consultant. The viability assessment should be disclosed and made available for public review and comment prior to the adoption of the SPD.	The evidence is publicly available within the Council’s Affordable housing Viability Study (AHVS) undertaken by Fordhams Research in 2009.	No change to SPD.
3, 4, 17, 18, 19, 20	General	Community Infrastructure Levy (CIL) – the Draft SPD is vague in explaining is relationship with CIL Regulations. Reference should be made to the final	In this context the Council should make it clear that the Draft SPD will need to be fully reviewed following receipt of further CIL policy and guidance. The Council	The adopted UDP retains weight as a material consideration until such time as replaced by the Core Strategy. It is therefore necessary to	Changes have been made throughout the SPD to update in light of new CIL Regulations.

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		<p>CIL Regulations which were laid before Parliament on 10th February 2010 and that these are scheduled to come into force on 6th April 2010. It should also be explained that a stream of further information is expected, likely to include:</p> <ul style="list-style-type: none"> <li>- Policy guidance in the form of a new Circular.</li> <li>- Practical guidance for local authorities to assist them with the implementation of CIL.</li> <li>- A new policy statement on the appropriate use of planning obligations.</li> </ul>	<p>should also make it clear that the Draft SPD will be fully reviewed in the event that CIL does not come forward but a similar equivalent to CIL does, to future proof the Draft SPD in the event of a change in Government</p>	<p>supplement both existing policy in the UDP, and the Core Strategy which will soon be adopted.</p> <p>Since the draft SPD the Core Strategy has been submitted, and EIP timetabled. The SPD can proceed to adoption supplementing existing policies, and those of the Core Strategy which will replace them shortly without the need to reissue the Planning Obligations SPD. Updating of those paragraphs labeled 'policy context' has therefore been undertaken.</p>	
3	General	<p>Conformity with Planning Circular 05/05 – the preparation of policy and guidance specifically relating to planning obligations is contained in Circular 05/05. The Draft SPD should conform to the guidance and requirements set out in the Circular.</p>	<p>There are a number of instances where the Draft SPD does not fully conform which leads to inconsistency and substantially reduces the weight that can be attached to the document as a material consideration.</p>	<p>The adopted UDP retains weight as a material consideration until such time as replaced by the Core Strategy. It is therefore necessary to supplement both existing policy in the UDP, and the Core Strategy which will soon be adopted.</p>	<p>Changes have been made throughout the SPD to update in light of new CIL Regulations.</p>

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
				Since the draft SPD the Core Strategy has been submitted, and EIP timetabled. The SPD can proceed to adoption supplementing existing policies, and those of the Core Strategy which will replace them shortly without the need to reissue the Planning Obligations SPD. Updating of those paragraphs labeled 'policy context' has therefore been undertaken.	
3	General	Relationship with GLA/TfL Section 106 Requirements – The Draft SPD needs to make it clear that any financial contributions towards transport improvements will not duplicate contributions sought by the GLA/TfL	In particular, any contributions towards Crossrail should be calculated solely in accordance with the Crossrail Supplementary Planning Guidance being prepared by the Mayor of London.	Agree. There will be no scope for double counting or calculating of obligations. This would be contrary to government guidance.	No change to SPD in response to this representation. However, updates to the Crossrail funding have been made, due to recent Mayor of London SPG and London Plan updating.
12	2.0.1	Para 2.0.1 The Group notes the comment that the SPD not being an exhaustive list of planning obligations which will be required in each case. However, we would ask, given the rising importance of the West		The objection is to matters that have been dealt with as planning applications rather than the SPD.	No change to SPD.



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		<p>London Line in the residential and business spheres in the Royal Borough and in those of neighbouring boroughs both as a local and an inter-regional resource, that specific regard is given to the development opportunities that the Line, plus the services and facilities thereon presents in the context of other developments, especially those in close proximity to the Line.</p> <p>We particularly regret that consents appear to have been given to the major contiguous sites on the North West section of the Warwick Road that are adjacent to the WLL, without any obligation put upon on the applicants to contribute to station and/or line improvements at Kensington Olympia station or in the immediate area.</p> <p>We would ask the Council to bear in mind that in the space of just the last15 years the WLL has experienced a major renaissance in passenger traffic from two unadvertised</p>			

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		services a day between Clapham Junction and Kensington Olympia to a service pattern, that by May 2011, will comprise at least 5 trains per hour, seven days a week, calling at all five stations between Clapham Junction and Shepherd's Bush. Further growth of these services has been proposed, with some enhancements starting in May 2010.			
3	20.1.12	<p>Paragraphs 2.0.12 and 2.0.13 – Reference is made to planning obligation policies in the current adopted London Plan. It would be useful for the Draft SPD to reference</p> <p>Policy 8.2 of the draft Replacement London Plan which provides the Mayor's emerging policy direction and approach to planning obligations. Similar to the current London Plan, it gives greatest priority to affordable housing and public transport improvements (including Crossrail).</p>	The Draft SPD could also usefully make reference to Policy 8.3 of the draft Replacement London Plan. It explains that the Mayor will prepare guidance for boroughs setting out a clear framework for application of the CIL.	Agree. The new policy references keep the SPD as up-to-date as possible on adoption.	Changes to be made throughout SPD.
3	<b>3.0.2</b>	– This paragraph explains	Paragraph 3.0.2 should	Agree. See above.	Changes to be made

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		that planning obligations will ensure that measures are secured to mitigate any impact of the development. Comments made in relation to paragraph 2.0.4 are also relevant here.	make reference to the role of planning conditions, particularly that they will be preferred over planning obligations in accordance with Circular 05/05.		throughout SPD.
13	4.0.2	4.0.2 We would suggest that examples should include "provision of community, social and healthcare facilities". Also for subsequent examples we would request that the above services are listed in addition to RBKC services.	Insert other examples.	The examples included are explicitly referred to as being non-exhaustive. Not every example can be included.	No change to SPD.
3	4.0.3	Paragraph 4.0.3 – This paragraph explains that the Draft SPD not only covers financial contributions, but also benefits in kind negotiated as part of planning applications.	The paragraph should make clear that where contributions in kind are made, this should be taken in to account and discounted from requirements in the Draft SPD.	Agree, the change is in conformity with government guidance.	Changes to be made throughout SPD.
3	5.0.1	Paragraph 5.0.1 – The SPD is explained as a starting point in the negotiation process	Paragraph 5.0.1 should make clear that the SPD is to be used for guidance purposes only.	The SPD is supplementary to other policies, and complies with requirements in legislation and PPS12. There is no need to explain that it is simply for guidance. Its status is as explained in	No change to SPD.

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				the SPD – a material planning consideration.	
3	5.0.12	<p>Paragraph 5.0.12 – This paragraph states that planning permission may be refused in circumstances where the required Section 106 agreement is not completed or executed within the appropriate timescale. It goes on to define the appropriate timescale as “the 8-week, 13-week and 16-week periods.”</p> <p>This approach is overly restrictive and could well lead to many complex planning applications being refused. It also pays no regard to the ability to enter into Planning Performance Agreements which are an effective tool in agreeing the timescale associated with the determination of a planning application, including Section 106 agreements, between applicant and Local Planning Authority.</p>	<p>The paragraph is also inconsistent with paragraph 5.0.5 of the SPD which explains that Section 106 “heads of terms will be reported to the committee in order to reach a decision on the planning application.”</p> <p>In the context of the above, and for reasons of effectiveness, paragraph 5.0.12 should be deleted.</p>	<p>The Council’s requirements are usefully set out in the SPD. Certain matters are dealt with through other legislation, and where this is the case, the SPD could not replace those requirements.</p>	No change to SPD.
15	5.0.4	<p>Para 5.0.4 – In certain cases, where S106 requirements are known, RBKC states it will expect to receive a draft or</p>	<p>Draft heads of terms should be sufficient to indicate the legal agreement the applicant is</p>	<p>Agree. These requirements are sought under para. 5.0.4.</p>	No change to SPD.

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		executed unilateral planning obligation as part of the planning application eg permit free. We believe that it should be for the applicant to decide whether to commit the legal costs at this stage. If permission was refused, such costs would be abortive. .	prepared to enter into.		
	5.0.4	This paragraph sets out that the Royal Borough consider it vital to enter into discussions with developers regarding planning obligations at an early stage in order that application target dates can still be met.	Whilst supportive of this approach, we consider it essential for the Council to set out a clear protocol of when and how these discussions will take place, and an agreed time frame for which they will be discussed within from submission of the pre-application to ensure there is ample time to come to an agreement on both sides to avoid delays to the submission of the planning applications.	Support noted.	No change to SPD.
	5.0.12	This paragraph states that planning permission may be refused in circumstances where the required Section 106 agreement is not completed or executed within the appropriate timescale. It goes on to define the	This approach is overly restrictive and could well lead to many complex planning applications being refused. It also pays no regard to the ability to enter into Planning Performance Agreements	The Council's requirements are usefully set out in the SPD. Certain matters are dealt with through other legislation, and where this is the case, the SPD could not replace those	No change to SPD.

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		appropriate timescale as "the 8-week, 13-week and 16-week periods."	which are an effective tool in agreeing the timescale associated with the determination of a planning application, including Section 106 agreements, between applicant and Local Planning Authority.	requirements.	
3 , 4	6.0.2	Support the recognition in the first part of this paragraph that planning obligations may be a significant factor that effects development viability. However, the second part of the paragraph, which goes on to state that planning obligations are a necessary cost of development and will be expected to be factored in to the development cost from an early stage, requires amendment. It is inflexible and does not recognise that there will inevitably be instances where certain costs can not be factored in at an early stage due to the process of consultation and negotiation with relevant parties.	It should be recognised, in the context of Circular 05/05 (paragraph B3), that planning obligations should only be used to make acceptable development which would otherwise be unacceptable in planning terms and must directly relate to the proposed development (paragraph B8). Therefore, there will be instances where a development is deemed acceptable without the need to enter into a planning obligation and site and scheme specific circumstances will play a critical role in dictating the nature of costs.  Various suggested wording put forward.	The paragraph is considered to conform with the relevant legislation in Circular 05/2005, and the 2010 CIL Regulations.	No change to SPD.

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3	6.0.3	Paragraph 6.0.3 – It is explained here that the SPD has been subject to assessments of viability. This is an important and critical evidence base to the SPD and is key to its robustness and soundness as a document that can effectively be used as a material consideration in the determination of planning applications. .	The viability assessment referred to in the SPD should be disclosed and made available for public review and comment prior to the adoption of the SPD. Paragraph 6.0.3 should be expanded and the specific document which deals with viability assessment identified	The Council’s Affordable Housing Viability Assessment is publicly available at <a href="http://www.rbkc.gov.uk">www.rbkc.gov.uk</a> . This confirms the contributions sought, in addition to affordable housing will be generally viable.	No change to SPD.
3	6.0.4	Paragraph 6.0.4 – This paragraph relates to the carrying out of independent viability assessment of planning applications by an independent third party. We submit that the SPD should identify the potential third party assessors and that a standard brief should be devised in order to avoid delays in the review process. It is explained that “the applicant will be required to provide any financial information to support the viability assessment	.” Section 106 agreement are private agreements negotiated between local planning authorities and persons with an interest in a piece of land. The private and sensitive nature of the agreement and related viability information must be recognised in the SPD consistent with guidance in Circular 05/05. It states, at paragraph B38, that access to financial information provided by the developer should be on a strictly confidential basis.	Agree. Confidential information will be retained as confidential. The representation is concerned with procedure rather than the SPD contents.	No change to SPD.
15	6.0.6	RBKC wishes to use overage	We believe that s106	Amendments have been	No change to SPD in

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		clauses within a S106 agreement to require the submission of an updated financial appraisal immediately prior to development commencing. If profitability has increased, further obligations are to be payable. In cases where there is no improvement, obligations will remain as agreed.	agreement contributions should be fixed but that if overage clauses are to be included then the reverse should also apply ie if a financial appraisal demonstrates a deterioration in the viability of a scheme, financial contributions linked to obligations should be reduced to improve the viability.	made to the section in response to other representations, clarifying the use of overage clauses, and agreements. The use of such clauses is well practiced, and has been clarified.	relation to this objection.
3, 4, 17, 18, 19, 20,	6.0.6	It is described here that the Council will, where appropriate, use overage clauses within Section 106 agreements. Planning applications should be determined on the basis of the information / evidence available at the time the decision is made rather than on predictions of what may happen in the future.		Disagree. Amendments have been made to the section in response to other representations, clarifying the use of overage clauses, and agreements. The use of such clauses is well practiced, and has been clarified.	No change to SPD.
21, 22, 23	6.0.4	Viability Issues Paragraph 6.0.4 Paragraph 6.0.4 states the following:  "In cases where a dispute	In some cases this may mean reducing policy requirements if viability is an issue in accordance with paragraph B10 of Circular 05/05. This clearly states that "in some instances,	Amendments have been made to the section in response to other representations, clarifying the use of overage clauses, and agreements. The use of such clauses is	Amend text to correct inaccuracies.



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		<p>relates to the viability of a proposal, and in any case, where the local planning authority considers it appropriate, an independent viability assessment will be carried out by an independent third party of the Council's choice. The application will be required to provide any financial information to support the viability assessment to the Council and/or to the independent assessor. Open book appraisal may be required. The Circular stresses that the role of the independent third party is to facilitate or contribute to the negotiation process, not to arbitrate, and that responsibility for the final determination of the application remains with the local planning authority".</p> <p>Regardless of whether a "dispute" arises, we understand that if a financial assessment is required to be submitted with the planning application, the Council will require "verification" of this assessment. It is our opinion</p>	<p>perhaps arising from different regional or site-specific circumstances, it may not be feasible for the proposed development to meet all the requirements set out in local, regional and national planning policies and still be economically viable. Decisions on the level of contributions should be based on negotiation with developers over the level of contribution that can be demonstrated as reasonable to be made whilst still allowing development to take place."</p> <p>For the reasons set out above, paragraph 6.0.6 of the SPD should be deleted.</p> <p>The use of the term "overage" is wrong in respect of its application. Review mechanisms within Section 106 Agreements, should be for "exceptional" cases rather than the norm. Where exceptional cases arise the review</p>	<p>well practiced, and has been clarified.</p>	

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		<p>that this does not represent an "independent assessment". Instead it is a due diligence exercise undertaken by the Council's appointed consultant to verify the financial assessment submitted. If there is a dispute that cannot be resolved between the applicant and the Council then this is likely to need to be resolved at appeal.</p> <p>Paragraph 6.0.5 and 6.0.6</p> <p>We consider the approach set out in the paragraph to be fundamentally flawed. Whilst we accept that price paid for land may in certain cases be an incorrect basis for assessing the land value input into the appraisal, we consider a residual land value (RSL) does not reflect the value to the landowner. In our view the only basis for calculating the land value input is at Market Value by reference to, and defined within, the RICS Red Book (6<sup>th</sup> edition). Viability should be judged upon the level of</p>	<p>mechanism should in essence be a "reappraisal" undertaken prior to the implementation of the project in question. This in practice could be facilitated during the reserved matters process for these exceptional cases.</p>		

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		reward for investment in the project in question having regard to the risks involved in order to give the project a reasonable prospect of delivery.			
6	Section 7	<p>The LFB supports the inclusion of emergency services in this section. However, LFB urges the inclusion of the London Safety Plan 2009/2012 in the table under the Community Strategy Theme.</p> <p>The LFB believes that the capacity of the key emergency services to improve community safety and maintain a speed of emergency response in line with standards the LFB has set (see the London Safety Plan 2009/2012 at <a href="http://www.london-fire.gov.uk">www.london-fire.gov.uk</a>) is one issue which should take into account when negotiating Section 106 agreements.</p>	It is vital to assist the LFB in continuing to provide a fast, effective and resilient emergency response, which can be achieved through financial contributions towards improving and expanding current fire stations facilities and services. The LFB supports paragraph 7.43 which states that contributions will be negotiated rather than formula based, but would seek to ensure that emergency services, including the fire service, is included in the examples of local community safety needs at paragraph 7.46.	Support and comments noted.	No change to SPD.
2	8.01	Support acknowledgement that planning obligations recognise the scale of the		Support noted.	No change to SPD.

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		development.			
15	8.0.3	Para 8.0.3 – Major development is defined as in the General Development Procedure Order 1995 (GDPO) – ie 10 + residential units / 0.5ha or 1,000 sqm for non-residential..	For a number of those obligations where the threshold is triggered by development size(eg section 34 (libraries, indoor sport etc), the residential threshold is listed as 10 units or 0.1ha whereas the site area figure should be <b>0.5ha</b>	Clarification has been made to the threshold for each item within the scope of the SPD. Additionally, amendments have been made to the schedules explaining how the SPD operates. These are considered sufficient to give certainty in their operation.	No change to SPD.
3, 4, 17, 18, 19, 20	8.04, 8.05	<p>This paragraph explains that thresholds for development qualifying for formula-based standard charge is based on the total gross development proposed.</p> <p>Although this is acceptable in principle, the paragraph should explain, for the purpose of clarity, that any Section 106 contributions will take into account the existing use and quantum of development as well as unimplemented planning consents.</p>	<b>Paragraph 8.0.5</b> – This paragraph states that “in significant redevelopment cases... or in comprehensive redevelopment, the impacts of the development will be assessed to secure reasonable obligations which appropriately mitigate the development impact.” This statement is misleading because the impact of all development should be assessed and reasonable obligations considered in accordance with the Circular 05/05 tests. It is unclear why this paragraph makes a distinction	Clarification has been made to the threshold for each item within the scope of the SPD. Additionally, amendments have been made to the schedules explaining how the SPD operates. These are considered sufficient to give certainty in their operation.	No change to SPD from this objection.

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			between significant /comprehensive development and any other development. This distinction is not made in Circular 05/05 and the paragraph should be deleted.		
21, 22, 23	8.0.2	<p>Where certain planning obligations have been labelled as '*' in Appendix 1, further certainty is needed on the thresholds for these obligations so that a developer may estimate obligations at the feasibility stages of design development where such obligations could render a scheme unviable further down the line. In addition the categories of development that these obligations may apply to, is also required e.g. Major Developments or Minor Developments.</p> <p>Paragraph 8.0.3 - 8.0.4</p> <p>The threshold for major developments is identified as being developments comprising 1,000 sq m and above of floorspace.</p>	<p>PPS1 states that, to help meet the broad objectives of sustainable development, the country needs a transparent, flexible, <b>predictable</b>, efficient and effective planning system that will produce the quality development needed to deliver sustainable development and secure sustainable communities (Paragraph 7). Paragraph 8 goes further to advise that the plan-led system, and the <b>certainty</b> and <b>predictability</b> it aims to provide, is central to planning and plays the key role in integrating sustainable development objectives.</p> <p>This Paragraph is therefore contrary to this objective</p>	<p>Clarification has been made to the threshold for each item within the scope of the SPD. Additionally, amendments have been made to the schedules explaining how the SPD operates. These are considered sufficient to give certainty in their operation.</p>	<p>Changes incorporated into SPD.</p>

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		<p>Paragraph 8.0.4 describes the definition of development as including changes of use. It is not clear if a change of use application comprising 1,000 sq m or more of floorspace would comprise a major development.</p> <p>Paragraph 8.0.8</p> <p>It is stated that legal agreements will be worded in such a manner that will allow for increases in some or all of the required obligations when considered at reserved matters stage or if it becomes apparent that the trigger thresholds will not be achieved at the reserved matters stage. This does not provide any certainty whatsoever for developers.</p>	and we request that it is deleted.		
3	9.0.3	Paragraph 9.0.3 – This paragraph explains that the Council will adopt a consistent approach to the application of standard charges. It goes on to state that standard charges may act as a starting point for	<p>In this context, paragraph 9.0.3 should be amended, as follows:</p> <p>“The Council will adopt a consistent approach to the application of standard charges in order to ensure</p>	Agree to certain changes to relate the obligations to the nature of the development	Minor change to SPD.

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		<p>negotiations.</p> <p>As explained in Circular 05/05 (paragraph B35), standard charges and formulae applied to each development should reflect the actual impacts of the development. Their purpose is to provide greater certainty to developers, but not to create a blanket approach regardless of actual development impacts.</p>	<p>fairness, predictability and transparency. <u>Standard charges will not be applied in blanket form regardless of actual impacts. Their application will be consistent, but will depend upon the nature of the proposed development.</u>"</p>		
21, 22, 23	9.0.5, 9.07	Discrepancy in dealing with use classes and clarification of area used is required.		Noted.	No change to SPD..
3	10.0.1	Paragraph 10.0.1 – The SPD states here that planning obligations are required in order to deliver an acceptable development.	This is misleading. Planning obligations should only be used where applications do not accord with the development plan and where the use of planning conditions would be insufficient. It is not the case that planning obligations are always required to deliver acceptable development	Noted. Amendments for clarity to be inserted into paragraph.	Changes to be made throughout SPD.
9	10	The table following paragraph 10.04 (and Appendix 1, Step 1) implies that health contributions are subject to a standard charge. This is misleading as it appears that	This should be clarified. In contrast, a standard charge is applied to school places on a single residential unit basis.	Agree to amendments for updating and clarity.	No change to SPD.

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		the HUDU model will be used on a case-by-basis, will not apply to smaller developments and will be subject to negotiation.			
1	10.0.4	<p>Section 10.0.4 includes a table which lists those aspects of infrastructure for which a standard charge will be applied and those for which an obligation will be sought (non formula based, and site specific). Policing resources and emergency services are included in the list of infrastructure for which a standard charge will be applied.</p> <p>As a provider of community facilities the MPA are concerned about the use of a standard planning obligations charge for securing funding for future police floorspace requirements. Future police provision depends on many variables and the MPA are reluctant to be tied into a standard formula to predict future police need. This form of calculations tend not</p>	<p>Accordingly the MPA recommend that 'Policing resources' is removed from the 'standard' section of the table and added to the section headed 'Obligations sought (non-formula based, and site specific)'. It is also recommended that subsequent alterations are made to the rest of the document.</p>		Changes to be made throughout SPD.



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		<p>to take into account the many factors which affect policing infrastructure need, including:</p> <ul style="list-style-type: none"> <li>i) A variety of pressures impact upon the numbers of officers required within the borough.</li> <li>ii) Several issues such as demographics and socio-economic factors determine the number of officers which are required.</li> </ul> <p>The MPA's Estate Strategy reflects these factors and significantly different levels of police officers are needed across the 32 boroughs according to a variety of different factors. The ratio of police officers to population differs greatly between the highest police provision and the lowest within each borough. The proposed introduction of the system of costing police facilities does not allow the estate strategy to be realised and it is therefore requested</p>			

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		<p>that planning obligations for policing facilities are considered on a case by case basis and not through a blanket levy.</p> <p>The MPA are constantly monitoring their needs in RB Kensington and Chelsea and across London and, mindful of the issues outlined above, wish to have the flexibility to respond to policing needs if and when they arise. It is believed that the formula based approach is too simplistic and doesn't reflect the complex range of factors which impact upon future policing provision.</p> <p>The best way to ensure the delivery of effective policing as per the MPA's Asset Management Plan for Kensington and Chelsea is to influence planning policy and development proposals and to secure the delivery of floorspace and other obligations through S106 agreements. This has proven to be the most successful way of delivering</p>			

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		the MPA's estate needs and providing police facilities where they are needed.			
3	11.0.1-11.0.5	<b>Paragraph 11.0.1-11.0.5</b> – These paragraphs describe the broad approach to pooling of Section 106 contributions in the context of Circular 05/05. However, it should be noted that the CIL Regulations restrict the use of pooled contributions after April 2014.	In actual fact Circular 05/05 provides a more definitive and clearer approach in a situation where specific infrastructure related to a specific obligation is not delivered.  Paragraph B24 of Circular 05/05 states that “in the event that contributions are made towards specific infrastructure provision but the infrastructure is not provided within an agreed timeframe, arrangements should be made for contributions to be returned to developers.” Paragraph 11.0.5 of the SPD should be amended to comply fully with Circular 05/05.	The SPD is to be amended to take full account of latest government guidance set out in the 2010 CIL Regulations.  In addition, recognition of the use of conditions, an amendment will be made as suggested.	Changes to be made throughout SPD..
15	11.0.5	Para 11.0.5 –It is stated that where any pooled contributions are not spent, usually within 10 years, the LPA will consider modifying or	In circumstances where obligations contributions have not been spent within a 10 year period refunds	Reference is made to standard time period for repayment of unspent monies.	No change to SPD.

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		discharging the obligation.	should be made.		
3, 4, 17, 18, 19, 20	13.0.2	This paragraph states that Section 106 payments are required on commencement of development unless otherwise specified in the agreement. This is unreasonable and will prevent the delivery of new development. It is often necessary for Section 106 payments to be phased and timing related to the actual impact generated.	The paragraph should, therefore, be amended as follows:  "Payment of Section 106 financial contributions are required to be paid to the Council as the Local Planning Authority by law. Payments are <del>required on commencement of development unless otherwise specified in the agreement.</del> <u>to be timed according to need and impact.</u> "	Agree to amendment, to relate timing of payments to impact where necessary through phasing.	Changes to be made To SPD.
21, 22, 23	13.0.9	This paragraph identifies that there will be a 2.5% monitoring fee on the total value of contributions for legal agreements totalling £15,000 or more..	We consider this amount to be unreasonable and unjustified. It would be better practice to calculate the fees on the time spent drafting the agreement and therefore proportionate to the complexity of the document required. This should be agreed prior to drafting the agreement on a case by case basis	The monitoring fee is in line with others sought throughout London – lower in fact than many other Boroughs. It has been arrived at through assessment of costs and will cover the implementation of full monitoring required to ensure compliance with S106 agreements.	No change to SPD.
9	13.0.3	Paragraphs 13.0.1 and 13.0.3 refer to the involvement of		It is not necessary to include or secure	No change to SPD.

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		external partner agencies to monitor the receipt and spending of contributions. As such, monitoring mechanisms should be established with the PCT.		monitoring costs for external agencies.	
15	13.0.6	Para 13.0.6 – the applicants legal advisor will be expected to provide the Council's equivalent with an undertaking to pay the Council's legal fees and a sum paid on account	Only the Council's <b>'reasonable'</b> fees should be paid.	Agree, although this is implied. For clarity insert <b>'reasonable'</b>	Changes to be made throughout SPD.
15	13.0.9	Given that applicants already pay legal fees, planning application fees, pre application consultation fees and s.106 contributions the impact of monitoring fees should also be taken into account in order that viability of schemes is not threatened by the cumulative total.		The monitoring fee is in line with others sought throughout London – lower in fact than many other Boroughs. It has been arrived at through assessment of costs and will cover the implementation of full monitoring required to ensure compliance with S106 agreements.	No change to SPD.
3, 4, 17, 18, 19, 20	13.0.9	The Council propose a fee for monitoring of agreements based on 2.5% of the "total value of contributions". The Draft SPD includes no evidence or justification to support this.	The paragraph should be reworded to explain that the monitoring fee will reflect the nature of the proposed development and the nature of obligations.	The monitoring fee is in line with others sought throughout London – lower in fact than many other Boroughs. It has been arrived at through assessment of costs and	No change to SPD.

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				will cover the implementation of full monitoring required to ensure compliance with S106 agreements.	
3	14.0.11	Paragraph 14.0.11 – The Council asks for views on which indices are considered most appropriate in relation to the indexation of contributions. Various indices are noted in paragraph 14.0.11.	No single indices are appropriate for all contributions and obligations. The SPD must recognise that a number of indices can be used and will be agreed on a case by case basis.	Agree. Reference to be made to the most appropriate index for updating of the various components.	Changes to be made throughout SPD.
13	14.0.2	<p>14.0.2 The S.106 agreement will be not only on the statutory panning register but also on the Council’s website. (see also para 14.0.10)</p> <p>14.0.6 The Community Strategy does not contain any list of projects.</p> <p>14.0.8 Where can this “rolling programme of s106 projects be found? When and how are decisions on this made?</p> <p>14.0.9 Where can this database be found? Will it be on the website? A reference is needed.</p>		<p>Agree to the proposed changes in order to bring the SPD in line with Core Strategy, and other amendments needed to overcome objection.</p> <p>The database is used for monitoring purposes, but all S106 agreements are publicly available at <a href="http://www.rbkc.gov.uk">www.rbkc.gov.uk</a></p>	Changes to be made throughout SPD.

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13	17	17 Material considerations to be delivered through Planning obligations:	E Transport: This should refer to a whole range of different travel plans – employment, schools, hospitals, construction development, etc.	Agree. Table to be updated.	Changes to be made to SPD.
3	19.0.2	Reference to the 2005 housing needs survey is not informative given this document is now out of date. Therefore, paragraph 19.0.2 should be deleted.		Agree. Text to be updated to refer to 2009 SHMA.	Changes to be made to SPD.
3	19.0.3	This short commentary in respect of house price increase appears to ignore the economic downturn and the consequent market correction which resulted. An update to reflect the recent market conditions would provide greater clarity		Agree to slight updating to take account of recent economic changes.	Changes to be made to SPD.
3	20.0.1	Paragraphs 20.0.1 and 20.0.2 – The SPD does not identify with clarity what policy arrangements it supports and is supplementary to. Section 2 (paragraph 2.0.7) references the adopted UDP and the linkages to the policy environment which deals with planning obligations, but it also attempts to cross reference the draft Core	This confusion continues at paragraph 20.0.1 in the context of seeking affordable housing obligations where the SPD seeks to 'amplify' the 'policies' of PPS3, the London Plan and the Draft Core Strategy. This is a potentially confusing basis upon which to develop SPD guidance and the	The adopted UDP retains weight as a material consideration until such time as replaced by the Core Strategy. It is therefore necessary to supplement both existing policy in the UDP, and the Core Strategy which will soon be adopted.  Since the draft SPD the	Changes to be made throughout SPD.

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		Strategy.	document should be clear about which policies it is attempting to provide guidance against.	Core Strategy has been submitted, and EIP timetabled. The SPD can proceed to adoption supplementing existing policies, and those of the Core Strategy which will replace them shortly without the need to reissue the Planning Obligations SPD. Updating of those paragraphs labeled 'policy context' has therefore been undertaken.	
15	Sections 18-31	Sections 18 to 31 provide details on how RBKC will secure affordable housing through planning obligations. A commuted sum figure of £2500 per sq m of gross external residential floorspace for schemes of between 800 and 1200 sq m floorspace is proposed.	The rate is high and should certainly be no higher than this so that smaller schemes are not prevented from coming forward.	Noted	No change to SPD.
13	21	Sites where affordable housing will be sought:  This should quote the policy directly rather than reinterpret it.		The section has been amended to bring fully in line with the Core Strategy.	Changes to be made throughout SPD.
21, 22, 23	21.0.1	Paragraph 21.0.1 – 21.0.2 It is stated that proposals	Reference to "on site or commuted sum" should be	The section has been amended to bring fully in	No change to SPD.



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		<p>with 800 sq m gross external floorspace would be expected to include provision for affordable housing on site or via a commuted sum. It goes on to state that the maximum reasonable amount of affordable housing will be sought, with the presumption being that at least 50% provision on gross residential floor space in excess of 800 sq m will be affordable.</p> <p>Paragraph 29 of PPS 3 states that in Local Development Documents the Council should set overall targets for the amount of affordable housing to be provided. Indeed, the London Plan refers to affordable housing targets and boroughs should have regard to the Mayor's strategic target for affordable housing provision of 50% (Policy 3A.9). The reference to the provision of at least 50% of affordable housing therefore conflicts with national planning policy and there is no justification for it.</p> <p>Whilst we are not in</p>	<p>replaced by "<b><u>commuted sum or on site where over 1,200 sq m</u></b>". This is then consistent with the following paragraph in the document which refers to the requirement for provision of affordable housing on site where more than 1,200 sq m of gross external residential floor space is proposed.</p> <p>It is therefore recommended that paragraph 21.0.1 as set out above should therefore be replaced with:</p> <p><b>"The maximum reasonable amount of affordable housing will be sought, with the presumption being <u>up to 50% provision on the total number of habitable rooms in excess of 800 sq m</u>".</b></p> <p>Paragraph 21.0.2 states that attempts to circumvent the threshold set in the development plan, for which the</p>	<p>line with the Core Strategy.</p>	

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		<p>agreement to the use of a percentage threshold, if a threshold is to be used by the Royal Borough it should be referred to in the context of a maximum threshold only. Developers require as much certainty as possible on the maximum costs they may be incurring when pursuing a particular type of development proposal at the earliest possible stage. It is considered unreasonable and inappropriate to refer to open ended requirements for affordable housing where there is no clear justification of how the amount of affordable housing is defined.</p> <p>A balance should be made between the need to provide housing and the need to deliver affordable housing. If greater weight is given to the proportion of affordable housing that must be achieved when development comes forward, this will not give developers any incentive to develop and bring forward any residential development. Consequently the Royal</p>	<p>maximum reasonable proportion of affordable housing shall be negotiated is likely to lead to refusal of the application. Further clarification is required on this statement and an understanding of what these specific circumstances may be.</p>		

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		Borough will not achieve its housing targets. This will then result in neither private housing nor affordable housing being developed, particularly in the current financial climate.			
2	21.0.1	<p>Paragraph 21.0.1 – 21.0.2</p> <p>It is stated that proposals with 800 sq m gross external floorspace would be expected to include provision for affordable housing on site or via a commuted sum. It goes on to state that the maximum reasonable amount of affordable housing will be sought, with the presumption being that at least 50% provision on gross residential floor space in excess of 800 sq m will be affordable.</p> <p>Paragraph 29 of PPS 3 states that in Local Development Documents the Council should set overall targets for the amount of affordable housing to be provided. Indeed, the London Plan refers to affordable housing</p>	<p>Reference to “on site or commuted sum” should be replaced by “<b><u>commuted sum or on site where over 1,200 sq m</u></b>”. This is then consistent with the following paragraph in the document which refers to the requirement for provision of affordable housing on site where more than 1,200 sq m of gross external residential floor space is proposed.</p> <p>It is therefore recommended that paragraph 21.0.1 as set out above should therefore be replaced with:</p> <p><b>“The maximum reasonable amount of affordable housing will</b></p>	The section has been amended to bring fully in line with the Core Strategy.	No change to SPD.

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		<p>targets and boroughs should have regard to the Mayor’s strategic target for affordable housing provision of 50% (Policy 3A.9). The reference to the provision of at least 50% of affordable housing therefore conflicts with national planning policy and there is no justification for it.</p> <p>Whilst we are not in agreement to the use of a percentage threshold, if a threshold is to be used by the Royal Borough it should be referred to in the context of a maximum threshold only. Developers require as much certainty as possible on the maximum costs they may be incurring when pursuing a particular type of development proposal at the earliest possible stage. It is considered unreasonable and inappropriate to refer to open ended requirements for affordable housing where there is no clear justification of how the amount of affordable housing is defined.</p> <p>A balance should be made</p>	<p><b>be sought, with the presumption being <u>up to 50% provision on the total number of habitable rooms in excess of 800 sq m</u>”.</b></p> <p>Paragraph 21.0.2 states that attempts to circumvent the threshold set in the development plan, for which the maximum reasonable proportion of affordable housing shall be negotiated is likely to lead to refusal of the application. Further clarification is required on this statement and an understanding of what these specific circumstances may be.</p>		

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		<p>between the need to provide housing and the need to deliver affordable housing. If greater weight is given to the proportion of affordable housing that must be achieved when development comes forward, this will not give developers any incentive to develop and bring forward any residential development. Consequently the Royal Borough will not achieve its housing targets. This will then result in neither private housing nor affordable housing being developed, particularly in the current financial climate.</p>			
<p>3, 4, 17, 18, 19, 20, 21, 22, 23</p>	<p>21.0.1</p>	<p>Paragraph 21.0.1 – This paragraph seeks to secure the maximum reasonable amount of affordable housing, with the presumption being at least 50% provision on gross residential floorspace. Revisions to the mechanisms by which affordable housing is calculated are considered necessary to provide consistency with PPS3 and the London Plan.</p>	<p>Provision as a proportion of habitable rooms or units provides sufficient flexibility for the appropriate amount of affordable housing to be advanced on differing development schemes and on this basis a departure from the London Plan position (to a floorspace calculation) is not justified.</p>	<p>The floorspace threshold is justified and is a matter for consideration at the Core Strategy EIP. It is required due to the circumstances of the Borough and to ensure that the types of development occurring in the Borough can do so, but that a unit based threshold would not allow affordable housing to be</p>	<p>Changes have been made to the SPD text..</p>

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				secured.	
16	Section 21	I support draft policy (21.0.1) in principle. I believe that between 800 – 1200 sq metres, provision in the form of a commuted sum of £2500 per square metre in lieu of affordable housing where this cannot be provided on site, is reasonable. However, this should be kept under review given geographical differences in the borough.	At some later point in time the borough might want to refine this approach given the differences in land costs in different parts of the borough. Whilst £2500 is an average it seems about right to me.	Noted.	No change to SPD.
3	22.0.2	<b>Paragraph 22.0.2</b> – The level of service charge is levied on a particular development cannot as a matter of law be differential between occupiers (irrespective of tenure) where they are receiving the same level of service. A restriction on service charges in the manner proposed may therefore force the delivery of social rented accommodation 'offsite' as design restrictions amongst other things could prevent differential service charge arrangements.	It is not appropriate in the case of social rented provision to seek to link service charges as a proportion of household income. As drafted the wording implies that service charge levels will fall to retain the proportion of income to rent and service charge at 30%.	Disagree. The cost to occupier is a necessary determinant of the overall affordability of a scheme. This is evidenced in the Council's SHMA.	No change to SPD.
3	22.0.3	<b>Paragraph 22.0.3</b> – The Housing and Regeneration Act 2008 introduces Providers of Affordable Housing which	Amendment proposed.	Disagree. The Council secures affordable housing and the Council's Housing Enabling Team require	No change to SPD.

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		encompasses organisations other than RSLs. Provided these organisations are accredited for such purposes with the HCA and TSA as appropriate it is not a matter for further Council approval. Proposed amendment:		these provisions.	
3	22.0.4	<b>Paragraph 22.0.4</b> – The figure of £52,500 should be updated to £61,400 as identified by the Mayor in latest AMR.	This figure is expected to be imminently updated to £72,000 and the SPD should reflect the very latest position. Proposed amendment:	Agree, for updating and clarity.	Changes to be made throughout SPD.
3, 4, 17, 18, 19, 20, 21, 22, 23	23.0.1	Paragraph 23.0.1 – The Fordham research SHMA identifies a tenure split for new affordable provision based on the assumption that where households are unable to afford intermediate provision at the "usefully affordable point" namely the mid point between social rented and market provision they should be placed in social rented provision. This approach to assessment will under state the potential role for intermediate provision which undermines the validity of 15% intermediate provision and 85% social rented provision.	Therefore, further analysis of potential role for intermediate accommodation necessary to inform position prior to this being advanced in the Draft SPD.	The approach to affordable housing intermediate housing follows the Policy CH2 of the Core Strategy. The evidence for this can be found within the SHMA.	No change to SPD.

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4	25.0.1	Affordable Housing: Paragraph 25.0.1 advises that should an applicant propose a lower proportion of affordable housing than 50%, a financial appraisal will be required in order to demonstrate the maximum reasonable proportion for the specific site.	The GLA Three dragons Toolkit is recommended for this process, with the outcome to be '... used as one basis for negotiating the proportion of affordable housing'. However other appraisal types may also be submitted.	Noted. Other forms of viability assessment will be acceptable, provided they contain the level of detail needed to undertake independent assessment.	No change to SPD.
21, 22, 23	25.0.1	The paragraph seeks at least 50% affordable housing	Amend to read "up to" 50%	The paragraph is in conformity with Policy CH2 of the Core Strategy, and with the London Plan.	No change to SPD.
3	26.0.5	<b>Paragraph 26.0.5</b> – This paragraph attempts to implement the 'parity rule' whereby affordable housing is provided in a quantum based on the capacity of both the subject site and the proposed site brought forward to deliver an offsite contribution. This approach is contrary to the provisions of PPS3 (para 29) which require an offsite contribution to be assessed against broadly equivalent value of that which could have been provided on site.	Given the total provision is incapable of being provided on the subject site it is not 'in lieu' of that which could have been provided on site. This approach has been supported at Inquiry see APP/F3925/A/05/1189312. Furthermore the timing of delivery of offsite affordable housing will be linked to the provision of market accommodation on the application site. It will not be appropriate to seek provision ahead of completion of any market units in all cases.	Agree	Changes to be made throughout SPD.
21, 22,	26.0.3	Paragraph 26.0.3	We consider that the	Agree.	Change to SPD text.



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23		<p>Paragraph 26.0.3 refers to off-site provision for affordable housing only being allowed in exceptional circumstances. An off-site solution may in fact deliver more affordable housing than that which could be delivered on site</p> <p>Paragraph 26.0.13</p> <p>It is identified that a financial contribution for affordable housing will be kept under review and adjusted according to actual costs of providing affordable housing within the Royal Borough.</p>	<p>following point be added as an exceptional circumstance to when affordable housing should be allowed off site:</p> <p><b>“Where an off-site solution would deliver a materially greater contribution of affordable housing than would have been achieved on site”.</b></p> <p>Again more certainty and transparency is required for developers and landowners in terms of when these reviews will take place and how they will be calculated. Any review should be subject to public consultation.</p>		
3	26.0.11	Refer to comments in respect of paragraph 26.0.5.	Proposed amendment: “The above total sum per square metre is multiplied by 50% of the floorspace proposed in excess of the 800 sq metre threshold to reflect the increase in market units that will arise from not providing affordable housing on the	The suggested change does not add clarity to the SPD.	No change to SPD.

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			site.”		
21, 22, 23	26.0.13	Any review should be subject to public consultation.		Material changes to the SPD will require further public consultation. Updating of variables that are constant factors can be amended via the AMR process.	No change to SPD.
3	26.0.14	<b>Paragraph 26.0.14</b> – In order to reflect the guidance at B24 of Circular 05/05, this paragraph should be amended, as follows:	Add:  In the event that contributions towards affordable housing are not spent by the Council within 5 years (or such other period as may be agreed as appropriate for the contribution) the funds will be returned to the contributing party with interest.”	Disagree. The timing of repayment clauses is dealt with in the introductory section of the SPD.  It is not specific to affordable housing, but to all contributions, and it would be repetitious to include it with reference to affordable housing financial contributions.	No change to SPD.
3	28.0.1	<b>Paragraph 28.0.1</b> – Delivering Affordable Housing specifically advises at paragraph 48 against restrictions in policy or guidance which limit innovation or competition between providers of affordable housing. Restriction of transfer price will arbitrarily limit the ability of developments to provide affordable housing. The level	Amendment suggested.	Noted. The objection relates more to Council process than the text of the SPD. The SPD cannot override other legislation, and therefore includes information on Council process for information.	No change to SPD.

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		of revenue secured from affordable housing providers should be properly assessed on a site by site basis having regard to the level of public subsidy which maybe available to support the affordable housing provision			
16	<b>Educati on Contrib utions</b>	It would appear that the child yields in Camden are higher than in RBKC. This is surprising as both local authorities are using the same DMAG data adjusted for the area.	This needs further investigation as these two inner London authorities are similar in type.	The Child Yield is confirmed as that in the draft SPD. This is one factor that can be kept under review and updated via a re-consultation process. However, it is considered the best available yield at this point in time.	No change to SPD.
3	32.0.2	<p>32. B1 Education Contributions</p> <p>Paragraphs 32.0.2 to 32.0.4 – These paragraphs refer anecdotally to the capacity of existing nursery, primary and secondary schools in RBKC, but do not appear to be supported by any formal evidence base.</p> <p>The SPD contains a lack of clarity as to its status in relation to planning policy. Reference is made here to</p>	The relevant research be made available as part of the SPD consultation process.	All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.	No change to SPD.

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		UDP and Draft Core Strategy policies. Clarity is needed as to what the SPD is supplementary to. The SPD can not be supplementary to the Core Strategy until it has been adopted.			
3	<b>32.0.22 – 32.0.24</b>	These paragraphs explain the formula used by the Council to calculate cost per school place. C&C are of the opinion that a consistent approach needs to be taken across developments, but a negotiated level of discount should be allowed for in situations where applicants are providing a new education facility on-site as part of a proposed development.		Agree. The relevant point is set out elsewhere in the SPD (contributions in kind), and does not need referring to under this section specifically in relation to education.	No change to SPD.
3	Section 32	HUDU model has little substantial policy backing for its use (something that has been reiterated in planning appeal decisions). It should be applied with caution. C&C welcome the acknowledgement that HUDU will be tailored to local needs and the prevailing circumstances with regard to capacity. Further it is subsequently trusted that this		The HUDU model is referred to as the best source of available information for quantifying health requirements. In application it will be confirmed with locally available information from the PCT.	No change to SPD.

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		<p>means that further details will be given on these matters and that there will be an opportunity for consultation during the analysis of how to apply HUDU to local circumstances.</p> <p>C&amp;C consider that there needs to be a stronger link to the relevant health strategies and further consider that it is not sufficient to say only that "consideration will be given to relevant health documents" such as those mentioned in paragraph 33.0.17. Rather, it is considered that the documents need to directly feed into and reflect accurate and up to date assessments of the infrastructure required to support new development.</p>			
13	33.0.1	<p>33.0.1: Delete "some commercial" and insert "mixed-use developments" unless it is considered that additional offices, hotels and other commercial uses generate health care demands.</p> <p>33.0.3: Lines 2/3: change to "town, district and neighbourhood centres"</p>		<p>Agree to changes for clarification, where possible, to bring the section fully in line with the Core Strategy.</p>	<p>Changes to be made throughout SPD.</p>

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		<p>which..." Line 5; Add "primary" before "schools"</p> <p>33.0.6: The reference to STRAT44 of the UDP should be superceded by an LDF policy.</p> <p>33.0.8 Additional social and community uses are needed, firstly to bring it into line the Core Strategy needs amending to include:</p> <ul style="list-style-type: none"> <li>• pharmacies in (d)</li> <li>• community facilities and meeting places</li> <li>• post offices</li> <li>• premises for voluntary organisations,</li> </ul> <p>33.0.15: Line 1 and line 4 refer to "all major developments" – should this be all major residential and mixed-use developments"</p> <p>33.0.18: At the end add "pharmacies" – there is a need to ensure a good distribution of local</p>			

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
		pharmacies.			
24	33.0.11	Clause 33.0.11 Our proposed wording for this clause is as follows and should replace the Clause in your Draft:	<b>[33.0.11</b> The Kensington & Chelsea PCT Estate Strategy 2006-2011 (first published Jan 2007 and revised in 2009) has recently been further revised in 2010. The strategy builds on the previous strategies and is set within the context of an Integrated Strategic Plan (ISP) for North West London which describes the delivery of the vision outlined in Healthcare for London (2006). The strategy provides the PCT with an overview of its current situation and focuses on commissioning high quality, safe and effective health and social care for the residents of the Royal Borough of Kensington and Chelsea (RBKC). The commissioning of hospital care is described in the PCT strategy and is also described in greater detail within the North West London Commissioning Partnership, ISP (2010-	Agree to updated information.	Changes to be made throughout SPD.

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			<p>15). The PCT has been a key contributor to the wider plans for the Sector. The PCT vision is:</p> <p><i>To be the recognised Health Advocate for all residents of Kensington and Chelsea and by 2015, to lead an integrated healthcare system that transforms the way residents manage their physical and emotional health and wellbeing and helps them become the most engaged and vibrant community in London.</i></p> <p>The PCT Strategy is built upon the information about the population health needs as described in the Joint Strategic Needs Assessment (JSNA). It clearly articulates those key areas of concern in</p>		



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			<p>order to eradicate health inequalities within the borough. The PCT is working closely with RBKC to deliver many of the service changes for the residents of the Royal Borough.</p> <p>Over the last year the PCT have concentrated on improving the health of its residents in a number of areas identified within the JSNA, with particular emphasis on reducing smoking, managing obesity (particularly in young children), improving access to dentists and to advice on sexual and mental health. Further investment is planned up to 2015.</p> <p>In the next five years, the PCT, plan to develop two integrated primary care-based healthcare systems known as "polysystems"; one in the north and one in the south of the borough which will deliver a substantial portion of healthcare to residents of the Royal Borough</p>		
9	33	Paragraphs 33.0.11 and		Agree to updating and	Changes to be made

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		<p>33.01.17 refer to PCT strategies – the relevant documents are the Primary Care Strategy, the Commissioning Strategy and the Joint Strategic Needs Assessment.</p> <p>The second sentence of paragraph 33.0.12 refers to “the number of health facilities available in the borough may fall”. We suggest that the sentence is amended to say that “In future it is anticipated that there will be fewer single handed GP practices and more practices will be co-locating and working together to form larger groups of practices known as ‘spokes’”.</p> <p>Paragraph 33.0.12 should refer to Healthcare for London proposals and local polysystem plans. There is no mention of existing acute and mental health services and future plans.</p> <p>Paragraph 33.0.15 refers to health contributions being sought from major</p>		<p>amendments as suggested.</p>	<p>throughout SPD.</p>

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		<p>developments. This includes residential and commercial development. Does the definition of major development in paragraph 8.03 include NHS developments?</p> <p>Paragraph 33.0.16 (and Appendix 1, Step 2) refers to the HUDU model, but just to the impact in terms of physical space and subsequent cost. There is no mention of impact on services and revenue cost implications. The phone number is incorrect, please use <a href="mailto:hudu@hudu.org.uk">hudu@hudu.org.uk</a>.</p> <p>Paragraph 33.0.18 refers to the expectation that PCT will carry out an assessment of the capacity of existing health facilities and services for every major planning application. The second and third sentences could be reworded to read: "Where necessary, the PCT will assess the impact of the development on existing healthcare facilities and services which may include</p>			

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		<p>primary and community services, mental health and acute healthcare services.”</p> <p>Paragraph 33.0.19 describes the use of financial contributions – reference should be made to PCTs estate and polysystem plans. The last bullet could be reworded to read: “for healthcare services where inadequate funding is available to address the immediate impact of a development” and should mention that revenue payments would be time-limited in line with paragraph 12.0.3.</p>			
3, 4, 17, 18, 19, 20, 21, 22, 23	33.0.10	Paragraph 33.0.10 – The SPD refers anecdotally to the capacity of many local health centres in the Borough being at capacity or in accommodation that requires upgrading.	However this statement does not appear to be supported by any formal evidence base. We therefore submit that the relevant research be made available as part of the SPD consultation process	All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.	No change to SPD.

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
3	33.0.15	This paragraph explains that all major developments will be required to make a contribution for health care facilities.	This approach does not accord with Circular 05/05 because it fails to recognise that a standard charge relating to healthcare provision should reflect the actual impacts of development and the nature of the proposed development.	All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.	No change to SPD.
3	33.0.20	It is explained here that where a developer can provide a new healthcare facility and services on site, this cost can be set against their calculated contribution for health facilities due from the development. This paragraph should be amended to allow for the potential circumstance whereby the provision of healthcare facilities on site could be set against contributions for other social facilities, not only healthcare related.	This approach would create a more effective SPD, particularly in the context of Circular 05/05 as well as national planning policy which promotes development and a reasonable approach to planning obligations.	Changes have been made to the section to bring more in line and up-to-date. The policy applies the core Strategy requirement set out within Policy CK1, with the aim of keeping life local.	No change to SPD.
14	34.0.18	The document makes many references to the Community Strategy including the eight themes which have been reflected in this SPD. We are		Support noted.	No change to SPD.

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		<p>therefore pleased that Culture, Arts and Leisure are one of the eight themes and particularly note para.34.0.18 on page 33 which states that <i>The Community Strategy aims to secure and increase the scope and accessibility of all the borough's arts, culture and leisure facilities.</i></p> <p>We assume therefore that your theatres will be included within the theme of Culture, Arts and Leisure but we are unable to locate which policy guidance would be applicable. If theatres come under the general term of 'community facilities' we suggest it would be helpful to have a description of this term in the Glossary and suggest: <i>community facilities provide for the health, welfare, social, educational, spiritual, recreational, leisure and cultural needs of the community.</i> In this way, arts activities and theatre will be incorporated in any policy that mentions the enhancement and development of community</p>			

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		facilities as the second sentence of para.34.0.18 states that <i>It recognizes that this is important if residents' quality of life is to be preserved and improved</i>			
13	34.0.7	<p>34.0.7: Worker/floorspace ratios published by English Partnerships (2001) are out of date and are unsuited to use in Central/Inner London. These have recently been updated in order to calculate the need for additional office space in the Borough – these show lower floorspace/worker and, as a result higher employment densities.</p> <p>34.0.15: There is a shortage of indoor sports facilities in the <u>centre</u> of the Borough not just the south of the Borough. There is no sports centre or public swimming pool. Add "centre and" before "south" in line 6.</p>		<p>All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.</p> <p>The evidence on employment densities is the best available complete evidence, but can be reviewed as updates to the SPD are undertaken. It will remain for the time being.</p> <p>Agree that the suggestions on para. 34.0.7 are necessary to clarify the parts of the Borough.</p>	Changes to be made throughout SPD.
3, 4,	34.0.6	Paragraph 34.0.6 – The Draft		All contributions are	No change to SPD.

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17, 18, 19, 20, 21, 22, 23		SPD should make clear what evidence there is to justify the need for all major development to make a contribution to libraries.		evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.	
3, 4, 17, 18, 19, 20, 21, 22, 23	35.0.1	Paragraph 35.0.1 – This paragraph refers to poor quality community facilities in many parts of the borough, and others where larger more flexible spaces are required.	This statement does not appear to be supported by any formal evidence base, and therefore we submit that the relevant research be made available as part of the SPD consultation process.	All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.	No change to SPD.
13	35.0.6	Paragraph 35.0.6 – The SPD indicates that contributions will be used to provide new community facilities or expand existing facilities.	Financial contributions should also be provided to assist with improving the quality of existing community facilities, which could involve assistance with management and maintenance costs.	Agree that the point could be expanded further.	Changes to be made throughout SPD.
13	35.0.1	35.0.1: This needs to specify how the Council will seek to	This subject needs further work.	Agree to changes that will explain the policy further.	Changes to be made to SPD..



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		<p>secure premises for the voluntary sector, by adding at the end:</p> <p style="padding-left: 40px;">"by requiring a financial contribution toward the cost of premises or, where appropriate, providing land or premises for such uses directly to the voluntary organisation or to a development trust which would own and manage the facility."</p> <p>35.0.4: There is a need to seek advice from Kensington and Chelsea Social Council with regard to the need for premises for voluntary and community organisations – add this in a separate paragraph.</p>			
13	35	<p>Means of providing facilities</p> <p>The document focuses excessively on financial contributions and omits:</p> <ul style="list-style-type: none"> <li>• provision of land or buildings</li> <li>• requirement to reinstate/accommodate displaced uses – eg</li> </ul>		Agree to updating for clarity.	Changes to be made throughout SPD.

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		<p>reinstate a post office displaced through redevelopment.</p> <p>The document is insufficiently imaginative in the means considered for delivering the desired outcomes. The means include:</p> <ul style="list-style-type: none"> <li>• financial contributions;</li> <li>• the conveyance of land and premises by way of a lease, at an affordable rent or a peppercorn ground rent, or of the freehold to a acceptable body, such as a development trust or to a charity (eg a building for use as a school, community facility, premises for a voluntary organisation) [See example proposed for para 35.0.1 below];</li> <li>• an undertaking to allow people to have access to and use a facility at a discounted</li> </ul>			

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		<p>price or no cost (eg a playground, sports facility, meeting place);</p> <ul style="list-style-type: none"> <li>• the exchange of uses of land or buildings;</li> <li>• the provision for the replacement uses displaced or lost through development by equivalent provision (eg open spaces, social and community facilities, including post offices)</li> </ul>			
13	Section 35	<p>The document has omitted:</p> <ul style="list-style-type: none"> <li>• the provision of affordable premises for voluntary and community organisations – only mentioned in section 35 – more work is needed on defining needs – see Appendix 2 for C4: Community facilities; and</li> <li>• the transfer of ownership and management of such space to a</li> </ul>		Agree to inclusion of omissions, in line with Policy CK1 of the Core Strategy.	Changes to be made throughout SPD.

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		development trust or similar body so that it can be available in perpetuity for that purpose.			
1	Section 36	<p><i>36: C4 Policing resources and other emergency services</i></p> <p>Mindful that the Police Estate Strategy cannot be realised through the introduction of a formulaic/costing system and the impact this may have on borough based policing, the removal of reference to costs is requested in order to accord with the Strategic Development Plan and the MPA's Estate Strategy. The MPA request that the above alterations are taken into account in the revised Draft SPD.</p>	<p>It is recommended that section 36.0.5 is replaced with the following wording:-</p> <p><i>'Any contribution sought will relate to the impact of the development on the policing needs of the area. Contributions could include the provision of additional on-site facilities or extra patrols and additional emergency staff and police'.</i></p>	<p>Noted. It is agreed that certain changes are required, however, it is not considered that staff or police could be funded through a S106 agreement.</p>	<p>Changes to be made throughout SPD.</p>
15	Section 36	<p>Section 36 deals with police resources. Police resourcing should not be funded by s106 obligations related to development.</p>	<p>Police funding should not be dependent on development activity.</p>	<p>The contributions that may be sought would not be 'police funding' as such, but legitimate contributions towards</p>	<p>No change to SPD.</p>

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				<p>police resources.</p> <p>All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.</p>	
13	38.0.8	<p>38.0.8: Standards for open space provision are in the London Plan – the National Playing Fields Association standards are irrelevant in this Borough. Deficiency should be measured in terms of walking distance to different types of open spaces to which the public have access – see LDF page 190 for a highly simplified map! The reference document should the development plan – the London Plan (2008) and the LDF. See also children’s playspace in para 38.0.18</p>		<p>Agree to updating of policy framework.</p>	<p>Changes to be made throughout SPD.</p>
3, 4, 17, 18,	38.0.5	<p>Paragraph 38.0.5 – It is explained in this paragraph</p>	<p>The paragraph pays no regard to the provision of</p>	<p>All contributions are evidenced and the</p>	<p>No change to SPD.</p>

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
19, 20		that planning obligations will be sought to improve local parks and open space, and children and young people's play facilities	new facilities as part of development schemes to meet the needs of the additional population generated. The paragraph should be amended to clearly recognise this.	relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.	
3	38.0.17	Paragraph 38.0.17 – This paragraph explains that all major developments will be required to make a contribution to children's and young people's play. This approach does not accord with Circular 05/05 because it fails to recognise that a standard charge relating to playspace provision should reflect the actual impacts of development and the nature of the proposed development.		All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.	No change to SPD.
3	38.0.22	Paragraph 38.0.22 – 38.0.25 – These paragraphs set out the Council's formula for calculating open space contributions	It is unclear how allowance will be made for circumstances where the necessary open space provision is provided on site as an integral part of a development scheme. This needs to be clarified.	This provision in kind is addressed elsewhere – it is credited to the developer. To seek obligations that do not meet with statutory guidance would be illegal.	Changes to be made throughout SPD..

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
16	Section 38	Camden's policy is far superior to ours as proposed. In their policy 9 sq metres of open space per person is to be provided to meet the needs of the new occupiers. In our draft for consultation (38.0.10) policy CR5 'requires all major development outside of a 400m radius of public open space to make provision for new open space'. There is no rationale as to why a 400 metre radius is appropriate and in my view it isn't in a borough which is very heavily built up with limited open space. Indeed paragraph 38.0.6 expressly states 'with the exception of the City of London (2.1%) Kensington and Chelsea has been shown to have the least public open space as a proportion of land area..	I would recommend that we adopt the Camden policy and specifically omit garden squares from the tabulation	Disagree. The approach in RBKC is based on evidence tailored to the Borough's circumstances. However, as policy emerges or new information becomes available, the situation will be kept under review.	No change to SPD.
13	39.0.1	39.0.1 Another area where finance may be needed is to improve the quality of the pedestrian environment so as to encourage walking. Warwick Road is a key example where the streetscape is currently	Add an additional bullet:  "improving the pedestrian environment in the vicinity of the development and on the main pedestrian	Agree to suggested changes for updating and consistency with Core Strategy.	Changes to be made throughout SPD..

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
		<p>hostile to walking and needs major improvements.</p> <p>Repeat in para 39.0.8.</p> <p>39.0.3 Disaggregate the examples – incomplete?</p> <p>39.0.9 What is this reference to "railings"? – not guardrailing!</p>	<p>routes to key local destinations, such as to stations and shops"</p>		
3	39.0.8	<p>Paragraph 39.0.8 – This paragraph explains / defines 'impact' on the public realm as: (i) changing spatial relationships; (ii) changing the way spaces are used; and (iii) increasing the number of persons using public spaces. It does not necessitate that changes to the public realm in the way described in paragraph 39.0.8 creates a negative impact.</p>	<p>A planning obligation should only be sought, in the context of Circular 05/05, where the impact of a development on the public is such that a contribution is necessary to make it acceptable. This needs to be clearer in the application of the Council's approach to public realm streetscape contributions. The approach, as currently worded, fails to apply Circular 05/05 effectively.</p>	<p>All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.</p>	<p>No change to SPD..</p>
21, 22, 23	40.0.7	<p>Paragraph 40.0.7</p> <p>The sum of money associated with a public art contribution should be considered on the basis of the individual merits of a scheme and for this</p>	<p>The package of contributions sort should be considered on a case by case basis as there may be some circumstances where due to the priority will</p>	<p>All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include</p>	<p>No change to SPD.</p>



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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
		<p>reasons we request that this paragraph is deleted.</p> <p>As a general comment the financial viability of a scheme can be particularly sensitive to financial obligations</p>	<p>need to be given to certain obligations over others in order to create a viable scheme.</p>	<p>within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.</p>	
3	40.0.6	<p>Paragraph 40.0.6 and 40.0.7 – This paragraph explains that all major developments will be required to make a contribution to public art and that this should form up to 1% of the value of the development.</p>	<p>Firstly, evidence is needed to justify this requirement. Secondly, public art contributions will be subject to the viability and the approach/amount of public art delivered on-site on a scheme specific basis.</p>	<p>All contributions are evidenced and the relevant evidence is referred to within the SPD. It would be unduly repetitious to include within the SPD, and any planning obligations that does not meet with the relevant statutory tests then a planning obligation cannot be secured.</p>	No change to SPD.
13	Transport	<p>There is a fundamental policy problem here, as the circumstances in which many of such contributions might occur should not arise, such as locating town centre uses (such as shops, offices, entertainment and leisure) in town centres or, in the case of large-scale offices, within 400m of high-frequency, high-capacity underground stations. If the location is right, there should be little that will require any planning</p>	<p>The Policy Framework for sections 43 - 46 is PPG13, the London Plan, the UDP and the Transport SPD (although these are not a good basis) and the LDF. These should be beefed up.</p> <p>All proposals for a major development will need a transport assessment, which will include an assessment of its location in policy terms, especially its public transport</p>	<p>The adopted UDP retains weight as a material consideration until such time as replaced by the Core Strategy. It is therefore necessary to supplement both existing policy in the UDP, and the Core Strategy which will soon be adopted.</p> <p>Since the draft SPD the Core Strategy has been submitted, and EIP timetabled. The SPD can</p>	No change to SPD.

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Organi sation	Para/ Section	Summary of Comments	Suggested Changes	Summary of Officer's response to submitted comments	Summary of Officer's Recommendations
		<p>obligations. It would appear that the proposed planning obligations are being used in an attempt to justify major development proposals that are not in accord with the development plan. This is a clear misuse of planning obligations – no amount of planning obligations will justify an otherwise unacceptable proposal. Mitigation measures would not be needed if the plan ensures the right development in the right place as specified in the Core Strategy.</p> <p>There is a need for a general lead section on transport, before dealing with specific aspects, explaining more fully the range of contributions that might be sought,</p> <p>The main reasons to seek planning obligations, not just financial contributions, for transport are:</p> <ul style="list-style-type: none"> <li>to improve public transport accessibility levels, such as to</li> </ul>	<p>accessibility level, to assess policy compliance. It will also require an assessment of its likely impact and the effect of measures that can be taken to reduce traffic generation by motor vehicles, as well as improvements to public transport, walking and cycling.</p> <p><b>All of this suggests that the transport sections need a rethink, in terms of:</b></p> <ul style="list-style-type: none"> <li><b>the appropriateness of the development in locational terms (cf 43.0.13 which appears to seek contributions toward “ameliorative measures in locations with “an inadequate level of accessibility to public transport” – this encourages</b></li> </ul>	<p>proceed to adoption supplementing existing policies, and those of the Core Strategy which will replace them shortly without the need to reissue the Planning Obligations SPD. Updating of those paragraphs labeled ‘policy context’ has therefore been undertaken</p> <p>Certain changes regarding Crossrail are dealt with through recommended changes elsewhere..</p>	

Organi sation	Para/ Section	Summary of Comments	Suggested Changes	Summary of Officer's response to submitted comments	Summary of Officer's Recommendations
		<p>improve existing public transport frequency or capacity;</p> <ul style="list-style-type: none"> <li>• to improve access to public transport, such as contributions to improved pedestrian routes to stations, step-free access and cycle parking;</li> <li>• to improve pedestrian and cycle access to the development, including improved pedestrian crossings, improved permeability, cycle routes and cycle parking; and</li> <li>• to encourage the use of non-car modes through a travel plan, parking restrictions and other access and traffic management plans, such as access and traffic management plans to support travel plans,</li> <li>• to ensure that the</li> </ul>	<p><b>non policy-compliant schemes. It is extremely difficult to “fix” a poor choice of location through planning obligations;</b></p> <ul style="list-style-type: none"> <li>• <b>the policy basis for the contributions sought.</b></li> </ul> <p><b>An exception could be “enabling development” for a major public transport investment, such as to pay for a new station that would significantly raise the public transport accessibility level.</b></p> <p>43.0.17: This is a good list of potential public transport improvements.</p> <p>43.0.20 <b>Crossrail:</b> Delete second sentence – does not appear to be about Crossrail.</p>		

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		<p>transport implications of major developments are properly managed through a construction transport management plan.</p> <p>Paragraphs 43.0.1 and 43.0.2 need a complete rewrite to cover the aspects listed above – although these are not a definitive list.</p>			
11	43	<p>PLA supports the inclusion at Section 43 of "River Transport piers and access" in the list of public transport projects for which development contributions are likely to be required. The use of the River for the transport of people and goods is a sustainable method of transport which has policy support from the National Level downwards. It would also assist in helping to achieve the London Plan target of a five per cent increase in passengers and freight transported on the Blue Ribbon Network from 2001-2011.</p>		Noted.	No change to SPD.

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Organi sation	Para/ Section	Summary of Comments	Suggested Changes	Summary of Officer's response to submitted comments	Summary of Officer's Recommendations
12	43.0.17	<p>Para 43.0.17 (a) First bullet point should read, "...local bus and rail routes/services..."</p> <p>(b) 'Overground' should be written either 'overground' or 'National Rail' to ensure that all such stations can be supported, and not just those served by London Overground services.</p>		The section relates to the Transport SPD which is adopted and up-to-date. The representation seeks terminology changes which are covered through the content set out both in the SPD and other policies.	No change to SPD.
3	43.0.17	<p>Paragraphs 43.0.17 and 43.0.20 – The list of public transport projects includes reference to "new Crossrail station". For the purpose of clarity it should be explained that contributions to Crossrail related infrastructure are only to be sought from development within the Crossrail charging zone.</p>	<p>As a related point it should be made clear that the Draft SPD does not duplicate financial contributions sought by the GLA and TfL.</p>	<p>There is no duplication between documents or charging regimes. Such an approach would be contrary to government guidance. However, to make this explicit, certain changes are made within the SPD.</p>	<p>Changes to be made throughout SPD.</p>
13	Section 44	<p>44. Highways and Traffic Works</p> <p>This should be unnecessary in this Borough. All our policies seek to minimise vehicular traffic generation through:</p> <ul style="list-style-type: none"> <li>ensuring development is in the right place;</li> </ul>		<p>The Transport SPD is up-to-date SPD for the Council, and therefore the Planning Obligations SPD does not seek to duplicate information. It does however, need some clarification, and relation to the Core Strategy to be</p>	<p>Changes to be made throughout SPD.</p>

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
		<ul style="list-style-type: none"> <li>• minimising parking provided; and</li> <li>• encouraging walking, cycling and the use of public transport.</li> </ul> <p>Nevertheless, the Transport Assessment may point to actions that need taking including travel plans, traffic and access plans, construction transport management plans, etc.</p>		improved. Therefore, certain changes are recommended.	
13	Section 45	<p>45 Parking - why say restrictions?</p> <p>45.0.5 The Council's permit-free policy is in the Core Strategy, policy CT1(c) -.</p>	There should be no need to rely on the Transport SPD as the policy basis	The Transport SPD is up-to-date SPD for the Council, and therefore the Planning Obligations SPD does not seek to duplicate information. It does however, need some clarification, and relation to the Core Strategy to be improved. Therefore, certain changes are recommended.	Changes to be made to SPD.
3	47.0.3	Paragraphs 47.0.3-47.0.6 - These paragraphs provide an overview of the policy context related to the SPD. As already mentioned in relation to other parts/topics in the SPD, the policy context and, therefore, status of the SPD	The policy document which the SPD is supplementary to must be clearly defined. If the purpose of SPD is to be supplementary to the Core Strategy, then its adoption will need to follow that of the Core Strategy.	The adopted UDP retains weight as a material consideration until such time as replaced by the Core Strategy. It is therefore necessary to supplement both existing policy in the UDP, and the	No change to SPD.

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
		needs to be clarified. This is particularly the case in relation to energy efficiency as the SPD appears to be wholly reliant upon policies in the Draft Core Strategy. This conflicts and is inconsistent with other parts of the SPD where reference is made to the Council's UDP.		Core Strategy which will soon be adopted.  Since the draft SPD the Core Strategy has been submitted, and EIP timetabled. The SPD can proceed to adoption supplementing existing policies, and those of the Core Strategy which will replace them shortly without the need to reissue the Planning Obligations SPD. Updating of those paragraphs labeled 'policy context' has therefore been undertaken	
13	Section 47	47. Energy Efficiency  47.0.4: There is a need to provide the relevant development plan/Core Strategy	Other policies support this. (see also 47.0.6) Line 1: change "seek to ensure" to "require" Line4: delete "normally" – it is unnecessary.  47.0.6 The subterranean development reference needs to be to Core Strategy policy CE1(c) and the SPD on subterranean development.	Agree to amendments for clarity and consistency	Changes to be made throughout SPD.

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10	Waste	There are no provisions yet included for a requirement of developers to deal with waste generated by a development site.	The opportunity could be taken to support sustainable solutions, ie on site composting and waste to energy schemes should be included as a requirement, or a contribution to a local scheme.		No change to SPD.
13	Section 49	49. Flood Risk  This can only be regarded as a temporary arrangement, as proposals for surface water management plans will require the Council to take a more active approach to reducing flood risk to a greater extent, such as secure no water run off, provision of holding tanks, installation of pumps for basements, etc.		Noted.	No change to SPD.
3, 4, 17, 18, 19, 20	50.0.5	This paragraph explains that in order to fulfil the aims of the Air Quality Action Plan, a specified fund for Air Quality has been established. The Council will seek contributions to achieve these aims from "all major developments." A	With this approach, the Council has had no regard to proposed development which shows a net improvement in air quality or a neutral impact.  The blanket approach	Evidence is provided from relevant business group, and costs are in line with best practice across London.	No change to SPD.



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		standard contribution is then proposed.	proposed, irrespective of the actual impact of development, is contrary to Circular 05/05. The Circular states at paragraph B35 that standard charges and formulae applied to each development should reflect the actual impacts.		
13	Section 51	<p>51. Local Training and Construction</p> <p>This title does not adequately cover the content of the section, especially local employment and purchasing, let alone affordable premises for small firms, small shops, the voluntary sector. This section needs expanding in its coverage to include:</p> <ul style="list-style-type: none"> <li>• the bespoke training so that local people are subsequently employed;</li> <li>• the use of local firms, local labour and local purchasing.</li> </ul>	This means extending the list in para 51.0.14 and/or 51.0.16.	Agree to amendments for clarity and consistency.	Changes to be made throughout SPD.
3	51.0.2	Paragraphs 51.0.2-51.0.7 and 51.0.12 – Refer to comments made in relation to	Clarity is required in relation to the SPD's policy context.	The adopted UDP retains weight as a material consideration until such	No change to SPD.

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
		paragraphs 32.0.5-32.0.7.		<p>time as replaced by the Core Strategy. It is therefore necessary to supplement both existing policy in the UDP, and the Core Strategy which will soon be adopted.</p> <p>Since the draft SPD the Core Strategy has been submitted, and EIP timetabled. The SPD can proceed to adoption supplementing existing policies, and those of the Core Strategy which will replace them shortly without the need to reissue the Planning Obligations SPD. Updating of those paragraphs labelled 'policy context' has therefore been undertaken.</p>	
3	51.0.15	Paragraph 51.0.15 – The Council explain in this paragraph that they will expect a developer to contribute £2,500 for every £1 million worth of construction costs. It is unclear how the Council has arrived at these figures. Has it, for example, benchmarked	Also, for the purpose of clarity, the Council should confirm the cost of delivering one NVQ with a local NVQ provider so as to relate this figure with the proposed contribution sought and also should subsequently should state the result within the SPD.	Evidence is provided from relevant business group, and costs are in line with best practice across London.	No change to SPD.

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
		against other London Boroughs?			
16	Section 52	I have again used Camden's contribution policy by way of a comparator. Our proposed policy for major developments would have a threshold of 1000 sq metres or more for any use. Camden's policy by contrast states 1000sq metres or 50 jobs. I would recommend that we adopt this threshold too as a threshold based purely on size may not recognise the level of employment generated.		Agree to amendments for clarification on threshold. Without this the threshold is not comparable across density or floorspace.	Changes to be made to SPD.
3	51.0.18	Paragraph 51.0.18 – This paragraph explains that the Council will work with developers to achieve the procurement of goods and services from companies and organisations based in the Borough.	C&C support this approach, in principle, although regard must be had to viability, feasibility and market offer/availability. C&C consider that developers should be encouraged to use goods and services from local companies rather than this be a firm requirement.	Support noted.	No change to SPD.
15	Section 52	Section 52 deals with General Employment & Training	A contribution is also to be required for compensation	The loss of potential employment, through loss	No change to SPD.

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
		Contributions – We disagree with developers creating commercial developments being required to make contributions towards general employment and training initiatives since the developer is already making a direct contribution to employment creation through the development of employment facilities.	where loss of employment floorspace is proposed.  We believe that where that loss is for a new use needed in the Borough such compensation should not be payable	of employment floorspace leads to a need for further training locally. This is a small amount, but justified nonetheless. If it was not for the loss of floorspace, the retaining would not be required.	
13	52.0.3	52.0.3: If there is a loss of <u>employment floorspace</u> what is needed is to resist	Further losses and create more. What good does training do?	The loss of potential employment, through loss of employment floorspace leads to a need for further training locally. This is a small amount, but justified nonetheless. If it was not for the loss of floorspace, the retaining would not be required.	No change to SPD.
	52.0.4	Paragraph 52.0.4 – Refer to comments made in relation to paragraphs 32.0.5-32.0.7.	Clarity is required in relation to the SPD's policy context.	The adopted UDP retains weight as a material consideration until such time as replaced by the Core Strategy. It is therefore necessary to supplement both existing policy in the UDP, and the Core Strategy which will soon be adopted.	No change to SPD.

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
				<p>Since the draft SPD the Core Strategy has been submitted, and EIP timetabled. The SPD can proceed to adoption supplementing existing policies, and those of the Core Strategy which will replace them shortly without the need to reissue the Planning Obligations SPD. Updating of those paragraphs labeled 'policy context' has therefore been undertaken.</p>	
3, 4, 17, 18, 19, 20, 21, 22, 23	53.0.2	Paragraph 53.0.2 –Clarity is required in relation to the SPD's policy context.		<p>The adopted UDP retains weight as a material consideration until such time as replaced by the Core Strategy. It is therefore necessary to supplement both existing policy in the UDP, and the Core Strategy which will soon be adopted.</p> <p>Since the draft SPD the Core Strategy has been submitted, and EIP timetabled. The SPD can proceed to adoption supplementing existing</p>	No change to SPD.

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
				policies, and those of the Core Strategy which will replace them shortly without the need to reissue the Planning Obligations SPD. Updating of those paragraphs labeled 'policy context' has therefore been undertaken.	
13	Section 53	53. Securing Employment Premises	This could cover the need for affordable employment spaces for the voluntary sector.	Agree.	Changes to be made throughout SPD.
15	Section 54	Section 54 deals with Town Centre Regeneration and Affordable Shops. We object to the concept of affordable retail units (as we have already stated in our LDF Core Strategy Submission Statement consultation response) because securing 'affordable' retail units will create a two-tier retail market and disadvantage existing independent retail units within a competing catchment		Noted.	No change to SPD.
13	Section 54	54. Town centres, regeneration and affordable shops		Agree to amendments for clarification.	Changes to be made throughout SPD.

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<b>Organi sation</b>	<b>Para/ Section</b>	<b>Summary of Comments</b>	<b>Suggested Changes</b>	<b>Summary of Officer's response to submitted comments</b>	<b>Summary of Officer's Recommendations</b>
		<p>54.0.1: Line 2: delete "in relation to" and insert "to promote"</p> <p>54.0.3: This should say that the Council is trying to:</p> <ul style="list-style-type: none"> <li>• diversify the range of unit sizes</li> <li>• promote affordable retail units in district and local centres.</li> </ul>			





**Appendix 3: Revised Planning Obligations SPD For Adoption,  
including tracked changes of text**