



Lewisham

LONDON BOROUGH OF LEWISHAM

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL NO: APP/C5690/W/23/3321935

COUNCIL'S REF: DC/22/129789

**ADDRESS: 21-57 WILLOW WAY, UPPER SYDENHAM,
LONDON, SE26 4QP**

CIL COMPLIANCE STATEMENT

**STATEMENT OF COMPLIANCE WITH REGULATION 122 OF THE CIL
REGULATIONS 2010, AS AMENDED (“THE REGULATIONS”)**

1. INTRODUCTION

- 1.1. Planning obligations are commonly entered into in connection with planning applications in order to mitigate the impact of proposed development. This Statement addresses the planning obligations sought by the Council pursuant to Section 106 of the Town and Country Planning Act 1990, as amended (“the Act”) in relation to the appeal scheme. It sets out each of the planning obligations and explains how each obligation is compliant with Regulation 122 of the Regulations.
- 1.2. Section 106 of the Act provides that any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into a planning obligation:
- a) restricting the development or use of the land in any specified way;
 - b) requiring specified operations or activities to be carried out in, on, under or over the land;
 - c) requiring the land to be used in any specified way; or
 - d) requiring a sum or sums to be paid to the local planning authority on a specified date or dates or periodically.
- 1.3. Regulation 122(2) of the Regulations sets out the test for the use of planning obligations. It provides that a planning obligation may only constitute a reason for granting planning permission if the obligation is:
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.
- 1.4. Core Strategy Policy 21 – Planning Obligations states that 1) The need to provide infrastructure, services and/or facilities to address the impact of new development will be considered by the local planning authority from the outset of the planning application process; 2) The Council will seek planning obligations in accordance with Circular 05/05 to ensure effective implementation of the Core Strategy; and 3) The Council will prepare a Planning Obligations Supplementary Planning Document to provide further guidance on the likely type, scale and priority of planning obligations and the methodology for calculating formula based obligations, where it is appropriate to do so.
- 1.5. A number of DMLP policies refer to the use and application of planning obligations in relation to issues such as town centres, wheelchair housing, air quality management and community facilities.

- 1.6. The Council adopted its Planning Obligations Supplementary Planning Document (SPD) on 25th February 2015. The purpose of the Planning Obligations SPD is to provide detailed guidance on the likely type and scale of planning obligations for development proposals in the London Borough of Lewisham, to ensure that the impact of development on infrastructure and services can be adequately mitigated. It also seeks to establish a transparent, fair and consistent process for negotiating, securing and monitoring planning obligations.
- 1.7. Para 1.5 of the Planning Obligations SPD states that the SPD does not attempt to specify all of the planning obligations that may be necessary to mitigate the impacts of every development. Other planning obligations may be required that are not set out in this SPD due to site specific or local circumstances. The exact type and range of planning obligations, which may be sought for an individual site, will depend upon the particular circumstances and development proposed and its impacts upon the local environment, local services and facilities and in accordance with the National Planning Policy Framework (NPPF) and the Community Infrastructure Levy Regulations (2010), (as amended).
- 1.8. Para 1.7 states that planning obligations (made under Section 106 of the Town and Country Planning Act 1990, as amended) (S106 agreements), are legal agreements between local planning authorities and developers, or unilateral undertakings made by developers, in the context of the granting of planning permission. They can be both financial and non-financial, and they are used when there is a requirement to address the impact of a development and the impact itself cannot be dealt with through a planning condition on the permission.
- 1.9. Para 1.8 states that the use of planning obligations is an effective tool through which the Council will seek to ensure that growth and development, whether individually or cumulatively, meets the objectives of sustainable development as promoted in local, regional and national policies. Para 1.10 notes that planning obligations are local land charges and run with the land. This means that they are intended to be enforceable against the original parties who entered into the agreement or undertaking and in most cases, anyone acquiring an interest in the land after it has been sold or transferred.

2. PLANNING OBLIGATIONS IN THE [DRAFT] S106 AGREEMENT

2.1 The London Borough of Lewisham (the "Council"), and Nevzat Mehmet Emin, and Simon Brown, and Gregory Fergus Hall (together the "Appellant") have negotiated [and entered into] the S106 Agreement containing planning obligations to be secured in connection with the appeal scheme.

2.2 The table below summarises the planning obligations in the [draft] S106 Agreement and supports the case that each of the obligations meet the 3 tests set out in Regulation 122 of the Regulations and thus may constitute a reason for granting planning permission.

Planning Obligation	Relevant policies/materials considerations	Test 1 – Necessity	Test 2 – Directly related to the proposed development	Test 3 – Fairly and reasonably related in scale and kind to the development
Affordable housing				
Affordable Housing (Schedule 4)	<p>London Plan Policy H4 (Delivering affordable housing)</p> <p>London Plan Policy H5 (Threshold approach to applications)</p> <p>Core Strategy Policy 1 (Housing provision, mix and affordability)</p> <p>Core Strategy Policy 21 (Planning obligations)</p> <p>Lewisham Planning Obligations SPD (2015) Section 3.1</p> <p>Mayor of London’s Affordable Housing and Viability (AHV) SPG (2017)</p>	<p>The appeal scheme includes Affordable Housing in the form of 21 Social Rent units and 9 Intermediate. CSP 1 states that the Council will seek the maximum provision of affordable housing with a strategic target for 50% affordable housing from all sources and contributions to affordable housing will be sought on sites capable of providing 10 or more dwellings. The starting point for negotiations will be a contribution of 50% affordable housing on qualifying sites across the borough. This would be subject to a financial viability assessment. To ensure a mixed tenure and promote mixed and balanced communities, the affordable housing component is to be provided as 70% social rented and 30% intermediate housing. The provision of family housing (3+ bedrooms) will be expected as part of any new development with 10 or more dwellings. For affordable housing, the Council will seek a mix of 42% as family dwellings (3+ bedrooms).</p> <p>Similarly, the the strategic Affordable Housing target in LPP H4 is 50%. LPP H5 requires that to follow the Fast Track Route of the threshold approach, applications must meet all the</p>	<p>The S106 obligations are directly related to the on-site Affordable Housing Units.</p> <p>They will ensure that the construction and completion of the Affordable Housing Units would be in accordance with the plans submitted as part of the Application and approved pursuant to the Planning Permission and the provisions of this Schedule 3; to notify the Council in writing within 10 Working Days once the Affordable Housing Units have been constructed and Completed pursuant to Paragraph 1 of Schedule 3; to notify the Council in writing no less than 10 Working Days prior to the intended</p>	<p>The Affordable Housing obligations in the S106 Agreement fairly and reasonably relate in scale and kind to the proposed development.</p> <p>The appeal scheme is not a policy compliant scheme.</p> <p>The provision of the Affordable Housing Units is considered by the Council to be a benefit of the Appeal Scheme. It is therefore imperative that the S106 Agreement is sufficiently robust to ensure that the maximum reasonable amount of Affordable Housing would be provided on the Appeal Site.</p>

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 (see Policy H6 Affordable housing tenure); 3) meet other relevant policy requirements and obligations to the satisfaction of the borough and the Mayor where relevant; and 4) demonstrate that they have taken account of the strategic 50 per cent target in Policy H4 Delivering affordable housing and have sought grant to increase the level of affordable housing.

Para 3.1.40 of Lewisham Planning Obligations SPD states that planning obligations and affordable housing will be secured through a legal agreement under Section 106 of the Town and Country Planning Act 1990. Applicants are advised to agree heads of terms for a S106 agreement with the Council. The following details will usually be referred to within the legal agreement: number, location, size and tenure of the affordable units; standards which the affordable housing will meet; availability of units in perpetuity; and completion timing and availability of affordable units in relation to market units.

The appeal scheme is not a policy compliant scheme as it would only deliver 27% of family affordable housing (3+ bedrooms). The applicant has not provided a viability assessment as required by LPP H5.

Occupation of the first Dwelling; Not to Occupy more than 15 of the Market Dwellings until the Affordable Housing Units have been Completed and are ready for Occupation.

		If the appeal is to be allowed, the S106 Agreement has been drafted to secure the relevant obligations included at Schedule 4.		
Wheelchair Housing				
Wheelchair Housing (Schedule 6)	<p>London Plan Policy D7 (Accessible housing)</p> <p>Lewisham Planning Obligations SPD (2015) Section 3.2</p>	<p>The appeal scheme includes the provision of wheelchair units.</p> <p>LPP D7 requires that at least 10% of new build dwellings meet Building Regulation requirement M4(3) 'wheelchair user dwellings' (designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users); and all other new build dwellings must meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'. Wheelchair accessible homes should be distributed across tenure types and sizes to give disabled and older people similar choices to non-disabled.</p> <p>Section 3.2 of Lewisham Planning Obligations SPD states that the Council will expect a minimum of 10% of all housing, including the affordable housing, to be adapted or easily adaptable to the South East London Housing Partnership Wheelchair Homes Design Guidelines (November 2012) or any successor version of this document.</p> <p>The appeal scheme is not a policy compliant scheme as the number of wheelchair units is not split equally between tenures and unit sizes.</p>	<p>The S106 obligations are directly related to the on-site Wheelchair Housing Units.</p> <p>They will ensure that the landowners will complete the Wheelchair Housing Units pursuant to this schedule by no later than the date of Completion of the non-Wheelchair Housing Units within the Development and where a communal access is to be the principal access for occupiers of the Wheelchair Housing Units, the said communal access should be in accordance with the relevant requirements of Category M4(3) (as applicable to the Wheelchair Housing Unit in question as provided for in this Schedule 2 and both externally and</p>	<p>The Wheelchair Housing obligations in the S106 Agreement fairly and reasonably relate in scale and kind to the proposed development.</p> <p>The appeal scheme is not a policy compliant scheme.</p> <p>The provision of the Wheelchair Housing Units is considered by the Council to be a benefit of the Appeal Scheme. It is therefore imperative that the S106 Agreement is sufficiently robust to ensure that the required amount of Wheelchair Housing would be provided on the Appeal Site.</p>

		If the appeal is to be allowed, the S106 Agreement has been drafted to secure the relevant obligations included at Schedule 6.	internally) of Approved Document M to the Buildings Regulations 2010. The section 106 Agreement sets out further provisions for the Social Housing and Market Housing Units, the Parking for Wheelchair Housing and Wheelchair Units Marketing Strategies under Schedule 6.	
Carbon Offsetting				
Carbon Off-Set Contribution of £67,142 (Schedule 1)	<p>London Plan Policy SI1 (Improving air quality)</p> <p>London Plan Policy SI2 (Minimising greenhouse gas emissions)</p> <p>Core Strategy Policy 8 (Sustainable design and construction and energy efficiency)</p> <p>Core Strategy Policy 9 (Improving local air quality)</p>	<p>CSP 8 states that applications for all new major developments (with a floorspace of 1,000 sq.m or 10 or more residential dwellings) will be required to: a. submit a Sustainability Statement and Energy Statement that show how the requirements of London Plan policy and the London Plan SPG Sustainable Design and Construction, or any subsequent document, are met and demonstrate what steps have been taken to minimise the environmental impacts of the proposed development b. maximise the energy and water efficiency measures of the building.</p> <p>CSP 9 states that the Council will seek to improve local air quality and minimise any</p>	<p>The requirement for the Carbon Offset Contribution arises directly from the proposed development.</p> <p>The energy statement submitted with the planning application has been assessed by the Council. This demonstrates that the appeal scheme can meet the minimum carbon reduction targets on site; however, the remaining regulated carbon</p>	<p>It is likely that all major development schemes will trigger a cash in lieu payment towards the Council's carbon offset fund, pursuant to London Plan Policy SI2.</p> <p>The energy statement submitted with the Development proposals demonstrates that the appeal scheme can meet the minimum carbon reduction targets on site, but that the remaining regulated carbon emissions</p>

	<p>Lewisham Planning Obligations SPD (2015) Section 3.8</p>	<p>negative air quality impacts by: a. supporting a co-ordinated and partnership approach to implement national policy, London Plan policy and the actions outlined in the Council’ s Air Quality Management Plan b. working with Transport for London to manage and improve air quality along transport corridors and traffic congestion points c. working with all businesses, including SELCHP, within Lewisham to manage and improve air quality.</p> <p>LPP SI1 states at part B that to tackle poor air quality, protect health and meet legal obligations the following criteria should be addressed:</p> <p>1)Development proposals should not: a) lead to further deterioration of existing poor air quality; b) create any new areas that exceed air quality limits, or delay the date at which compliance will be achieved in areas that are currently in exceedance of legal limits; c) create unacceptable risk of high levels of exposure to poor air quality. 2) In order to meet the requirements in Part 1, as a minimum:</p> <p>a) development proposals must be at least Air Quality Neutral; b) development proposals should use design solutions to prevent or minimise increased exposure to existing air pollution and make provision to address local problems of air quality in preference to post-design or retro-fitted mitigation measures; c) major development proposals must be submitted with an Air Quality Assessment. Air quality assessments should show how the development will meet the requirements of B1;</p>	<p>emissions need to be offset by a Carbon Offset Contribution in the sum of £67,142. This Contribution has been calculated in accordance with the formula set out in paragraph 3.8.13 of Lewisham Planning Obligations SPD.</p> <p>Paragraph 1.1 of Schedule 2 to the S106 Agreement requires the Appellant to pay the Carbon Offset Contribution to the Council prior to Commencement of the Development. In accordance with Part D of Policy SI2, this will be paid into the Council’s carbon offset fund and ringfenced to implement projects that deliver carbon reductions in the Borough. In accordance with paragraph 3.8.5 of Lewisham Planning Obligations SPD any money collected through the Carbon Offset Fund will contribute towards the cost of reducing carbon</p>	<p>up to 100% will have to be offset through a cash in lieu payment.</p> <p>Using the formula, which is set out in paragraph 3.8.5 of Lewisham Planning Obligations SPD the amount of the Contribution is £67,142. This is considered to fairly and reasonably relate in scale and kind to the Development as it reflects the amount of the required carbon savings that cannot be delivered on site.</p>
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d) development proposals in Air Quality Focus Areas or that are likely to be used by large numbers of people particularly vulnerable to poor air quality, such as children or older people should demonstrate that design measures have been used to minimise exposure.

Part C states that masterplans and development briefs for large-scale development proposals subject to an Environmental Impact Assessment should consider how local air quality can be improved across the area of the proposal as part of an air quality positive approach. To achieve this a statement should be submitted demonstrating: 1) how proposals have considered ways to maximise benefits to local air quality, and 2) what measures or design features will be put in place to reduce exposure to pollution, and how they will achieve this.

LPP SI2 states that a development should be net zero-carbon. This means reducing greenhouse gas emissions in operation and minimising both annual and peak energy demand in accordance with the Be Lean, Be Clean, Be Green and Be Seen energy hierarchy. Part B of Policy SI2 requires a detailed energy strategy to be submitted with major development proposals to demonstrate how the zero-carbon target will be met within the framework of the energy hierarchy.

Part C of Policy SI2 states that a minimum on-site reduction of at least 35 per cent beyond

emissions across Lewisham.

Building Regulations is required for major development. Residential development should achieve 10 per cent, and non-residential development 15%, through energy efficiency measures. Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on-site, the remaining regulated carbon emissions up to 100% must be offset by a cash in lieu contribution to the Council's carbon offset fund.

Part D of Policy SI2 states that Councils must establish and administer a carbon offset fund. Payments into the fund must be ring fenced to implement projects that deliver carbon reductions in the Borough. The operation of offset funds should be monitored and reported on annually.

The Energy Statement that was submitted with the application demonstrated at Table 5 that the proposed development would have an off-set of 645.6tonnes CO2 / year. This Offset Carbon Contribution in the sum of £67,142 will be secured under the S106 Agreement. This sum has been calculated in accordance with the formula set out at paragraph 3.8.13 of Lewisham Planning Obligations SPD.

Paragraph 3.8.5 of Lewisham Planning Obligations SPD states that any money collected through the Carbon Offset Fund will contribute towards the cost of reducing carbon emissions across Lewisham. The emphasis will be on using this funding to link in with existing

		schemes so as to minimise any administration costs and to reduce the overall cost of carbon. The cost of carbon has been tested alongside other Lewisham Council policy requirements and has been found to sit within the required financial viability cost parameters.		
Local Labour and Business				
Local Labour and Business Contribution of £60,420 (Schedule 5)	<p>London Plan Policy E8 (Sector growth opportunities and clusters)</p> <p>London Plan Policy E11 (Skills and opportunities for all)</p> <p>Development Management Policy 11 (Other employment locations - Sites in Town Centres, Local Hubs and other clusters of commercial and/or retail uses)</p> <p>Lewisham Planning Obligations SPD (2015) Section 3.3</p>	<p>LPP E8 states that employment opportunities for Londoners across a diverse range of sectors should be promoted and supported along with support for the development of business growth and sector-specific opportunities. More specifically, LPP E11 states that development proposals should support employment, skills development, apprenticeships, and other education and training opportunities in both the construction and end-use phases, including through the use of Section 106 obligations where appropriate.</p> <p>DM Policy 11 states that the Council will seek contributions to training and/or local employment schemes where there is loss of local employment as a result of redevelopment or change of use.</p> <p>Section 3.3 of the Lewisham Planning Obligations SPD states that the Council will use planning obligations to secure financial contributions towards the training, support and recruitment of local people; to secure the</p>	<p>The Local Labour and Business Contribution of £60,420 is directly related to the Development. It arises directly as a result of employment opportunities provided by the Development and is based on the number of jobs that the Development would create. This Contribution has been calculated in accordance with the formula set out in paragraph 3.3.21 of Lewisham Planning Obligations SPD.</p> <p>In accordance with development plan policies, major developments should provide employment, skills development, apprenticeships, and</p>	<p>The Development would be capable of creating a number of new jobs under Use Class E, which justifies the Local Labour and Business Contribution, which has been calculated in accordance with the formula set out in the Lewisham Planning Obligations SPD. The approach seeks an equal amount for each job and dwelling proposed. The contribution for each dwelling and job generated by commercial development is therefore derived by dividing the amount required to operate the scheme by the total number of jobs and dwellings that will be created within the borough to 2025. Based</p>

		<p>commitment of developers, contractors and end users to use local labour by providing apprenticeships, graduate placements/jobs, work experience, work placements, advertising jobs locally and seeking to recruit Lewisham residents into job vacancies; to secure the commitment of developers, contractors and end users to upskill their local workforce, with specific focus on Lewisham residents; and to secure the commitment of developers to engaging with local businesses to ensure that they are best positioned to access contract opportunities through development, regeneration and other end-user routes.</p>	<p>other education and training opportunities in both the construction and end-use phases of the Development through the use of planning obligations.</p> <p>Paragraph 1.1 of Schedule 2 to the S106 Agreement requires the Appellant to pay the Local Labour and Business Contribution to the Council prior to Commencement of the Development.</p> <p>Schedule 5 to the S106 Agreement sets out the general provisions and the requirements for the Approval of the Employment and Skills Construction and Occupation Plans, the Delivery of Local Labour and Business Obligations and the Monitoring and Compliance.</p>	<p>upon the estimated number of new dwellings (1,385) to be created annually as required by the London Plan (FALP 2014) and the number of new jobs required annually (500) as estimated by the Lewisham Business Growth Strategy, each new job and dwelling will require a contribution of £530 towards employment training.</p> <p>The Contribution would be used to support the recruitment of Local Residents into jobs generated by the Development throughout the operational phase of the Development and thus it is considered to fairly and reasonably relate in scale and kind to the Development.</p>
<p>Training, Employment and Business</p>	<p>London Plan Policy E8 (Sector growth opportunities and clusters)</p>	<p>LPP E8 states that employment opportunities for Londoners across a diverse range of sectors should be promoted and supported along with support for the development of business growth</p>	<p>The obligations in Schedule 5 of the S106 Agreement are directly related to the local training</p>	<p>All major developments are required to provide employment and skills opportunities for Local</p>

<p>Strategy (Schedule 5)</p>	<p>London Plan Policy E11 (Skills and opportunities for all)</p> <p>Development Management Policy 11 (Other employment locations - Sites in Town Centres, Local Hubs and other clusters of commercial and/or retail uses)</p> <p>Lewisham Planning Obligations SPD (2015) Section 3.3</p>	<p>and sector-specific opportunities. More specifically, LPP E11 states that development proposals should support employment, skills development, apprenticeships, and other education and training opportunities in both the construction and end-use phases, including through the use of Section 106 obligations where appropriate.</p> <p>DM Policy 11 states that the Council will seek contributions to training and/or local employment schemes where there is loss of local employment as a result of redevelopment or change of use.</p> <p>The Council will secure both financial and non-financial obligations as required. Nonfinancial obligations could include a Local Labour and Business Strategy an monitoring on a monthly basis, as set out in paragraph 3.3.22 of Lewisham Planning Obligations SPD. A Local Labour and Business Strategy will be required to support local people into work by providing employment opportunity-linked training; advertise job opportunities locally 7 days prior to general advertisement; raise awareness of the vast, varied and rewarding career opportunities available in the construction industry and other sectors to local young people in full time education and leading from apprenticeships; detail participation in community events; provide support for local businesses to access developer, contractor and supply chain subcontract and supplier contract opportunities through workshops and events;</p>	<p>and employment opportunities that would arise from the proposed development, and would ensure the capture of these opportunities in accordance with local and London plan policies. The submission and approval of the ESCP and ESOP would set out how the Appellant intends to deliver the various matters required by the Council in relation to the proposed development, included in paragraphs 1.5 and 1.10 of Schedule 5 of the S106 Agreement.</p>	<p>Residents and to meet the employment and apprenticeships targets set out in the SPD. The requirement in the S106 Agreement for the developer to submit the ESCP and ESOP to the Council, to show how the employment and skills objectives would be met is in accordance with Local Plan Policy DM 11, LLP E8, LLP E11 and section 2.2. of Lewisham Planning Obligations SPD.</p> <p>Thus the obligations set out in Schedule 5 are fairly and reasonably related in scale and kind to the Development.</p>
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commit to including suitable local businesses in all project related procurement processes; commit the developer/contractor to use reasonable endeavours to place 50% (in terms of value) of the available supply and service contracts with businesses from the borough; detail employment opportunity-linked training places and associated costs (e.g. licenses, PPE, certification etc); provide construction phasing information and labour forecasting data to the Council, to maximise the job matching process; provide a named contact who is responsible for the delivery of the Local Labour and Business Strategy; make a commitment to include anticipated achievements, on the project, in areas such as new apprenticeship places, continued apprenticeship places (safeguarded), finished apprenticeships, graduates, community involvement activities, 16+ work experience, 14-16 work experience, jobs advertised through the Local Labour and Business Scheme, Job Starts, accredited training places, businesses completing prequalification process, businesses receiving project related invitations to tender and value of contracts secured by local business.

Monitoring will expected to be undertaken in accordance with the requirements detailed on the Council's website and using the monitoring form.

Children's Play Space

Childrens Play Space Contribution of £18,000 (Schedule 2)

<p>London Plan Policy S4 (Play and informal recreation)</p> <p>Core Strategy Policy 12 (Open space and environmental assets)</p> <p>Lewisham Planning Obligations SPD (2015) Section 3.7</p>	<p>LLP S4 states at part B that development proposals for schemes that are likely to be used by children and young people should:</p> <p>1) increase opportunities for play and informal recreation and enable children and young people to be independently mobile;</p> <p>2) for residential developments, incorporate good-quality, accessible play provision for all ages. At least 10 square metres of playspace should be provided per child that:</p> <p>a) provides a stimulating environment; b) can be accessed safely from the street by children and young people independently; c) forms an integral part of the surrounding neighbourhood; d) incorporates trees and/or other forms of greenery; e) is overlooked to enable passive surveillance; f) is not segregated by tenure; 3) incorporate accessible routes for children and young people to existing play provision, schools and youth centres, within the local area, that enable them to play and move around their local neighbourhood safely and independently; 4) for large-scale public realm developments, incorporate incidental play space to make the space more playable; and 5) not result in the net loss of play provision, unless it can be demonstrated that there is no ongoing or future demand. Where published, a borough's play and informal recreation strategy should be used to identify ongoing or future demand for play provision.</p>	<p>The obligations in Schedule 2 of the S106 Agreement are directly related to the Childrens Play Space Contribution of £18,000 as the Development would provide off-site playspace for children of 12+ years old. This Contribution has been calculated in accordance with the formula set out in paragraph 3.7.6 of Lewisham Planning Obligations SPD.</p> <p>Paragraph 1.1 of Schedule 2 to the S106 Agreement requires the Appellant to pay the Play Space Contribution to the Council prior to Commencement of the Development. The Council covenants with the Landowners that they will apply the Play Space Contribution towards Play Space Measures.</p>	<p>All development proposals for schemes that are likely to be used by children and young people should provide well designed children's play space on-site or off-site, in exceptional circumstances, in accordance with the policy requirements. The Development would provide 12+ off-site play facilities, which justifies the Childrens Play Space Contribution, which has been calculated in accordance with the formula set out in the Lewisham Planning Obligations SPD.</p> <p>The Contribution would be used to provide well designed children's play space off-site and will be applied by the Council towards such measures. This is considered to fairly and reasonably relate in scale and kind to the Development.</p>
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CSP 12 states that Council will provide opportunities for sport, recreation, leisure and well-being (amongst others) in recognising the strategic importance of the natural environment and to help mitigate against climate change. This will be achieved partially by maximising opportunities for sport and recreation through well-designed and managed spaces, which take into account the Mayor's Children and Young People's play space requirements in a safe environment.

According to Lewisham Planning Obligations SPD, the Council would prefer developers to, wherever possible, directly provide well designed children's play space on-site in accordance with the policy requirements. Where the Council deems that there are exceptional circumstances and it is not possible for a development to meet children's play space requirements on-site, a financial contribution will be necessary. For both on-site and off-site provision of children's play space, the Council will require commitment from the developer to meeting the maintenance costs to an agreed standard. This payment will be required whether the play space is to be transferred to the Council or retained by the developer or their successor owners.

Professional, Legal and Monitoring Fees

Monitoring Fee of £9,500 and Legal Costs of [TBC]

<p>Paragraph 36 of the Planning Practice Guidance on Planning Obligations</p> <p>Regulation 122 (2A) of the CIL Regulations</p> <p>Lewisham Planning Obligations SPD (2015) Section 6</p>	<p>Paragraph 36 of the Planning Practice Guidance on Planning Obligations has been updated to reflect Regulation 122(2A) and states that local authorities can charge a monitoring fee through a S106 agreement, to cover the cost of monitoring and reporting on the planning obligations within that S106 agreement. Fees can be a fixed percentage of the total value of the financial contributions, or there could be a fixed monetary amount for each obligation. However, in all cases, the monitoring fee must be proportionate and reasonable and reflect the actual cost of monitoring.</p> <p>Under Regulation 122 (2A) of the CIL Regulations 2010 as amended, monitoring fees are exempt from the tests in regulation 122(2) provided that the fees fairly and reasonably relate to the proposed development and do not exceed the local planning authority's estimate of the cost of monitoring the development over the lifetime of the planning obligations which relate to that development.</p> <p>According to the Lewisham Planning Obligations SPD, the Council will charge professional, legal and monitoring fees. Applicants are expected to fully reimburse the Council's legal, professional and monitoring costs associated with drafting, checking and</p>	<p>Schedule 1 of the S106 Agreement requires the Appellant to pay a Monitoring Fee of £9,500 to the Council to be used towards the Council's costs of employing the Monitoring Officer.</p> <p>The Monitoring Fee has been calculated using the formula set out at Table 6.1 – Monitoring Charges of the Lewisham Planning Obligations SPD. Based on Table 6.1 the scheme would provide 30 affordable residential units, which would equate to £6000. In addition, it includes 4 x Type I Clauses (1 x AHUS, 1 x WHMP, 1 x H and T, 1 x PS), which equates to £2000. It also includes 2 x Type II Clauses (1 x LLBS, 1 x ESVR), which equates to £1500.</p> <p>The Monitoring Fee is therefore directly related to the Development and</p>	<p>The Monitoring Fee of £15,000 has been calculated in accordance with the formula set out in the Lewisham Planning Obligations SPD and is considered to fairly and reasonably relate to the cost of monitoring compliance with the planning obligations in the S106 Agreement.</p> <p>Section 6 states that the total monitoring charge will vary depending on the number and complexity of the clauses in the S106 agreement or undertaking and will be based on the Council's reasonable assessment of the likely time required to monitor the S106 agreement or undertaking. Planning obligations will be monitored to ensure that they are undertaken or paid at the agreed dates or trigger points. The spending of received contributions will also be</p>
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		<p>monitoring S106 agreements, and checking and monitoring unilateral undertakings.</p> <p>Section 6 of the Lewisham Planning Obligations SPD goes on to state that applicants will be expected to meet all legal costs associated with the drafting, negotiating, checking and agreeing of a S106 agreement or checking and agreeing a unilateral undertaking.</p>	<p>the financial contributions that would be secured from the Development should planning permission be granted and the appeal scheme carried out.</p> <p>Legal fees are charged at an hourly rate of £207. The total amount per agreement is confirmed once the agreement has been finalised and is ready to be completed.</p>	<p>closely monitored to ensure that they are spent by the Council or other agencies on what was agreed and within the required time period set out in the agreement.</p> <p>The Monitoring Fee is therefore considered to be fair and reasonable and very unlikely to exceed the actual cost to the Council of monitoring the substantial number of planning obligations in the S106 Agreement over the lifetime of the Development.</p> <p>Paragraph 6.17 notes that the monitoring payment, like legal and professional costs, will be required on signing the agreement, which is considered to be reasonable. However, in the event that the agreement or undertaking is not completed where planning permission is refused or where the developer does not proceed with the development or proposal,</p>
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				<p>monitoring fees will not be required.</p> <p>Paragraph 6.8 states that the Council will require an undertaking from the solicitor acting on behalf of the applicant to pay the Council's reasonable legal and professional costs associated with the preparation of the S106 agreement or with approving a unilateral undertaking at the beginning of the process. The legal fees (or balance of legal fees where a payment on account of costs has been made) will be payable at the time of completing the S106 agreement or unilateral undertaking. The Council's full legal fees will also have to be paid in the event of the agreement or undertaking not being completed where planning permission is refused or where the developer does not proceed with the development or proposal, which is considered reasonable.</p>
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Transport

Car Club Strategy (Schedule 8)

<p>London Plan Policy T6.1 (Residential parking)</p> <p>Development Management Policy 29 (Car parking)</p> <p>Lewisham Planning Obligations SPD (2015) Section 3.5</p>	<p>Part D of the LPP T6.1 states that outside of the CAZ, and to cater for infrequent trips, car club spaces may be considered appropriate in lieu of private parking. Any car club spaces should have active charging facilities.</p> <p>DMP 29 states at part 2(e) that car limited major residential development will only be considered where there is inclusion of car clubs, car pooling schemes, cycle clubs and cycle parking and storage, as part of a package of measures mitigating the need for on-site car parking provision.</p> <p>Section 3.5 of the Lewisham Planning Obligations SPD states that where developments are required to deliver infrastructure matters needed to make developments acceptable in planning terms, these matters may be secured through planning obligations. Other transport matters may be dealt with through planning conditions and Section 278 transport agreements. Paragraph 3.5.12 states that on-site matters and those regarding access to the site could include the relocating of bus stops, trees and street furniture, kerbing matters, road crossings and minor junction works. The delivery of these works should be secured through the most appropriate course, be it a S106 obligation or through a S278 agreement.</p>	<p>The obligations in Schedule 8 of the S106 Agreement are directly related to the proposed development.</p> <p>They will ensure the Appellant will submit not later than 6 months prior to Practical Completion the Car Club Strategy to the Council for approval and not Practically Complete the Development unless and until the Car Club Strategy has been submitted to and approved by the Council. The Appellant should implement and comply with the Car Club Strategy as approved by the Council. Not to Occupy or cause or permit or suffer the Occupation of the Development until such time as the Landowners have entered into an agreement for three (3) years with the Car Club Operator that permits Occupiers of the</p>	<p>The obligations in the S106 Agreement fairly and reasonably relate in scale and kind to the proposed development.</p> <p>The site is not located in Controlled Parking Zone (CPZ) and therefore any occupants that will arrive by car will be able to freely park on Willow Way and local roads surrounding the site. Given the proposed development would provide 60 residential units, of which 11 would be three-bedroom units, it is likely that there will be an increase in car ownership in the area. A car club can provide access to occasional or short-term use of a vehicle.</p> <p>It is therefore imperative that the S106 Agreement is sufficiently robust to ensure that a Car Club Strategy would be provided for the residential units of the Appeal Site.</p>
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		Paragraph 3.5.13 states that there may be occasions where a developer may be required to fund other transport infrastructure where the development will have an impact on the local transport network that requires mitigation. In these circumstances, there may be the need for local changes and improvements, such as (but not limited to) enhancements to local highway and freight capacity and quality, public transport infrastructure, bus service capacity enhancements, cycling and walking routes and vehicle management matters (including car parking controls and management and car and cycling clubs).	Dwellings to become members of the Car Club and to provide free Car Club membership for three years unless otherwise agreed in writing with the Council and as paid the Car Club Space Contribution where such a contribution is required to be paid pursuant to the Car Club Strategy as approved by the Council	
Parking Permits (Schedule 6)	<p>Core Strategy Policy 14 (Sustainable movement and transport)</p> <p>Development Management Policy 29 (Car parking)</p> <p>Lewisham Planning Obligations SPD (2015) Section 3.5</p>	<p>CSP 14 states that car free status for new development can only be assured where on-street parking is managed so as to prevent parking demand being displaced from the development onto the street. A controlled parking zone (CPZ) may be implemented where appropriate.</p> <p>DMP 29 states at part 2(b) that car limited major residential development will only be considered where there is no detrimental impact on the provision of on-street parking in the vicinity.</p> <p>Section 3.5 of the Lewisham Planning Obligations SPD states that where developments are required to deliver infrastructure matters needed to make</p>	<p>The obligations in Schedule 6 of the S106 Agreement are directly related to the proposed development.</p> <p>The proposed development would provide car free site, which would stipulate that car parking permits would not be eligible for purchase by any new occupants of the site should a CPZ be implemented within the vicinity of the site with the exception of Blue Badge holders.</p>	<p>The obligations in the S106 Agreement fairly and reasonably relate in scale and kind to the proposed development.</p> <p>The planning obligations reflect the requirements of CSP 14 and the Lewisham Planning Obligations SPD that all new residential units should be permit free. They are required to mitigate the impacts the Development would have on on-street parking within the Borough and are therefore considered to be fairly and reasonably related in scale</p>

developments acceptable in planning terms, these matters may be secured through planning obligations. Other transport matters may be dealt with through planning conditions and Section 278 transport agreements. Paragraph 3.5.12 states that on-site matters and those regarding access to the site could include the relocating of bus stops, trees and street furniture, kerbing matters, road crossings and minor junction works. The delivery of these works should be secured through the most appropriate course, be it a S106 obligation or through a S278 agreement.

Paragraph 3.5.13 states that there may be occasions where a developer may be required to fund other transport infrastructure where the development will have an impact on the local transport network that requires mitigation. In these circumstances, there may be the need for local changes and improvements, such as (but not limited to) enhancements to local highway and freight capacity and quality, public transport infrastructure, bus service capacity enhancements, cycling and walking routes and vehicle management matters (including car parking controls and management and car and cycling clubs).

The S106 Agreement requires that no Occupier shall apply for or hold a parking permit in respect of any Controlled Parking Zone immediately adjoining the Development or any car park owned, controlled or licensed by the Council, in the vicinity of the Land save where an Occupier is or becomes entitled to be a disabled persons badge holder. Additional provisions are included with regards to the parking permits for the holder of a disabled persons badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970.

The obligations reflect the requirements in CSP 14 and the Lewisham Planning Obligations SPD for all new car free residential units in the Borough to be permit free in order to manage traffic congestion within the

and kind to the Development.

It should be noted that the permit free restrictions in the S106 Agreement do not apply to any occupier who holds a disabled person's "blue badge" issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970.

It is therefore imperative that the S106 Agreement is sufficiently robust to ensure that a parking permits would be provided for the residential units of the Appeal Site.

<p>Highway Works Agreement (Schedule 3)</p>	<p>Core Strategy Policy 14 (Sustainable movement and transport)</p> <p>London Plan Policy T4 (Assessing and mitigating transport impacts)</p> <p>Lewisham Planning Obligations SPD (2015) Section 3.5</p>	<p>CSP 14 states that the access and safety of pedestrians and cyclists throughout the borough will be promoted and prioritised. A network of high quality, connected and accessible walking and cycling routes across the borough will be maintained and improved, including Waterlink Way, the South-East London Green Chain, the Thames Path, and new connections throughout the Deptford New Cross area. The Council will work with Transport for London, Network Rail and other partners to ensure the delivery of necessary transport infrastructure, as well as working with adjoining boroughs to address the cumulative impact of development by enabling more effective management of traffic and improving the environment for all users, including pedestrians, cyclists and public transport users.</p> <p>LPP T4 requires all major developments to submit a transport assessment at the application stage. This is used (amongst other things) to identify the types of obligations that should be secured through S106 obligations in order to make the development acceptable. Part B states that transport assessments/statements should be submitted with development proposals to ensure that impacts on the capacity of the transport network (including impacts on pedestrians and the cycle network), at the local, network-wide and strategic level, are fully assessed.</p>	<p>Borough and the supply of on-street parking.</p> <p>The obligations in Schedule 6 of the S106 Agreement are directly related to the proposed development.</p> <p>The Appellant submitted a transport assessment as required by local and London plan policy. This was used by Council officers to identify the site-specific impacts of the Development that would need to be mitigated in order to make the development acceptable in planning terms. These are set out in the definition of “Highway Works” in the S106 Agreement and comprise the following:-</p> <ul style="list-style-type: none"> (a) Resurfacing of the footway along the frontage to provide an even surface (Willow Way); and (b) The provision of a formal crossing point along Willow Way with 	<p>The obligations in the S106 Agreement fairly and reasonably relate in scale and kind to the proposed development. They were identified by the transport assessment as being reasonably required to mitigate the site-specific impacts of the Development, and to secure a policy complaint scheme in relation to transport policies.</p> <p>The S106 Agreement requires the Appellant to enter into a S278 Agreement prior to Commencement of Development and not to occupy the Development until the Section 278 Agreement has been entered into with the Council and the Highway Works have been completed to the satisfaction of the Council.</p>
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Transport assessments should focus on embedding the Healthy Streets Approach within, and in the vicinity of, new development. Part C Where appropriate, mitigation, either through direct provision of public transport, walking and cycling facilities and highways improvements or through financial contributions, will be required to address adverse transport impacts that are identified.

Section 3.5 of the Lewisham Planning Obligations SPD states that where developments are required to deliver infrastructure matters needed to make developments acceptable in planning terms, these matters may be secured through planning obligations. Other transport matters may be dealt with through planning conditions and Section 278 transport agreements. Paragraph 3.5.12 states that on-site matters and those regarding access to the site could include the relocating of bus stops, trees and street furniture, kerbing matters, road crossings and minor junction works. The delivery of these works should be secured through the most appropriate course, be it a S106 obligation or through a S278 agreement.

dropped kerbs and tactile paving.

The above mitigation was identified from the transport assessment and thus is directly related to the proposed Development. The Highway Authority has requested these works to form part of a s278 agreement as they are works which are required to the public highway.

Public Realm

Healthy Streets contribution of £41,400 (Schedule 2)

London Plan Policy T2 (Healthy Streets)

TfL’s Healthy Streets for London (2017)

Lewisham Planning Obligations SPD (2015) Section 3.6

LPP T2 requires Development Plans to promote and demonstrate the application of the Mayor’s Healthy Streets Approach to: improve health and reduce health inequalities; reduce car dominance, ownership and use, road danger, severance, vehicle emissions and noise; increase walking, cycling and public transport use; improve street safety, comfort, convenience and amenity; and support these outcomes through sensitively designed freight facilities. Part D states that Development proposals should: 1) demonstrate how they will deliver improvements that support the ten Healthy Streets Indicators in line with Transport for London guidance; 2) reduce the dominance of vehicles on London’s streets whether stationary or moving and 3) be permeable by foot and cycle and connect.

TfL’s Healthy Streets for London document details TfL’s policies and strategies to help Londoners use cars less and walk, cycle and use public transport more. One of these policies is to create streets that feel pleasant, safe and attractive.

Section 3.6 of the Lewisham Planning Obligations SPD includes a number of types of obligations such as providing high quality public realm, public art, access and connectivity, community safety and impact on surrounding public realm. Paragraph 3.6.21 states that for

The Healthy Streets Contribution of £41,400 is directly related to the Development.

The Appellant submitted a transport assessment as required by local and London plan policy. This was used by Council officers to identify the site-specific impacts of the Development that would need to be mitigated in order to make the development acceptable in planning terms. A proportionate contribution should be paid by the Appellant for/by the Appeal Site. These Healthy Street Measures are set out in the definition of “Healthy Street Measures” in the S106 Agreement and comprise the following:-

- (a) Opportunities to reduce crossing widths.

The Healthy Streets Contribution of £41,400 fairly and reasonably relates in scale and kind to the proposed development. They Healthy Street Measures were identified by the transport assessment as being reasonably required to mitigate the site-specific impacts of the Development, and to secure a policy complaint scheme in relation to transport policies.

The S106 Agreement requires the Appellant to pay 50% of the Healthy Streets Contribution prior to first Occupation the Market Dwellings and the remaining 50% of the Healthy Streets Contribution prior to first Occupation the 31st Market Dwelling.

the types of obligation detailed in this section, it is preferable to the Council for developers to, wherever possible, directly provide necessary improvements and mitigation without the need for financial contributions to the Council. The Council recognises that this may not be possible when it comes to off-site locations, particularly civic spaces. Should the developer intend to undertake direct provision, the proposed approach, detail and delivery of works will need to be approved by the Council and may be secured through a S106 agreement. Where a financial contribution is necessary, this should be based on the cost to the Council of undertaking the necessary works or of engaging a third party to undertake the works. The level of cost should be evidenced by the developer and then submitted for agreement with the Council. Where a financial contribution may be appropriate to support wider regeneration projects, the quantum of contribution will be agreed between the developer and the Council, based on the cost of works required and the amount of development expected to support the project.

- (b) the need for double yellow lines on the western side of Willow Way and
- (c) the impacts of displacement parking for exiting industrial units on the Western side of Willow Way
- (d) more streetlights on Willow Way where appropriate
- (e) signage in the vicinity of the Land to highlight route options and increase the permeability of the area
- (f) benches in the vicinity of the Land
- (g) crossing points with dropped kerbs and tactile paving in the vicinity of the Land
- (h) low-level street planting along Crystal Palace Park Road
- (i) a Zebra crossing on Kirkdaledale near the junction with Sydenham Park including tactile paving, dropped kerbs and resurfacing treatment

			<p>(j) tactile paving and dropped kerbs at crossings on Wells Park Road and the resurfacing the junction with Churchley Road to make it easier and safer to cross.</p> <p>(k) Additional speed limit signs to be provided in suitable positions to alert of the 20mph speed limit.</p> <p>The above measures were identified from the transport assessment and thus is directly related to the proposed Development.</p>	
<p>CPZ Contribution of £15,000 (Schedule 2)</p>	<p>Core Strategy Policy 14 (Sustainable movement and transport)</p> <p>Development Management Policy 1 (Presumption in favour of sustainable development)</p> <p>London Plan Policy T2 (Healthy Streets)</p>	<p>CSP 14 supports sustainable movement and transport that promotes the safety and access of pedestrians and cyclists throughout the borough.</p> <p>DMP 1 stipulates presumption in favour of sustainable development and emphasises that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It further states that the Council will work proactively with applicants to find solutions to secure</p>	<p>The CPZ Contribution of £15,000 is directly related to the Development.</p> <p>There are new sites being developed that are located in areas that are not located in a Controlled Parking Zones (CPZ). This site specifically is located in Upper Sydenham and is not subject to a CPZ. The programme has allocated</p>	<p>The CPZ Contribution of £15,000 fairly and reasonably relates in scale and kind to the proposed development. The Appeal Site is located in Upper Sydenham and is not subject to a CPZ. The programme has allocated this area into Phase 3 of the programme.</p> <p>The S106 Agreement requires the Appellant to</p>

	<p>Sustainable Streets for Lewisham (CD 10.05)</p>	<p>development that improves the economic, social and environmental conditions in the borough.</p> <p>LPP T2 states that development proposals and development plans should deliver patterns of land use that facilitate residents making shorter, regular trips by walking or cycling.</p> <p>As part of the Sustainable Streets programme the whole borough will undergo a phased programme as a tool to encourage active travel. The rise of parking and traffic congestion in the borough has resulted in increasing parking stress and there is a need to help reduce this while also providing measures to increase active travel across the Borough. New developments that are approved across the Borough small or large will have some type of impact in the local vicinity of the site.</p>	<p>this area into Phase 3 of the programme. Specifically, developments that are located in areas with no CPZ (pending on the size of the development) will need to contribute to studies of the programme that will help alleviate parking issues as well as help fund measures towards active travel. The site is located in an area where there is a level of car ownership which would indicate that a proportion of new residents may have the opportunity to own a car and park it locally for free, adding to the parking pressures in the vicinity of the site. The development is directly contributing to the cumulative parking pressure in the area. The programme will investigate and consult the need for a CPZ in this area and if so implement the CPZ. If a CPZ consultation indicated no need for a CPZ the programme will also be</p>	<p>pay the CPZ Contribution to the Council within 12 months of Commencement of Development.</p>
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			<p>exploring alternatives to help drive down car ownership and increase active travel in the vicinity of the site.</p> <p>Therefore, the CPZ Contribution of £15,000 is directly related to the Development.</p>	
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