



PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT

In support of the Brent Local Plan 2020-2041

June 2022 | Brent Planning Policy Team

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1 Introduction

What is this document?

- 1.1 The Planning Obligations Supplementary Planning Document (SPD) has been produced to advise those whom seek planning permission from Brent Council (the Council), on the general requirements sought through planning obligations. This will provide stakeholders with more certainty when assessing the development potential of land, and more guidance for drafting planning applications. It also provides further guidance and detail on policies within the Brent Local Plan.

Who is it for?

- 1.2 This guidance should be read by any interested party, and is particularly relevant for developers, who should refer to this SPD when reviewing the requirements of the Council. Residents and other stakeholders within the borough may also wish to consult this document.

What are Planning Obligations?

- 1.3 Planning Obligations are legal agreements which are entered into by those with an interest in a site gaining planning permission under Section 106 (S106) of the Town and Country Planning Act 1990 (as amended).
- 1.4 They are generally not standardised (although this document will go some way in standardising the most common requirements), but are negotiated as part of the planning application process.
- 1.5 These come in the form of both financial and non-financial obligations. Financial obligations require the developer to pay a sum of money for a particular purpose. A contribution may deliver the required outcome on its own or could be potentially pooled with others to deliver that outcome. Funds can only be used for their stated purpose, and if not implemented within a specified period, applicants can require their return. These terms will usually be for a minimum of 10 years.
- 1.6 Non-financial contributions are sought when it is reasonable for applicants, who have the capacity to do so (as directed by the Community Infrastructure Levy (CIL) regulation 122 tests), to deliver the obligations themselves. This may for example be where a proportion of affordable housing or public open space is required on site.
- 1.7 Where non-financial contributions are made, the applicant may be credited with CIL relief, which otherwise would have been sought had this provision not been made. This has the effect of offsetting the S106 planning obligations through reductions in CIL fees, ultimately allowing the Council to ensure essential infrastructures are delivered.

When are Planning Obligations required?

- 1.8 S106 obligations are sought to make development acceptable in planning terms. They are implemented to mitigate against site-specific impacts. They are necessitated in instances where assurance of delivery requires legislative weight, which a condition alone cannot provide. They are also used where a specific financial contribution is required to address the impact of a development, as these cannot be required in a planning condition. The obligations must relate directly to the application, and can be used to:
- Prescribe the nature of development (for example, a proportion of the housing development to be affordable);
 - Compensate for any loss or damage resulting from the development;
 - Mitigate impacts of the development.
- 1.9 In doing this, they must also meet the following statutory (CIL regulation 122) tests in being:
- necessary to make the development acceptable in planning terms;
 - directly related to the development;
 - fairly and reasonably related in scale and kind to the development.
- 1.10 Prior to the use of a S106 planning obligation, the Council will strive to use all other means as are appropriate given the circumstances. This may include the following:
- Weave the mitigation measures into the planning application itself in discussion with the developer.
 - Where mitigation cannot be delivered directly through the planning application, the Council will use conditions to ensure these matters are addressed.

How is this document to be used?

- 1.11 This document outlines the Council's approach to S106 planning obligations as required by Local Plan policy, and supported by other Development Plan Documents. This list is not exhaustive, but will help inform applicants of the Council's general requirements, and improve transparency on the negotiation process.
- 1.12 Although this document will set standardised terms for the most commonly sought planning obligations, it cannot include all possible requirements. All development sites are unique, and may call for specific measures to be secured through planning obligations to make them acceptable in planning terms. Applicants should therefore use this document as a guide to help them consider the impacts of their proposal, and how they can be mitigated. This should be done prior to application, and considered alongside other development plan documents.
- 1.13 As new policies emerge or change, this document will be revised to better reflect the new planning environment, providing the most up to date guidance. In terms of the Local Plan this will likely be every 5 years in accordance with national regulations.

2 Community Infrastructure Levy (CIL)

What is the Community Infrastructure Levy (CIL)?

- 2.1 CIL is a standardised financial charge issued for some forms of development to mitigate against the impacts of development on local infrastructure. CIL can be used to support the provision, improvement, replacement, operation, and maintenance of a wide range of uses, including: social infrastructure (schools and health facilities), open spaces and leisure, strategic transport, emergency services, utilities and flood defences.
- 2.2 This is applied on a per square metre basis to qualifying developments delivering 100 sq.m. or more Gross Internal Area (GIA), or the creation of one or more dwellings. This includes new floor space created through the conversion of a single dwelling into multiple dwellings. The charge therefore depends on the size and type of development, with residential and non-residential floorspace having varying charge rates. The Council has produced a CIL Charging Schedule which provides specific details on this matter.
- 2.3 In addition to Brent CIL, the Mayor of London CIL (MCIL2) is collected to provide funding toward strategic transport projects. Currently Mayoral CIL 2 is to help fund Crossrail 1 (the Elizabeth Line) and Crossrail 2.
- 2.4 The charges set have been established in consideration of other financial requirements to ensure an effective balance between the needs produced as a result of development, and its overall deliverability/ viability.

What is the relationship between CIL and S106?

- 2.5 S106 obligations are complementary to the funds received through CIL. Whereas S106 planning obligations are secured to make applications acceptable in planning terms, CIL is secured to ensure the delivery of more strategic infrastructure which it is likely many developments would otherwise have to contribute towards.
- 2.6 To this effect, previous regulations required Local Planning Authorities to produce a list of infrastructure to be funded through CIL (Regulation 123 list). If included within this list, that infrastructure could not then be funded through S106 agreements. Neither could more than five S106 agreements be pooled to finance a single piece of infrastructure. These measures were put in place to make clear the separate purposes of both S106 and CIL. This saw an increase in the delivery of infrastructures through CIL due to the reduced flexibility of S106. Regulations have since been amended, deleting these stipulations, and subsequently increasing S106 flexibility allowing for pooling. Therefore the capacity of S106 to assist the Council in bringing forward infrastructure has been increased, making it more effective in combination with CIL.
- 2.7 The Regulation 123 list has been replaced by the Infrastructure Delivery Plan (IDP) and Infrastructure Funding Statement (IFS). These documents list the infrastructure that Strategic CIL may be spent on and are updated annually. CIL comprises both Strategic and

Neighbourhood CIL. Strategic CIL is to be spent on infrastructure projects which impact the wider area, whereas neighbourhood CIL is to be spent on smaller projects which have more localised impacts and are determined by the community.

- 2.8 CIL is the Council's preferred tool for pooling developer contributions toward infrastructure, and enables a standardised charge to be issued, providing developers with more certainty. Given this, CIL will be the primary means by which the Council funds infrastructure projects. However, due to the above regulation amendments, the Council reserves the right to pool S106 contributions alongside CIL to deliver essential infrastructures if necessary.
- 2.9 All funds will be used to deliver on the priorities of the Brent Local Plan. The Plan, in accordance with national and London Plan policy, provides a positive framework for the growth of the borough to 2041. The IDP and Capital Investment Programme run alongside this document, and provide detailed infrastructure requirements which will arise as a result of this growth.

3 Policy Context

National Planning policy Framework (NPPF)

- 3.1 The NPPF provides the policy context for all subsequent policies within England. This sets out the government's economic, environmental and social objectives as they relate to planning and development. This policy framework provides a starting point for sustainable development, and should be extrapolated into specific policies through the Development Plan Documents of Local Authorities.
- 3.2 Paragraphs 54 to 57 of the NPPF set out the government's policy on planning obligations. These policies refer back to national legislation. This includes the Town and Country Planning Act 1990 (as amended) which introduces S106 planning obligations and how they can be used. It also references the CIL regulations (2010), and in particular regulation 122 which states the criteria that planning obligations must meet to be lawful.

London Plan

- 3.3 The London Plan (2021) provides the strategic policy approach as set by the Mayor of London for the Greater London area. The Plan provides strategic targets and overarching policy approaches within which London Boroughs need to be in general conformity.
- 3.4 Policy DF1 deals with the delivery of the London Plan and planning obligations. It indicates that in instances where planning obligations undermine the ultimate delivery of a scheme, affordable housing and public transport obligations should be prioritised first. Following these priorities should be health and educational infrastructure, and then affordable workspace, cultural and leisure facilities. Anything which falls outside of these categories should be of final consideration when viability is at stake.

Brent Local Plan

- 3.5 The Brent Local Plan (2019-2041), in conjunction with regional (London Plan) and national (NPPF) policy, provides the policy framework within which development can take place within the borough. The Brent Local Plan was produced to be in general conformity with the London Plan.
- 3.6 The Brent Local Plan, along with Neighbourhood Plans, and Supplementary Planning Documents (SPDs), make up the borough's Local Development Documents.
- 3.7 This document supports the Local Plan in providing further guidance on the Council's requirements for planning obligations where they are required through policy within the Plan itself.
- 3.8 Like the Plan, this document only relates to the area of the borough for which Brent is the Local Planning Authority. Park Royal, and other small contingent sections have been under the planning authority of the Old Oak and Park Royal Development Corporation (OPDC) since 2015. The OPDC was granted temporary planning powers by the Mayor to manage the development of this area due to its unique potential in delivering wholesale regeneration. Therefore, the OPDC's planning guidance should be followed in this section of the borough.

4 Negotiation

- 4.1 The circumstances within which planning obligations can be secured against a planning application are laid out within national, regional and Local Plan policy as stated above and in the 'When are planning obligations required?' section of this document. This section seeks to provide transparency on the Council's process of negotiating planning obligations, including those outlined within section 5 of this document.
- 4.2 Wherever possible, potential impacts arising from development should be addressed in the early stages of the planning application, and should be secured as part of the proposal prior to being sought as planning obligations. On that basis applicants are strongly encouraged to take their early proposals through a pre-application process. This will include design and sustainability reviews, and ensure the meeting of policy. This allows applicants to gauge the Council's perspective, and address any issues early on. Overall, this will help to manage expectations and ensure the optimum development is delivered on the proposed site.

Application stage

- 4.3 Planning obligations for major applications should be worked out prior to planning committee meetings, and within reasonable timescales to allow decisions to be issued within statutory timeframes. In the instance that an application is acceptable on all other grounds, but requires a planning obligation against it to make it sound in planning terms, the Council will draft a decision to this effect. This may arise through planning committee as a result of requirements by the committee. Following a positive resolution from planning

committee, the applicant must complete the S106 agreement within a reasonable timeframe in order for the decision to be issued.

- 4.4 The advice which the Council has provided on planning obligations may change throughout the application process. This will be a result of issues which arise throughout the course of an application, and may be in light of comments received through formal consultation.
- 4.5 If the Council and the applicant are unable to come to an agreement on the planning obligations, then it may be necessary to review the application and seek a revised resolution from planning committee.
- 4.6 The Council's planning and legal teams will work together on preparing the formal S106 planning obligation. To ensure effective communication between the legal team and the applicant, all communications should be made through the applicant's solicitor. The solicitor's contact details will therefore be required.
- 4.7 In establishing legal agreements with the Council, the applicant will be required to provide details of land charges. All those with a vested interest in the proposed site, and its use going forward, will need to enter into the agreement.
- 4.8 Once a decision to grant planning permission has been reached, and it involves S106 planning obligations, the full permission will be subject to a S106 legal agreement. The agreement will set out all details with regards to the S106 planning obligations, including the costs accrued from the Council's legal team which will be included as a non-material planning obligation itself.

Delivery triggers

- 4.9 The Council will include delivery triggers in the s106 planning obligation agreement. These will state at which point in the development process the planning obligation is legally required to be delivered. There are a number of different triggers, with each being selected for different types of planning obligation as appropriate. The primary triggers preferred by the Council are as follows:
 - Upon the date that the agreement is executed;
 - Upon or prior to commencement of the development/phase;
 - Upon or prior to completion of the development/phase;
 - Upon or prior to first occupation (of market or affordable tenures) of the development/phase;
 - Upon or prior to 75% of the development/phase for sale units being sold;
 - In some cases, a period post completion (i.e. travel plans) or when a use ceases (i.e. remediation).
- 4.10 For each planning obligation, the developer is expected to notify the Council when they intend to trigger the obligation, in line with the wording of the legal agreement. This will be logged by the Council and may trigger the delivery of one or more planning obligations. Once other trigger points have been arrived at, it is expected that the developer provides

evidence of having started implementation of said planning obligation. Failure to implement and deliver planning obligations by the agreed delivery triggers and within agreed timeframes may result in the Council taking legal action.

- 4.11 Quite often the Council receives applications to amend existing planning conditions attached to consented schemes. The most significant of these conditions are amended by way of an application made under section 73 of the Town and Country Planning Act 1990. In receipt of such an application, the Council considers whether a separate agreement is required to amend the original section 106 agreement. This separate agreement is usually supplemental to the original section 1016 agreement and normally referred to as 'Deed of Variation'

Viability

- 4.12 Viability is now primarily to be considered at Plan making stage. As such, as part of the evidence base for the new Local Plan (2022), the Council produced a Viability Assessment. This considered the impact of policies on the viability, and therefore deliverability, of a range of development types over different areas of the borough. Assessment was broad and focused on a variety of different Site Specific Allocations. This identified that policy compliant development was viable in most cases. As such, it is expected that the vast majority of developments will meet the Development Plan policies, and deliver on the planning obligations outlined within this document as appropriate. As stated above, if applicants feel these requirements unduly impact upon development viability, they will be required to produce a Viability Assessment to demonstrate this robustly. It will only be in exceptional circumstances that applicants cannot meet the Councils financial contributions and therefore need to produce a Viability Assessment.
- 4.13 When schemes cannot, for financial viability reasons, fully provide the obligations it will be for the council to determine the balance of obligations. In these cases, priority will be given to those obligations necessary to manage the most significant impacts of the proposed development and to the priorities provided in policy or as determined by the Council, taking account of specific site constraints. For affordable housing provision, it will be expected that applicants prioritise the identified Brent need. This is for more genuinely affordable housing products, as opposed to a greater provision of affordable housing overall.
- 4.14 Planning obligations need to be 'fairly and reasonably related in scale and kind to the development' in accordance with National policy. Any viability concerns that the applicant may have, as they relate to the required planning obligations, should be raised early in the application process, preferably at pre-application stage. This should take into consideration the Mayor's Affordable Housing and Viability SPG.
- 4.15 In line with London Plan policy, the Council will thoroughly review the assessment. On schemes referable to the Mayor (150+ units/ 30+ metres in height), the GLA will also review the scheme and accompanying Viability Assessment with an aim to maximise affordable housing contributions.

- 4.16 London Plan policy H5, and supporting Local Plan policy BH5 state that the affordable housing threshold approach applies to major developments which meet or exceed this threshold without public subsidy. The threshold for stakeholders varies as follows:
- A minimum of 35%; or
 - 50% for public sector land where there is no portfolio agreement with the Mayor; or
 - 50% for Strategic Industrial Locations, Locally Significant Industrial Sites and Non-designated Industrial Sites appropriate for residential uses in accordance with Policy E7 Industrial intensification, co-location and substitution where the scheme would result in a net loss of industrial capacity;
 - 60% for strategic partners.
- 4.17 Local Plan policy BH5 requires minor residential developments, delivering between 5 and 9 dwellings, to provide financial contributions in lieu of on-site delivery. The Council commissioned a study to advise on an appropriate contribution which would not impact upon viability. The resulting tariffs, as outlined in obligation 3 below, are conservative, and set below the maximums identified as feasible within the study. It is therefore assumed that these will be viable in most cases. There may still be some exceptional instances where site-specific circumstances result in the financial contribution requiring adjustment. In this event, it will be anticipated that the applicant provide a Viability Assessment to evidence their proposed deviation from this obligation. The Council will seek to maximise contributions received where they have been subject to a Viability Assessment.

Viability review

- 4.18 In instances where meeting affordable housing requirements has been demonstrated as unviable, the Council is likely to require a viability review mechanism(s). These mechanisms are put in place to consider the impact of time, and the changing financial/ development environment upon the viability of policy compliant affordable housing provision. The following triggers may be imposed upon the permission in this instance:
- If significant progress has not been made on site after a period of 2 years after full permission has been granted;
 - On all phased schemes prior to the delivery of any new phase and/ or building;
 - Upon completion of all works;
 - Upon or prior to 75% occupation of the development/phase.
- 4.19 Significant progress for all non-referable major residential applications will be defined as those which have completed all ground works, foundations and slab base of the development/ phase. Those which are referable to the Mayor will need to align with the latest GLA affordable housing guidance, which currently defines significant progress as ‘the completion of all ground preparation works, the foundations for the core of the development, and construction of the ground floor.’ This is not fixed, and dependent on the scale of development and the schemes deviation from policy, may be subject to negotiation should site-specific circumstances require.

- 4.20 The review will consider the previous assumptions made within the viability assessment at planning application stage, under the new financial/ development environment at the time of the review. This will be with an aim to meet affordable housing policy requirements and deliver maximum community benefit on-site, making the application more acceptable in planning terms. Where appropriate, post-delivery review mechanisms will be favoured as this provides the Council with actual as opposed to estimated costs which is less likely to be conservative and help realise greater delivery. A post-delivery review may be triggered upon completion of all works, or upon 75% occupation of development/ phase. This is most likely to be required in instances where permissions have, for viability reasons, failed to deliver satisfactory levels of affordable housing.

5 Standard obligations and Heads of Terms

Overview

- 5.1 This section sets out the most commonly required S106 planning obligations by the Council. These will ensure that an application is acceptable in planning terms, with all potential harm being sufficiently mitigated. Each application will be assessed on a case-by-case basis, taking into consideration all evidence provided, and national, regional and local policies. It is likely that a number of different planning obligations will need to be secured. This will depend on the extent of development and its likely impacts. In certain circumstances applications will require bespoke planning obligations and therefore the standardisation of obligations cannot be entirely comprehensive.
- 5.2 For each obligation, this section provides a threshold for requirement, the contribution required (both material and financial), and a justification for the rationale behind them. These requirements will be a material consideration in assisting the Council in determining planning applications. Reference to the appropriate London and Local Plan policies, and other guidance related to the obligation will be made where necessary.

Obligation 1: Major Residential Affordable Housing

- 5.3 Major residential developments (10+ dwellings) are expected to deliver on-site affordable housing. Policy BH5 of the Brent Local Plan, in accordance with London Plan policies H5 & 6, states that the strategic target for affordable housing over the Plan period is 50%. The policy also supports the threshold approach stated within policy H5 of the London Plan, enabling applicants to fast track through the planning process without the need for a viability assessment. In order to qualify for the fast track approach, applicants must meet the following criteria:
- 1) Meet or exceed the relevant threshold level of affordable housing on site without public subsidy;
 - 2) Be consistent with the relevant tenure split;
 - 3) Meet other relevant policy requirements and obligations to the satisfaction of the borough and the Mayor where relevant;
 - 4) Demonstrate that they have taken account of the strategic 50 per cent target in London Plan Policy H4 and Local Plan policy BH5, and have sought grant to increase the level of affordable housing.

- 5.4 This threshold can be higher depending on land use and applicant as identified below. Calculations are made by habitable room, not units. In cases where meeting the threshold is not viable and a lower proportion is proposed, the applicant must robustly demonstrate this through a Viability Assessment which aligns with the London Plan Affordable Housing and Viability SPG. The further any development falls short of the relevant affordable housing threshold, the greater the importance of a robust viability assessment to demonstrate why a lower level of affordable housing is necessary for the scheme to go ahead, and the more that should be done to increase the affordable housing contributions during the implementation of the scheme should viability improve.
- 5.5 London Plan policy H16 states that large scale (50+ units) shared living schemes should contribute a financial sum in lieu of affordable housing on site. This can be as a one off payment, or in perpetuity as a proportion of rent received. To better assist the Council in delivering affordable housing, it is considered that the single larger payment is more appropriate. This will assist the Council in meeting its strategic target of 50% of housing to be provided as affordable.
- 5.6 In instances where the meeting of affordable housing requirements has been demonstrated as unviable, the Council is likely to require a viability review mechanism(s). This is outlined in further detail in paragraphs 4.18-19 of this document. This may be in the form of non-financial or financial contributions, depending on what is more appropriate in each instance.

Table 1: Major residential affordable housing planning obligation requirements

Local Plan policies	BH5 (Affordable Housing).
London Plan policies	H4 (Delivering Affordable Housing), H5 (Threshold Approach to Applications), H6 (Affordable Housing Tenure), H16 (Large Scale Purpose Built Shared Living).
Threshold	<ol style="list-style-type: none"> 1. Non build-to-rent developments delivering 10 or more dwellings. 2. 50+ purpose built shared living units as identified by London Plan policy H16.
Non-financial contributions	<ol style="list-style-type: none"> 1. The percentage of on-site delivery should be maximised to assist the Council in meeting its strategic target of 50% affordable housing. A minimum percentage of affordable housing (by habitable room) to be delivered on-site as identified by the below thresholds where applicable: <ul style="list-style-type: none"> • A minimum of 35%; or • 50% for public sector land where there is no portfolio agreement with the Mayor; or • 50% for Strategic Industrial Locations, Locally Significant Industrial Sites and Non-designated Industrial Sites appropriate for residential uses in accordance with Policy E7 Industrial intensification, co-location and substitution where the scheme would result in a net loss of industrial capacity; • 60% for strategic partners (as identified by footnote 51 of the London Plan).

	<p>The size and tenure mix of these units should be as follows in accordance with the Brent/ local need:</p> <ul style="list-style-type: none"> • Tenure mix: 70% Social Rent/ London Affordable Rent and; 30% intermediate products that meet the definition of genuinely affordable housing, including London Living Rent, affordable rent, and shared ownership, and those within Local Housing Allowance limits. These must be for households within the most up to date income caps identified in the London Housing Strategy or London Plan Annual Monitoring Report. • Size mix: Be broadly aligned with the identified Brent/ local housing need as outlined within Figure 33 of the Local Plan. If this is not feasible/ appropriate on any given site, the applicant must demonstrate why. <p>The quantum of the affordable housing contribution, above the threshold minimums, and the tenure and size mix, will be considered on a site-by-site basis, being subject to viability in conjunction with other relevant policies. In the instance of an overall reduction below the threshold minimum, the Council will require the tenure mix above to still be met.</p> <p>Affordable housing is typically disposed to an appropriate Registered Provider (RP). Where this is the case, the identified RP will need to be written into any S106 affordable housing agreement.</p>
Financial contributions	<ol style="list-style-type: none"> 1. In the majority of cases affordable housing will be delivered on site. It is recognised that in exceptional circumstances this may not be possible. This is most likely to be the case in instances where applications are subject to late stage viability reviews. 2. Non-conventional dwellings provided in large scale shared living schemes do not meet conventional dwelling space standards, and as such, are inappropriate for on-site delivery of affordable housing. It is therefore expected that they provide an equivalent financial contribution toward the delivery of affordable elsewhere within the borough. This will be provided as a single up-front payment equivalent to the below: <ul style="list-style-type: none"> • 50% discount on market rates to 35% of the units, or; • 50% discount on market rates to 50% of the units if on public or designated industrial land.

Obligation 2: Build-to-Rent Affordable Housing

- 5.7 Developments proposing build-to-rent units will be subject to the same thresholds and strategic (50%) approaches as standard residential schemes. The tenures, however, will differ, with build-to-rent scheme affordable units being required to be 100% London Living Rent tenure, or lower rental products. This is required by Local Plan policy BH5 as has been determined as viable by the Brent Viability Assessment. This is supported by London Plan policy BH11, stating that where a development is defined as Build to Rent under part B of this policy, that the preference is for all affordable units to be delivered as London Living

Rent. This will support the Council, and the Mayor, in meeting the strategic affordable housing target of 50% by the end of the Plan period.

Table 2: Build-to-Rent affordable housing planning obligation requirements

Local Plan policies	BH3 (Build to Rent), BH5 (Affordable Housing).
London Plan policies	H4 (Delivering Affordable Housing), H5 (Threshold Approach to Applications), H11 (Built to Rent)
Threshold	Build-to-Rent developments as defined within criterion B of London Plan policy H11.
Non-financial contributions	<p>A minimum percentage of affordable housing (by habitable room) to be delivered on-site as identified by the below thresholds where applicable:</p> <ul style="list-style-type: none"> • A minimum of 35%; or • 50% for public sector land where there is no portfolio agreement with the Mayor; or • 50% for Strategic Industrial Locations, Locally Significant Industrial Sites and Non-designated Industrial Sites appropriate for residential uses in accordance with Policy E7 Industrial intensification, co-location and substitution where the scheme would result in a net loss of industrial capacity; • 60% for strategic partners. <p>The size and tenure mix of these units should be as follows:</p> <ul style="list-style-type: none"> • Tenure mix: 100% London Living Rent, or lower. • Size mix: Be broadly aligned with the identified Brent need as outlined within Figure 33 of the Local Plan. <p>The quantum of the affordable housing contribution, above the threshold minimums, and the tenure and size mix, will be considered on a site-by-site basis, being subject to viability in conjunction with other relevant policies. In the instance of an overall reduction below the threshold minimum, the Council will prioritise the delivery of its residents needs for genuinely affordable products. The overall contribution of London Living Rent products, as a percentage of affordable housing delivered on site, will not be permitted to fall below 70%.</p>
Financial contributions	It will be anticipated that as part of any early/ late-stage review, additional affordable housing will still be delivered on site. In the event that this is not appropriate, a financial contribution of 50% market value for the additional affordable housing requirement will be sought. This will also be sought as clawback should any of the affordable rented units be sold.

Obligation 3: Minor Residential Affordable Housing

- 5.8 Minor residential developments, delivering between 5 and 9 units, will be required to provide a financial contribution towards the delivery of affordable housing off-site. This is required by Brent Local Plan policy BH5 as has been determined as viable by the Brent Viability Assessment. This will be in the form of a financial contribution in lieu of on-site delivery. This will assist the Council in meeting its strategic affordable housing target of 50%

by the end of the Plan period. This is especially pertinent given the delivery of housing on smaller sites which is likely to arise under the new Development Plan policy framework.

- 5.9 The Council commissioned a separate study to identify the small sites tariffs outlined below. This took a conservative approach toward contributions, seeking to settle on figures which are deliverable borough wide. Using area specific residual land values, the study determined that a financial contribution of £50,000 per unit would be viable in almost all scenarios across all value areas across the Borough. Whilst higher value areas, identified as zones H & I ([Appendix A](#)), can conservatively provide £100,000 per unit.

Table 3: Minor residential affordable housing planning obligation requirements

Local Plan policies	BH4 (Small Sites and Small Housing Development in Brent), BH5 (Affordable Housing).
London Plan policies	H2 (Small Sites), H4 (Delivering Affordable Housing), H5 (Threshold Approach to Applications), H6 (Affordable Housing Tenure).
Threshold	Residential developments delivering between 5 and 9 dwellings.
Non-financial contributions	N/A
Financial contributions	Provide a financial contribution in lieu of on-site delivery in accordance with the below: <ul style="list-style-type: none"> Zones A-E, in accordance with Appendix A of this document, to provide £50,000 per dwelling. Zones H & I, in accordance with Appendix A of this document, to provide £100,000 per dwelling.

Obligation 4: Social infrastructure

- 5.10 Policy BS11 of the Local Plan looks to retain and enhance social infrastructure including leisure, cultural and community facilities. Where social infrastructure is included on the application site, this should be retained unless a replacement facility is provided which would better meet the needs of existing users. In situations where a replacement facility is proposed, a S106 planning obligation should be secured to ensure this is delivered.
- 5.11 This policy also states that ‘proposals for new or enhanced social infrastructure facilities, including the consolidation of existing facilities, will be supported by the Council where they maximise the wider community benefit, through if necessary, requiring formal community use agreements.’ To this effect, securing a Community Use Agreement through a S106 planning obligation will help ensure the ongoing effective utilisation of the facility by the community it serves, through its multiple use. This is supported by London Plan policy S1 that seeks to enhance the utilisation of London’s social infrastructure. A template Community Use Agreement, which may be used by applicants where appropriate, is made available by Sports England here: <https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport/community-use-agreements>
- 5.11a To ensure complete communities are delivered, large-scale development schemes which generate a significant local need for specific social infrastructure, will be expected to meet this need on-site. This should be delivered in accordance with the evidenced need, and through close engagement with the end-user. To ensure sufficient healthcare infrastructure

is secured to support the incremental growth of the borough, Major developments will be expected to contribute financially toward the delivery of healthcare infrastructure. This will be in accordance with the Health Urban Development Unit (HUDU) model, as is supported by paragraph 11.1.37 of the London Plan.

Table 2: Social infrastructure planning obligation requirements

Local Plan policies	BSI1 (Social Infrastructure and Community Facilities)
London Plan policies	S1 (Developing London's Social Infrastructure)
Threshold	<ol style="list-style-type: none"> 1. Applications with existing on-site social infrastructure. 2. Applications proposing new or enhanced social infrastructure; 3. Developments which generate a significant local demand for social infrastructure and which can be delivered on-site. 4. All major developments.
Non-financial contributions	<ol style="list-style-type: none"> 1. Applications which propose the replacement of an existing social infrastructure facility should have the delivery of this facility secured through a S106 planning obligation. 2. Applications which propose new or enhanced social infrastructure (including replacement facilities) will be expected to provide public access through a Community Use Agreement. Arriving at any agreement, the Council will expect the following from the applicant: <ul style="list-style-type: none"> • Public consultation with any existing/ potential stakeholders; • Consideration of the Councils need as identified in existing/ required evidence documents; <p>The resulting Community Use Agreement should outline the following terms:</p> <ul style="list-style-type: none"> • Pricing policies with each separate stakeholder group; • Management arrangements; • Times of public/ stakeholder access; • Total weekly/ monthly time allocated to each use; • Duration of the agreement and conditions under which it would waiver; • Flexibility of terms where appropriate. 3. To provide social infrastructure in accordance with the evidenced need. This includes, but is not limited to, health, policing and recreational infrastructure. Engagement with defined end users, such as the National Health Service (NHS) or the Metropolitan Police Service (MPS), will be expected early on in the application process. This should seek to understand their operational requirements (including financial) of any on-site infrastructure. This may include the facilities being transferred free of charge to, or rented at a peppercorn rent by, the end user, as is determined to be appropriate and viable.
Financial contributions	<ol style="list-style-type: none"> 4. Provide financial contributions in accordance with the Healthy Urban Development Unit Planning Contributions Model (HUDU Model).

Obligation 5: Affordable workspace

- 5.12 Affordable workspace is workspace that is provided at rent maintained below the market rate for that space for a specific social, cultural and/ or employment development purpose. Ensuring such spaces are available alongside more traditional employment space will help boost Brent's economic strength and diversity. Demand for affordable workspace in Brent currently exceeds supply. The number of small businesses in the borough has substantially increased since 2010. However, much industrial land and office space has made way for new housing, reducing the supply and affordability of workspace for small businesses.
- 5.13 The Local Plan sets the policy requirement that affordable workspace must be secured for the lifetime of the development and disposed/leased to an operator approved by the Council at no more than 50% market value/rent for a minimum of 10 years. The relevant policies can be summarised as follows:
- Policy BE1 states that affordable workspace should be 10% of total new employment floorspace in developments exceeding 3,000 sqm of employment floorspace. This is to be delivered in Growth Areas identified as most appropriate and in need, including: Alperton, Burnt Oak/ Colindale, Church End, Neasden Stations, Staples Corner, and Wembley.
 - Policy BE2 requires 10% of new employment floorspace to be provided as affordable workspace in redevelopment of Strategic Industrial Locations (SIL) and Locally Significant Industrial Sites (LSIS) identified for intensification through co-location.
 - Policy BE3 provides for affordable workspace in mixed-use development on Local Employment Sites (LES).
- 5.14 All affordable workspace is to be provided as research and development, light industrial, and studio workspace. Maker space in light industrial is to be prioritised in order to meet demand. If the development is within one of the identified Growth Areas and designated as SIL or LSIS, the priorities within policy BE2 of the Local Plan should take precedence. This will also assist the Council in meeting its industrial floorspace targets. These requirements are supported by London Plan policy E3, which allows affordable workspace to be secured for a range of sectors in areas where there is an identified need.
- 5.15 Affordable floorspace is normally to be provided on site, and in perpetuity. Only in exceptional circumstances where it is demonstrated that this is inappropriate may these requirements be amended. These circumstances can include: 1. The proposed Affordable Workspace is less than 300 sqm and none of the approved operators will commit to manage it (see 5.3.(i) above); 2. The Affordable Workspace is between 300 and 465 sqm and has remained vacant for 12 months after its practical completion; or 3. The Affordable Workspace is over 465 sqm, has remained vacant for 12 months after its practical completion and the Council has declined the developer's offer for the unit. In such cases, it is likely that a financial contribution in lieu of full on-site delivery will be required toward the furthering of affordable workspace within the borough. All affordable workspace will need to be managed by one of the Councils approved providers which can be found here: www.brent.gov.uk/your-community/regeneration/affordable-workspace. When delivering affordable workspace it is strongly advised that discussions with operators take place prior

to pre-application stage. Further guidance on the Councils requirements for affordable workspace can be found in the Brent Affordable Workspace SPD.

Table 3: Affordable Workspace Planning Obligations

Local Plan policies	BE1 (Economic Growth and Employment Opportunities for All), BE2 (Strategic Industrial Locations (SIL) and Locally Significant Industrial Sites (LSIS)), BE3 (Local Employment Sites and Work-Live)
London Plan policies	E3 (Affordable Workspace), E4 (Land for Industry, Logistics, and Services to Support London's Economic Function)
Threshold	<ol style="list-style-type: none"> 1. Delivery of over 3,000sq.m. employment floorspace in one of the following Growth Areas: Alperton, Burnt Oak/ Colindale, Church End, Neasden Stations, Staples Corner, and Wembley. 2. Applications proposing intensification through co-location on Locally Significant Industrial Sites (LSIS) as identified in Local Plan policy BE2. 3. Applications proposing delivery of non-employment uses on Local Employment Sites in accordance with part b of policy Local Plan BE3.
Non-financial contributions	<p>1 & 2. At least 10% of all employment floorspace to be provided as affordable workspace to be delivered as follows:</p> <ul style="list-style-type: none"> • In perpetuity • At no more than 50% of comparable local market rates • Floorspace is to be provided as affordable research and development, light industrial, flexible office and studio workspace • Managed by one of the Councils approved affordable workspace operators • With a minimum lease term of 15 years or a minimum long-lease of 125 years • To a minimum fit-out standard as set out in the Affordable Workspace SPD <p>3. All additional employment floorspace above that which is existing is to be delivered as affordable should the existing employment use not be retained. If within the existing or emerging creative clusters of Harlesden, Wembley Growth Area, Willesden Green, Alperton Growth Area, Kilburn, Kensal Green, Neasden, Queen's Park, Burnt Oak Colindale Growth Area, and Church End Growth Area, affordable workspace is to be provided on-site.</p> <p>All applications delivering affordable workspace will need to be accompanied by an Affordable Workspace Management Plan once an operator is selected. This should cover how the space will be managed, rent levels, and with reasonable priority being given to local people.</p>
Financial contributions	In rare circumstances it may not be appropriate for affordable workspace to be delivered on site. In these instances, developments will need to provide a financial contribution toward the provision and/or refurbishment of affordable workspace elsewhere within the borough. This is particularly likely for Local Employment sites outside of the existing/ emerging creative clusters as identified in part 3 above, for which affordable workspace is unlikely to be successful on-site.

	<p>Contributions should be calculated as follows: (50% of market rent (per sq.ft.) X floor area (GIA in sq.ft.) of proposed Affordable Workspace as per policies BE1 - 4 (sf)) X (1 / yield)</p> <p>Planning applications for Affordable Workspace should include details of market rents and yields.</p>
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Obligation 6: Employment opportunities

- 5.16 Maximising employment opportunities and enhancing employability skills for Brent's residents is a key priority for the Council as highlighted in the Local Plan. New Local Plan policy BE1 states that an Employment and Training Plan will be required for all major developments providing more than 5,000sq.m. total floorspace, or delivering 50 or more residential units. This is to be prepared in partnership with Brent Works or any successor body. These measures seek to maximise opportunities for residents to enter into apprenticeships and training programmes, and provide them with new skills to help them gain access to the job market. All associated support fees will be used to this effect through the administrative function of the Council's Brent Works team. This includes, but is not limited to job brokerage and recruitment, pre/post-employment mentoring and support, and training procurement. Where the applicant has not secured the required number of jobs for Brent residents, but all 'reasonable endeavours' have been taken, the Council will waive the shortfall penalty fee of £5,000 per job. Reasonable endeavours is a legal term, which means requiring all reasonable paths or actions to be exhausted, but is unlikely to require the party to sacrifice its own commercial interests.

Table 4: Training and employment opportunities planning obligation requirements.

Local Plan policies	BE1 (Economic Growth and Employment Opportunities for All)
London Plan policies	N/A
Threshold	<p>Major developments proposing:</p> <ol style="list-style-type: none"> 1. The delivery of 50+ dwellings, or more than 5,000sq.m. overall floorspace; 2. Commercial floorspace.
Non-financial contributions	<ol style="list-style-type: none"> <p>1. Reasonable endeavours must be used to secure a minimum of 20% of construction phase jobs for Brent residents. As a minimum this will be calculated as follows: 1 job for an unemployed resident per 10 C3 units, 25 C2 units, and/or 500sq.m. commercial floorspace. These will need to be secured for a minimum of 26 weeks full time employment.</p> <p>50% of these should be secured as apprenticeships for Brent residents. These will be secured for a minimum of 52 weeks. This is a minimum and should be maximised as far as is practicable.</p> <p>2. Reasonable endeavours must be used to secure a minimum of 20% of jobs, once operational, for Brent residents. These will be calculated in</p>

	<p>accordance with the Homes and Communities Agency (HCA) Employment Density Guidance 3rd Edition (2015). For flexible commercial floorspace an average job yield will be taken.</p> <p>Projected construction and operation phase jobs will be included in an accompanying Employment and Training Plan, as outlined in policy BE1.</p>
Financial contributions	<p>1. A support fee for each construction phase job projected to be secured for Brent residents to be provided as follows: (Number of construction phase jobs and apprenticeships projected) x £2,750</p> <p>For every additional apprenticeship opportunity secured for Brent residents beyond this, £1,000 will be subtracted from this fee. This will be capped at a construction fee reduction of 20%.</p> <p>2. A support fee for each operational phase job projected to be secured for Brent residents to be provided as follows: (Number of operational phase jobs projected x 20%) x £2,750</p> <p>1 & 2. Providing reasonable endeavours have not been taken, an additional charge against the shortfall in provision of jobs for Brent residents will be required as follows:</p> <p>(Number of total jobs projected to be secured for Brent residents – Number of jobs secured for Brent residents) x £5000</p> <p>This will be used to help secure jobs for Brent residents, and therefore will be paid in addition to the support fees above.</p> <p>All positions should be delivered through the Brent Works service. The developer should notify Brent Works, a minimum of 6 months before material start, to support the creation of an Employment and Skills Training Plan. The developer will appoint a Construction Liaison Officer to liaise with Brent Works during this time who will be responsible for overseeing the delivery of these obligations.</p> <p>Applicants should speak to the Council during the pre-application stage and early engagement with Brent Works is encouraged.</p>

Obligation 7: Open space

- 5.17 Policy BGI1 of the Local Plan seeks to improve and increase open space within the borough. Requirements of delivery are first broken down by location, and whether or not the development is outside of a Growth Area, or within. For those within Growth Areas, the delivery of open space should be provided in accordance with the Growth Area policies. For those outside, and within areas identified as having an open space deficiency, delivery should be maximised on site. Sites which adjoin existing blue/ green infrastructure should also seek to maximise delivery on site, and integration with the existing green grid. Within the remainder of the borough, delivery should be on-site unless the size and typology of the

open space the development generates a need for (with the exception of Local Areas of Play) is within a safe 400m walk of the proposed development.

- 5.18 In all cases contributions should be optimised on-site, with financial contributions in-lieu of this physical provision being proportional to development scale. Financial contributions will go toward either improving the quality/ accessibility of open space, as in areas outside of Growth Areas, or towards the delivery of open space when within Growth Areas. This will enable existing open space to be enhanced where it represents the primary open space within an area, and will help spread the financial requirement across landowners within growth areas where delivery is required on specific sites.
- 5.19 Local Plan policy BH13 requires ground floor family dwellings (3 bed+) to provide 50sq.m. of outdoor private amenity, with all other units needing to deliver 20sq.m. Delivery of on-site open space can offset the required quanta of this private outdoor amenity. This is assuming London Plan policy D6 outdoor amenity standards are met as a minimum. This requires a minimum provision of 5 sq.m. of private outdoor amenity per 1-2 person dwelling, with an additional 1sq.m. being provided for every additional occupant. The shortfall on provision against policy BH13 against policy D6 should be provided as communal outdoor amenity. It is expected that the delivery of onsite open space will be preferable to financial contributions, and assist in meeting scheme viability. Further guidance on this balance will be set out in the Council's forthcoming Amenity SPD.

Table 5: Open space planning obligation requirements.

Local Plan policies	BGI1 (Blue and Green Infrastructure in Brent), BCGA1 (Wembley Growth Area), BEGA1 (Neasden Stations Growth Area), BEGA1a (Neasden Stations Growth Area), BEGA2 (Staples Corner Growth Area), BEGA2a (Staples Corner Growth Area), BNGA1 (Burnt Oak and Colindale Growth Area), BNWGA1 (Northwick Park Growth Area), BNWGA1a (Northwick Park Growth Area), BSGA1 (Church End Growth Area), BSEGA1 (South Kilburn Growth Area), BSWGGA1 (Alperton Growth Area).
London Plan policies	G1 (Green Infrastructure, G2 (London's Green Belt), G3 (Metropolitan Open Land), G4 (Open Space), G5 (Urban Greening), G6 (Biodiversity and Access to Nature)
Threshold	<ol style="list-style-type: none"> 1. Developments in Growth Areas; 2. All Major residential developments (including those in Growth Areas).
Non-financial contributions	<ol style="list-style-type: none"> 1. Developments in Growth Areas: Delivery of open space in accordance with the respective Growth Area policy. In instances where the location of this open space is prescribed, and this lies within the curtilage of the proposed site, the open space will be expected to be delivered on-site. Where this is not the case, the applicant should provide a financial contribution (as below) proportionate to the scale of the proposed development. 2. Major residential developments: Provide private amenity in accordance with the minimum standards outlined in policy BH13. Where private amenity provision is reduced

	<p>against this requirement, the remainder will be expected to be provided on-site as communal amenity space. For private amenity, this is considered on a per unit basis. Where the standard is met, the minimum Children's Playspace requirements will still need to be met on-site.</p> <p>Where outdoor amenity is delivered at the ground floor it should be in the form of public open space. Ground floor amenity space has higher amenity value, and should therefore be prioritised.</p> <p>Delivery of on-site public open space will be given highest priority in wards which have an open space deficit. These include: Alperton, Brondesbury Park, Dudden Hill, Harlesden, Kensal Green, Kilburn, Mapesbury, Queens Park, Queensbury, Tokyngton, Wembley Central and Willesden Green Ward.</p> <p>All open space should be delivered in accordance with criteria's a-g of Local Plan policy BGI1.</p>
Financial contributions	<p>In non-priority wards where existing open space is more widely accessible, the provision of on-site open space may be waived (with the exception of Local Areas of Play). This is if the site is within 400 metres safe walking distance of an existing publicly accessible open space of a larger typology than can be provided on site, as identified on the policies map. In this instance, it will be considered acceptable for the applicant to provide financial contributions (as below) for the enhancement of existing off-site open space.</p> <p>Where agreed that on-site provision is not feasible, the Council will accept a financial contribution to enhance the existing open space offer. The contribution will be calculated as follows:</p> <p>(Required private outdoor amenity provision – total on-site delivery (including private outdoor amenity, and communal amenity)) X £200</p> <p>An additional £15psq.m should be secured per year, for a typical period of 5 years (unless it is reasonable to require maintenance over a longer period), to assist the Council in maintaining these spaces.</p>

Obligation 8: Children's play space

- 5.20 London Plan policy S4 states that developments which are likely to be used by children and young people should increase opportunities for play and informal recreation by children of all ages. For residential developments, this translates as a minimum of 10 sq.m. of play space per child. To calculate the child yield of a development, the Mayor's calculator for play space should be used which can be found [here](#). This is supported by the Brent Open Space, Sports and Recreation Study (2019). The delivery of on-site play space will contribute towards the overall quantum of open space and amenity policy requirements.

Table 6: Children's play space planning obligation requirements.

Local Plan policies	BH13 (Residential Amenity Space)								
London Plan policies	S4 (Play and Informal Recreation)								
Threshold	<ol style="list-style-type: none"> 1. Developments yielding 10 or more children as calculated through the Mayor's play space calculator. 2. Developments yielding fewer than 10 children as calculated through the Mayor's play space calculator. 								
Non-financial contributions	<ol style="list-style-type: none"> 1. A minimum of 10 sq.m. of play and informal recreation space per child generated as a result of the development. This will be calculated using the Mayor's play space calculator. The spaces should be in accordance with London Plan policy as follows: <ul style="list-style-type: none"> • Provide a stimulating environment. • Can be accessed safely from the street by children and young people independently. • Form an integral part of the surrounding neighbourhood. • Incorporate trees and/or other forms of greenery. • Is overlooked to enable passive surveillance. • Is not segregated by tenure. • Meets the needs of a range of different aged children. • Include a suitable long-term management/ maintenance plan for the duration of the developments lifetime. 2. Where possible, developments yielding fewer than 10 children should seek to achieve the standards stated above, otherwise a financial contribution will be sought (as below). <p>Where there is existing access for each age group (as identified in the below table), contribution toward on-site play space as stated above need not apply.</p> <table border="1"> <thead> <tr> <th>Child Age</th><th>Actual walking distance from residential unit (taking into account barriers)</th></tr> </thead> <tbody> <tr> <td>Under 5's</td><td>100m</td></tr> <tr> <td>5 - 11 year olds</td><td>400m</td></tr> <tr> <td>12+</td><td>800m</td></tr> </tbody> </table>	Child Age	Actual walking distance from residential unit (taking into account barriers)	Under 5's	100m	5 - 11 year olds	400m	12+	800m
Child Age	Actual walking distance from residential unit (taking into account barriers)								
Under 5's	100m								
5 - 11 year olds	400m								
12+	800m								
Financial contributions	<ol style="list-style-type: none"> 2. An appropriate financial contribution toward the delivery and/ or enhancement of off-site play and informal recreation space. This should be delivered nearby in accordance with the above table and the Mayor's play space calculator. <p>An additional £35 per sq.m should be secured to assist the Council in maintaining these spaces. This will be secured against the sq.m. of formal childrens playspace.</p>								

Obligation 9: Trees

5.21 Policy BGI2 of the Local Plan seeks to retain existing, whilst the London Plan encourages the delivery of new trees. This is written to accord with the hierarchy of Avoid-Mitigate-

Compensate. To this effect, the policy looks to retain on-site trees wherever possible. Replacement trees compensate for those lost, with financial contributions toward off-site planting where this is not possible. It is anticipated that in order for most applicants to meet the London Plan Urban Greening Factor (policy G5) additional trees will need to be delivered.

Table 7: Tree planning obligation requirements.

Local Plan policies	BGI2 (Trees and Woodlands)
London Plan policies	G5 (Urban Greening), G7 (Trees and Woodlands)
Threshold	<ol style="list-style-type: none"> 1. Developments with a public facing frontage. 2. Developments which will result in the loss of one or more trees. 3. Developments that cannot achieve the relevant urban greening factor score.
Non-financial contributions	<ol style="list-style-type: none"> 1. Street trees to be provided at regular intervals along all public facing frontages, if possible with connecting tree pits. 2. Where trees are lost, the equivalent tree canopy cover will be expected to be replaced on-site. This will be measured as total canopy area of new trees at the time of planting being equal to canopy area of existing trees proposed for removal. 3. Where the Urban Greening Factor (UGF), as specified within policy G5 of the London Plan, has not been met, additional trees will be required on site to enable development to achieve the UGF. <p>All trees delivered within the curtilage of the development must be managed by the applicant for the lifetime of the development, with applications being accompanied by a tree management plan.</p>
Financial contributions	<p>Where the above is not possible, a financial contribution covering the equivalent off-site provision will be expected. The ecosystem service of the trees being lost will be determined by a DEFRA/ Natural England supported calculator which provides a financially quantifiable sum for their required re-provision elsewhere within the borough. This will also determine the number of trees required to make up for the deficit in the urban greening factor score.</p> <p>The Council will also reserve the right to use these contributions toward the maintenance of its existing tree stock.</p>

Obligation 10: Air quality

5.22 Policy BSUI2 of the Local Plan states that ‘major developments within Growth Areas and Air Quality Focus Areas will be required to be Air Quality Positive and elsewhere Air Quality Neutral.’ In particular, with regards to planning obligations, it also states that ‘where on site delivery of these standards cannot be met, off-site mitigation measures will be required.’ It is accepted that meeting these targets on site will not always be possible. The applicant should therefore be innovative in ensuring the target is ultimately met. This may include

through measures such as improving local public transport access and/ or through increasing biodiversity at local open spaces. Efforts should accord with the Brent Air Quality Action Plan. All potential emissions should be calculated using the Emissions Factor Toolkit which is available here: <https://laqm.defra.gov.uk/review-and-assessment/tools/emissions-factors-toolkit.html>. A post completion or occupation monitoring report should be issued to demonstrate compliance.

Table 8: Air quality planning obligation requirements.

Local Plan policies	BSUI2 (Air Quality)
London Plan policies	SI1 (Improving Air Quality)
Threshold	<ol style="list-style-type: none"> For air quality positive: major developments within Growth Areas and Air Quality Focus Areas, as identified within the Brent Air Quality Action Plan. For air quality neutral: all other developments.
Non-financial contributions	<p>1 & 2. Demonstrate that all possible measures for reducing development impact on air quality have been explored and implemented, whilst opportunities for local air quality enhancement have been maximised. Where opportunities have been exhausted on-site, supplementary off-site measures will be supported, ensuring the development contributes to the safeguarding/ improvement of local air quality.</p> <ol style="list-style-type: none"> Demonstrate that proposed measures will result in an air quality positive scheme. To qualify as air quality positive, developments not only have to be net zero carbon, but also contribute actively to a progressive reduction in emissions. Demonstrate that proposed measures will result in an air quality neutral scheme. To qualify as air quality neutral, the development must meet the building emissions benchmarks set out in the Mayor's Sustainable Design and Construction SPG.
Financial contributions	<p>Where the above is not possible, a financial contribution covering the equivalent off-site provision will be expected. This should be a last resort and will only be considered acceptable where all other avenues have been demonstrably pursued. This should be calculated using DEFRA's damage cost calculator for air quality which can be found here:</p> <p>https://www.gov.uk/government/publications/assess-the-impact-of-air-quality/air-quality-appraisal-damage-cost-guidance#worked-example</p>

Obligation 11: Decentralised heat and energy

5.23 Decentralised, renewable and low carbon energy supply systems can help mitigate against climate change. This is especially so when heat customers and suppliers are co-located. As detailed in the London Plan policy SI3, criterion D 1, major developments are required to select communal energy systems in accordance with the following hierarchy:

- connect to local existing or planned heat networks

- b) use zero-emission or local secondary heat sources (in conjunction with heat pump, if required)
- c) use low-emission combined heat and power (CHP) (only where there is a case for CHP to enable the delivery of an area-wide heat network, meet the development's electricity demand and provide demand response to the local electricity network)
- d) use ultra-low NOx gas boilers.

- 5.24 Local Plan policy BSUI1 *requires* district heating networks to be established in all new Growth Areas (Northwick Park, Neasden Stations, and Staples Corner), whilst pre-existing Growth Areas are *expected* to deliver district heating networks. The scale and type of network may vary depending on the context and the quantum of development planned in that area. All major developments also need to connect to/ contribute towards a decentralised energy system. This will assist the Council in meeting its long-term sustainability targets of net zero carbon emissions.
- 5.25 The Council also recognises that decentralised heating and energy is a dynamic sector, and is likely to change considerably over the lifetime of this document. As such, where deviation from the below can be demonstrably justified, and that the proposed deviation will deliver upon the Councils intent of providing resilient and sustainable energy and heating systems, the Council may consider alternative provision. Any such deviation should not compromise the delivery of wider or area specific goals, and may require further carbon-offsetting under obligation 12 of this document.

Table 9: Decentralised energy planning obligation requirements.

Local Plan policies	BSUI1 (Creating a Resilient and Efficient Brent)
London Plan policies	SI2 (Minimising Greenhouse Gas Emissions), SI3 (Energy Infrastructure).
Threshold	<ol style="list-style-type: none"> 1. Major developments in Growth Areas; 2. All major developments.
Non-financial contributions	<ol style="list-style-type: none"> 1. Where a site is significant in scale, and a district heating network is yet to be established, the applicant will be expected to deliver an energy centre space. Where the location of this space has been established in an adopted masterplan, the applicant will be expected to deliver on-site. 2. If a network has already been established in the local vicinity, or it is not feasible to be delivered on site, the development should be connection ready. Alternatively, the applicant may provide a 100% renewable heating system. Where this is not 100% renewable, the applicant will be expected to enable future connection to a network.
Financial contributions	<ol style="list-style-type: none"> 2. All major developments will be expected to provide financial contributions towards the delivery of a local district heating network. This will be proportionate to the scale of development proposed, and relative to the energy consumption of the proposed units/ commercial floorspace. It will also consider the renewable energy generated by the proposed development, and if to be delivered on

	<p>site, the cost of the space provided for its occupation. Contributions will therefore be calculated as follows: $((\text{Shortfall against net zero-carbon target per annum in tonnes} \times 1,500) \times \text{Growth Area Premium factor}^*) - \text{costs of space if being delivered on-site (subject to not exceeding 0)}.$</p> <p>*</p> <table border="1"> <thead> <tr> <th>Growth Area</th><th>Premium factor</th></tr> </thead> <tbody> <tr> <td>Neasden</td><td>1.00</td></tr> <tr> <td>Church End</td><td>1.00</td></tr> <tr> <td>Burnt Oak/ Colindale</td><td>1.09</td></tr> <tr> <td>Northwick Park</td><td>1.15</td></tr> <tr> <td>Alpertown</td><td>1.15</td></tr> <tr> <td>Wembley</td><td>1.17</td></tr> <tr> <td>Staples Corner</td><td>1.25</td></tr> </tbody> </table> <p>Developments within the South Kilburn Growth Area will be subject to alternative calculations.</p> <p>Where justified, an alternative fee may be agreed upon. For instance, this may be where there is an existing source of waste heat which can be utilised. The discount will be proportionate to the amount of energy the decentralised network no longer needs to generate.</p> <p>This will incentivise delivery of low energy demand units in the first instance. Average energy demand per unit will be set out in an accompanying sustainability statement which is required to consider the energy demands of all units individually.</p>	Growth Area	Premium factor	Neasden	1.00	Church End	1.00	Burnt Oak/ Colindale	1.09	Northwick Park	1.15	Alpertown	1.15	Wembley	1.17	Staples Corner	1.25
Growth Area	Premium factor																
Neasden	1.00																
Church End	1.00																
Burnt Oak/ Colindale	1.09																
Northwick Park	1.15																
Alpertown	1.15																
Wembley	1.17																
Staples Corner	1.25																

Obligation 12: Carbon offsetting

5.26 London Plan policy SI2 requires all major developments to be net zero-carbon. This is to be achieved in accordance with the below hierarchy:

- 1) be lean: use less energy and manage demand during operation
- 2) be clean: exploit local energy resources (such as secondary heat) and supply energy efficiently and cleanly
- 3) be green: maximise opportunities for renewable energy by producing, storing and using renewable energy on-site
- 4) be seen: monitor, verify and report on energy performance.

5.27 For major developments referable to the Mayor, a whole life carbon assessment is required, including embodied carbon within net zero-carbon calculations and targets. For all other major developments, this will only include operational carbon within calculations. Calculations will include both regulated and un-regulated emissions. Calculations from these assessments will be used to inform the below contributions.

- 5.28 To this effect, major developments will be expected to submit detailed energy strategies outlining how this has been achieved. As a minimum, a 35% reduction against part L of the Building Regulations will be required on-site. Where it is clearly demonstrated that net zero-carbon cannot be achieved on-site, applicants will be expected to provide a cash in lieu contribution toward off-site mitigation. This will be ring-fenced within the Council's Carbon Offset Fund and spent according to the priorities outlined within the Councils Climate and Ecological Emergency Strategy. This will assist the Council in meeting its long-term sustainability targets of net zero-carbon.

Table 10: Sustainability planning obligation requirements.

Local Plan policies	BSUI1 (Creating a Resilient and Efficient Brent)
London Plan policies	SI2 (Minimising Greenhouse Gas Emissions), SI3 (Energy Infrastructure).
Threshold	All major developments.
Non-financial contributions	N/A
Financial contributions	<p>(Shortfall against net zero-carbon target per annum in tonnes X current carbon offset price*) X 30 years</p> <p>* Current carbon offset price as determined by either the GLA or the Council.</p> <p>Triggers for payment will be as follows: 50% at material start; with the remainder being paid upon completion based on as-built documentation[†].</p> <p>[†] This would include (but is not limited to), Part L as-built compliance documents and lodged EPC's.</p> <p>This will further incentivise developers to deliver low-carbon developments throughout the build process.</p>

Obligation 13: Sustainable transport

- 5.29 Policy BT1 of the Local Plan seeks to increase the uptake of active and sustainable travel (i.e. public transport, walking and cycling). This will assist the Council in meeting the Mayor's strategic target of 80% (as outlined in the Mayor's Transport Strategy) of trips to be undertaken by these modes. The Council aims to achieve this by reducing barriers to the greater uptake of sustainable transport modes, including: securing improvements to the public realm; providing for high-quality, safe and well-connected cycle and pedestrian links; improving public transport connections and links to these; and increasing the provision of infrastructure to support the uptake of low/zero emission vehicles. To this effect, the Council will seek to secure planning obligations to ensure developments accord with this policy aspiration and reduce the impact of private vehicles, particularly the most polluting types. This may include contribution toward the indicative transport schemes listed under table 10.1 of the London Plan, where they are not already funded by MCIL. Transport

Assessments and Plans should reflect this aspiration and demonstrate how proposed measures help the Council in achieving this strategic target.

Table 11: Sustainable transport planning obligation requirements.

Local Plan policies	BT1 (Sustainable Travel Choice)
London Plan policies	T1 (Strategic Approach to Transport), T2 (Healthy Streets), T3 (Transport Capacity, connectivity and Safeguarding), T4 (Assessing and Mitigating Transport Impacts).
Threshold	<ul style="list-style-type: none"> • Developments delivering greater than 50 units to produce a Travel Plan Statement; • Developments delivering greater than 80 units to produce a Full Travel Plan. • Other schemes which significantly impact upon highways or are in low PTAL areas.
Non-financial contributions	<p>The following are not extensive, and are as listed in paragraph 6.8.15 of the Local Plan:</p> <ul style="list-style-type: none"> • Provision and implementation of a Travel Plan, including the provision of further mitigation if the targets within the Travel Plan are not met. The Travel Plan should be compatible with the i-trace software, or any successor. • Public transport improvements sufficient to service the scheme or to integrate it with the surrounding area. Developments attracting a significant number of trips in areas with low or moderate public transport accessibility or causing capacity issues to the existing network will only be acceptable when significant public transport improvements are secured which are both viable and justifiable in the longer term. • The extension or bringing forward of on street parking controls or waiting restrictions due to an unacceptable impact on road safety, emergency vehicle access or traffic management. • Provision of improvements to existing pedestrian and/or cycle infrastructure, not necessarily restricted to the immediate development area, and footway enhancements along the development frontage and where appropriate, permissive rights of way within the development. • Traffic calming measures. • Acceptable road safety and essential highway improvements, not necessarily restricted to the immediate development area. • Programmes to reduce car usage and ownership (car pooling, car clubs, cycle sharing schemes). <p>Transport infrastructure provided as a result of the development will require a supplementary highway agreement under S38 and/or S278 of the Highways Act 1980.</p> <p>The extent to which these obligations are sought will be considered on a site-by-site basis determined by the scale, type, and location of proposals.</p>
Financial contributions	If it is not wholly within the capacity of the development to address issues as listed within Local Plan policy BT1 themselves, financial contributions to the

	<p>effect of the above will need to be secured to make the application acceptable in planning terms.</p> <p>Travel Plan monitoring fees, refundable to WestTrans, to be provided as follows:</p> <ul style="list-style-type: none"> For schemes referable to the Mayor of London, a fixed fee of £3,250 will be required. For all other Major developments, a fee of £1,600 will be required.
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Obligation 14: Vehicle reduction and parking

- 5.30 The Council acknowledges the need for a ‘push and pull’ approach when it comes to transport. This means ‘pushing’ people towards more sustainable modes, and ‘pulling’ them away from their private vehicles. Policies BT2 and BT3 of the Local Plan seek to encourage people to use sustainable forms of transport through limiting the provision of and managing the impacts of parking; and optimising delivery and servicing arrangements in new developments. To ensure that some of the measures required by this policy are carried forward, they will need to be secured through planning obligations.

Table 12: Vehicle reduction and parking planning obligation requirements.

Local Plan policies	BT2 (Parking and Car Free Development), BT3 (Freight and Servicing).
London Plan policies	T6 (Car Parking).
Threshold	All developments where car parking is being provided, or where they have the potential to increase demand for on-street parking.
Non-financial contributions	<ul style="list-style-type: none"> Adhere to a 'Permit-Free' scheme whereby the Owner would inform future occupants of the development that they would not be entitled to permits for any existing or future on-street controlled parking zone. A Car Parking Management Plan setting out how car parking spaces within the development will be allocated and enforced
Financial contributions	<p>If new on-street parking controls are required as the result of new development (including the provision of a Controlled Parking Zone) or where existing parking controls require amendment, the development would be required to contribute toward this financially. This will be £250 per residential unit.</p> <p>Priority should be given to the provision of facilities to support shared mobility (e.g. car and bike clubs and pooling schemes) above the provision of private parking. Where new Car Clubs are proposed, the development will be expected to enter into an agreement with a car club operator to provide vehicles and to promote the scheme, including the provision of three years free membership for residents. If a Car Club is already established in the area, then only the three years free membership would be expected.</p>

Obligation 15: Heritage

- 5.31 Policy BHC1 of the Local Plan considers a positive strategy for the heritage assets of Brent. It also includes buildings, structures, gardens and archaeology of local significance. Planning obligations in relation to site specific heritage issues may be sought where measures to preserve or enhance, investigate and/or record, and secure the long term stewardship of heritage assets are required. These will be considered on a case-by-case basis. Priority will be given to the significance of the heritage asset and those included on Historic England's Heritage at Risk Register. It may include contributions towards Brent Museums and Archives, archaeological reports/collections and public art.

Table 13: Heritage planning obligation requirements.

Local Plan policies	BHC1 (Brent's Heritage Assets)
London Plan policies	HC1 (Heritage Conservation and Growth)
Threshold	All proposals for or affecting heritage assets
Non-financial contributions	<p>Making appropriate provisions for the protection, repair, restoration, interpretation, maintenance or relocation of heritage assets and/or their settings.</p> <p>To help determine appropriate provisions, it is likely a range of the following assessments will be required: Viability, feasibility, structural, and repair reports. This will also help determine the following requirements: investigation, recording, dissemination and archiving.</p>
Financial contributions	Financial contribution (depending on significance) to help restore and repair or mitigate the impact of development particularly on setting.

Obligation 16: Design

- 5.32 Brent has ambitions to grow, as outlined in the Local Plan. As well as accommodating significant housing and economic growth, the Council also wants to deliver high quality accessible places that people are proud to live in, are environmentally and socially sustainable and improve the character of the borough as a whole. This includes the delivery of high quality residential and commercial developments.
- 5.33 Specialist residential accommodation can cater to the specific needs of a variety of people within the community and design requirements will consequently vary significantly. Accessible and adaptable housing enables people to live more independently while also saving on health and social costs in the future. Commercial floorspace is often delivered in prominent locations, or in locations currently lacking in character, and as such, will require significant design consideration.
- 5.34 All development proposals must lead the way in good urban and sustainable design, positively addressing the design policies within Brent's Local Plan. Development should also follow the advice in relevant Supplementary Planning Documents. These include SPD1, Brent's Design Guide, and SPD2, guidance on residential extensions.

- 5.35 Decisions or changes made after permission has been granted, often through value engineering or minor amendments, can significantly compromise design quality and result in a development which may no longer accord with the Local Plan and supplementary planning guidance. To ensure design quality is delivered through to completion, London Plan policy D4, part F, sets out a number of measures that emphasise the need for detailed design considerations to be maximised, and captured at both early design stages and within the planning application itself. This is opposed to deferring consideration of high impact design considerations until the later discharging of conditions.
- 5.36 In instances where detailed design considerations have not been sufficiently captured within the planning application itself, and any outstanding considerations cannot be addressed via conditions alone, the Council will seek either the appointment of a Design Certifier or architect retention, as appropriate.
- 5.37 The Council will need to be notified in writing if the original architect is no longer to be retained through to completion after receiving planning permission. This should include both an explanation for the decision and the details of the replacement architect. In these instances, and depending on the anticipated implications for design quality, the Council will recommend one of the following:
- Design Certifier not required;
 - Original architect to act as Design Certifier;
 - Different architect to act as Design Certifier; or
 - Retention of original architect through to completion via a retention clause.

Table 14: Design planning obligation requirements.

Local Plan policies	Specifically: DMP1 (Development Management General Policy), BD1 (Leading the Way in Good Urban Design)
London Plan policies	Specifically: D4 (Delivering Good Design)
Threshold	Major applications which have failed to include sufficient detailed design considerations at planning application stage, and where outstanding considerations cannot be adequately addressed via conditions alone.
Non-financial contributions	<p>Depending on the potential impact of outstanding design considerations upon the final design, the Council will recommend either:</p> <ul style="list-style-type: none"> • One form of Design Certification; or • An architect retention clause as appropriate. <p>These will be secured through to completion of the proposed development. They should make specific reference to the architect, their company and/ or the design group where applicable.</p>
Financial contributions	N/A

Obligation 17: Other site specific obligations

- 5.38 There may be circumstances where proposals would result in a material increase in the need or demand for other types of infrastructure or services which are not specifically addressed within this document, and where provision is required in order to make the development

acceptable in planning terms. In such cases the council will negotiate with applicants on a case-by-case basis having regard to site specific circumstances. The potential scope of site specific planning obligations is extensive and may include a diverse range of infrastructure and services.

Obligation 18: Administrative fees

- 5.39 S106 planning obligations must be negotiated, secured, and implemented. Each of these stages requires the Council's resources. They can therefore be determined as an impact of development. This therefore requires the Council to be compensated for administering this additional task. As a result of this the CIL regulations, as came into effect on 1st September 2019, state that Local Authorities can seek monitoring fees through S106 planning obligations. This will ensure that appropriate obligations can be sought, and that they will be implemented correctly without issue. The financial contributions have been arrived at through consideration of current CIL requirements, and the equivalent requirements of other London Boroughs. These will be required for both financial and non-financial contributions. Other financial recuperations sought through planning obligations, such as legal fees, will be determined on a case-by-case basis as they are accumulated by the individual application.

Table 15: Administrative fee planning obligation requirements.

Local Plan policies	N/A
London Plan policies	DF1 (Delivery of the Plan and Planning Obligations)
Threshold	All applications which have a S106 planning obligation attached.
Non-financial contributions	N/A
Financial contributions	<p>Payment of the Council's legal and other professional costs in:</p> <ol style="list-style-type: none"> 1. Monitoring and enforcing its performance. 2. Legal and other professional fees as they arise. <ol style="list-style-type: none"> 1. The implementation, monitoring and enforcement fee will be provided in accordance with the S106 monitoring fees spreadsheet which can be found on the Council's webpage. 2. Legal and other professional fees accrued which do not fall under the above, and have explicit charges will be charged back to the development under a planning obligation. The amount will be agreed between the two parties legal teams through an undertaking by the developers solicitor.

6 Monitoring Arrangements

Management

- 6.1 The management and monitoring of S106 planning obligations is overseen by dedicated officers within the Infrastructure Planning team. The process pulls together a number of different departments, including Planning and Legal, and involves collaboration with various service providers.
- 6.2 The Infrastructure Planning team will coordinate the process, monitor compliance with the S106 agreements, log agreements and the implementation of financial and non-financial contributions on the Councils systems.
- 6.3 These will be registered and validated by the Infrastructure Planning team who will conduct an internal consultation with the relevant service providers to ensure the obligation has been upheld. The implementation and delivery of non-financial contributions will require appropriate evidence of commencement and completion.
- 6.4 Following validation of compliance with the obligation, a decision letter will be issued to confirm that the obligation has been upheld. Once delivered the obligations will continue to be monitored to ensure their long-term delivery is maintained to the end of the planning obligations agreed timeframe if applicable.

Spend

- 6.5 Financial contributions will be used to fund projects through the pooling of other S106 planning obligations, CIL funds and other funding sources as appropriate. The projects will be approximated within the agreement, providing the conditions under which they can be spent, and will be guided by the Council's Infrastructure Delivery Plan and Capital Investment Pipeline.
- 6.6 Given that financial obligations will be paid at a later date than this document was adopted (2022), the final payment will need to be indexed to account for inflation. This is to account for the increased cost in providing necessary mitigation measures and infrastructures. A standardised index from an appropriate government body, such as the Retail Price Index, will be defined within the agreement.
- 6.7 CIL and S106 financial contribution spend will be reported annually through the Infrastructure Funding Statement, as per the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019. This will include an annual breakdown of monies collected, allocated, and spent for both CIL and S106. This will ensure transparency of governance over funds, and their responsible spend.

Enforcement

- 6.8 A clause included in the S106 agreement will ensure prompt payment by requiring interest to be paid where payments are overdue. As a final recourse where other measures have not

been successful and where obligations are not subsequently complied with, the Council will take legal action against those in breach of a S106 agreement. Non-financial obligations are also legally binding and similarly where these have not been met, the Council will seek to legally enforce them. In some cases, this may involve delivery by the Council and recuperation of costs from the developer.

- 6.9 Many of the above obligations will require validation of compliance. It will sometimes be necessary to ensure that compliance and completion of works are to an adequate industry standard. Where necessary a clause will be included to ensure verification of the works by an independent expert.

Appendix A – Small sites affordable housing value zones

