

London Thames Gateway Development
Corporation

Planning Obligations Community Benefit Strategy Review

Final Report

12 October 2009

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**Planning Obligations
Community Benefit
Strategy Review**

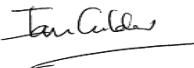
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For and on behalf of
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1 INTRODUCTION

THE STRATEGY

- 1.1 London Thames Gateway Development Corporation (LTGDC) adopted a Planning Obligations Community Benefit Strategy ('The Strategy') in April 2008.
- 1.2 The technical and operational basis for the Strategy was a research study undertaken in 2006 by Environmental Resources Management (ERM) and Christopher Marsh, assisted by Denton Wilde Sapte (DWS). The Final Report of that study, including the technical Annexes, was the subject of public and stakeholder consultation in early 2007. The Strategy itself was the subject of continued consultation, in particular with landowners and developers, local planning authorities and other service providers before it was approved in its final form by the LTGDC Board in April 2008.

THE NEED FOR REVIEW

- 1.3 From the outset, LTGDC has been monitoring the operation of the Strategy. This has included regular liaison meetings with developers and landowners, the Boroughs and the GLA 'family' and other public agencies.
- 1.4 It was always anticipated that the Strategy would need to be reviewed and updated, to ensure that its policies and operational arrangements remain relevant and its evidence base, in particular planned development, infrastructure requirements and development viability are sound and up to date. The principal evidence for the Strategy was compiled in late 2006 and, even without the unexpected and sharp economic downturn in 2007/2008, a review in 2009 would have been appropriate.

SCOPE OF THE REVIEW

- 1.5 In March 2009, LTGDC commissioned the same consultant team which carried out the 2006 study, led by ERM, to undertake the technical review of the Strategy. The consultants have been involved on a continuing basis, since 2006, advising LTGDC during the negotiation of individual planning agreements and in relation to the changing economic and policy context for development. ERM has worked closely with Officers of LTGDC, in particular, John Allen, Director of Planning, to ensure that the LTGDC experience of implementing the Strategy is fully reflected in this report.

1.6 The scope of the Review has embraced the following tasks:

- a review of the planning obligations agreements concluded since the Strategy was implemented, the contributions already received by LTGDC and of the arrangements already in place to allocate the financial contributions, alongside other private and public funding to ensure the timely delivery of social and other community infrastructure;
- a review of the legal and policy context for the Strategy, including the London Plan Alterations, progress with the Local Development Frameworks for the five Boroughs involved, the emerging Legacy Masterplan Framework for the Olympic site as well as the proposals for Community Infrastructure Levy (CIL) and relevant recent appeal decisions;
- an update of the housing capacity and trajectories for the Lower Lea valley and London Riverside;
- preparation of the best available estimates of the amount and costs, at 2009 prices, of providing the community infrastructure required within the LLV and LR areas given the revised housing capacities;
- the preparation of updated benchmark residential and commercial development appraisals, to take account of present and medium term future economic and financial conditions; and
- a review of the operation of the Strategy, including the detailed provisions negotiated in agreements to date to identify revisions or improvements that will ensure that the Strategy and Model Planning Agreement are robust and fit for purpose for the next two years.

1.7 Discussions have taken place with Transport for London, regarding the transport components of the Full Standard Charge. Preliminary results of the Review have been shared with the LTGDC Developer and Landowner Liaison Group, which met on 3 September 2009.

1.8 The ERM team also advises West Northamptonshire and Thurrock Thames Gateway Development Corporations and other local authorities in relation to their planning obligations strategies and policies. Where relevant, experience from these authorities has been applied in the course of this review.

STRUCTURE OF THE REPORT

1.9 The structure of this report is as follows:

- **Section 2** - the application of the Strategy;
- **Section 3** - the legal and policy context for the Review;
- **Section 4** - review of infrastructure costs, housing capacity and the Full Standard Charge (FSC)
- **Section 5** - property market review and residential development appraisals;
- **Section 6**, review of operation of the Strategy and suggested amendments and clarifications; and in
- **Section 7**, conclusions.

1.10 The report includes the following Annexes, bound separately:

- **Annex A:** Review of Development Appraisals; and
- **Annex B:** Residential Development Appraisal Tables.

2 APPLICATION OF THE STRATEGY

INTRODUCTION

- 2.1 This section provides a brief summary of the application of the Strategy to date to provide a context for the Review.

AGREEMENTS CONCLUDED AND IN NEGOTIATION

- 2.2 By 1 September 2009, LTGDC had concluded 11 s106 agreements, of which six are signed, under the terms of the Strategy. The most significant of these are:

- Pura Foods Ltd, Orchard Place, Leamouth North Peninsula, E14;
- 160-188 High Street, Stratford, E15;
- 150 High Street Stratford, E15;
- Minoco Wharf, North Woolwich Road, Silvertown;
- Former site of the Lintons, Linton Road, Barking, Essex (LEGI building/Barking Business Centre); and
- Creative Industries Quarter, 62-96 Abbey Road, Barking, Essex.

- 2.3 Significant non-residential permissions have also been approved since the adoption of the Strategy, including the mixed use components of some of the residential schemes noted above. LTGDC decided, in April 2008, not to implement a 'standard charge' approach for commercial development, although the overall principles of the Strategy have applied to these agreements. The most significant recent commercial and mixed use proposals approved have been:

- Creative Industries Quarter, Abbey Road, Barking;
- Lintons at Barking Business Centre, Linton Road, Barking;
- Lama Petroleum site, Fresh Wharf Estate, Barking;
- 2 Hindmans Way, Dagenham;
- 3 Cam Road, Burford Wharf, Stratford;
- Pura Foods Ltd, Orchard Place, Leamouth North Peninsula;
- Town Square, Clock House Avenue, Barking;
- Crown Wharf, Roach Road, Fish Island; and
- Armada Way, Gallions Reach, Beckton.

- 2.4 Although LTGDC has seen a reduction in the numbers of planning applications submitted, to around 50% of the number submitted in the peak year of 2007/08, developer interest in progressing pre-application discussions, especially in relation to non-residential developments, remains positive. Key projects that are under active negotiation include:

- William Street Quarter, Barking – residential;
- Thames View East – residential;
- Fresh Wharf, Barking – mixed use development;
- Vicarage Field, Barking – shopping centre; and
- Health facility, Stratford High Street.

- 2.5 **Tables 1 and 2, in Annex A,** provide details of recent residential schemes in and close to the LTGDC areas, including those under construction or known to be planned.

FINANCIAL CONTRIBUTIONS SECURED THROUGH STANDARD CHARGE AGREEMENTS

- 2.6 To date, LTGDC has received £3.6 million in financial contributions from s106 agreements of which £1.7 million has been received in relation to the standard charge, excluding in-kind and other specific provisions. These contributions are held in separate 'Pooled Funds' for the Lower Lea Valley (LLV) and London Riverside (LR) areas.
- 2.7 A further £44 million has been negotiated and agreed to be paid into the Pooled Funds, but is yet to be paid, with £15 million in specific contributions.

EXPENDITURE OF S106 FUNDS

- 2.8 Each of the agreements state that any non-specific financial contributions should normally be spent on projects included in the relevant LTGDC Public Sector Investment Plan (PSIP), which is reviewed annually. Although monies from the fund may not immediately be used in the vicinity of the contributing development the objective is that at least the amount of the contribution, together with public funds, will be spent in the area mitigating the impacts of the development.
- 2.9 The LTGDC Board determines which projects should receive funding from the s106 'Pooled Funds', following advice from the Lower Lea Valley and London Riverside Management Groups (as appropriate) and consultation with the Developer and Landowner Liaison Group. LTGDC uses a Project Evaluation Framework to assess the suitability of competing projects for application of the 'Pooled Funds'. This includes an assessment of the availability of 'match' funding from other sources; the likelihood that the project will proceed over the next three years and the extent to which the project will deliver the planning 'vision' for the local area in which it is situated.

CONCLUSIONS

- 2.10 LTGDC continues to develop the application of the Strategy, taking into account changing economic circumstances and priorities, following the principles established in the 2006 Study.
- 2.11 The 2009 Review provides an opportunity to examine the operation of the Strategy and to make or confirm any changes needed to ensure that the Strategy remains a robust delivery tool for use by LTGDC over the next two or three years.

3 LEGAL AND POLICY CONTEXT FOR THE REVIEW

INTRODUCTION

- 3.1 In this section, relevant changes to the legal and policy context of the Strategy since it was adopted, are summarised.

RELEVANT LEGISLATION MADE SINCE ADOPTION OF THE STRATEGY

- 3.2 The Planning Act 2008 introduces the principle of a standardised infrastructure charge in the form of the Community Infrastructure Levy (CIL). The aim of CIL is that the cost of all or part of the cost of specified classes of infrastructure which is necessary to support a development should be met by developers and landowners. Detailed provisions are set out in draft regulations, which are currently out to consultation and expected to come into force in April 2010.
- 3.3 The approach adopted in the 2008 Act and the draft regulations is similar to the approach operated by LTGDC under the Planning Obligations Community Benefit Strategy. However, CIL is less flexible in several material respects, in particular there is no provision for a reduction in the adopted level of CIL to reflect site by site viability issues, and there is no provision to allow works in kind in lieu of CIL.
- 3.4 Details of the charge will be set out in a Charging Schedule which will be prepared by the plan making local planning authority. In the LTGDC area this will be both the Mayor and London Boroughs. The Charging Schedule should be supported by an appropriate evidence base, and will be adopted following public consultation and independent examination. When setting the level of the charge, the local authority must take into account economic viability. It can therefore set different charges for different land uses and for different parts of its area. The charge will also be indexed. CIL applies to developments of more than 100 sq meters of new residential or commercial buildings and will be levied per square metre of new development.
- 3.5 As currently drafted, there is no provision within the draft regulations for a further reduction in CIL below the levels set out in the charging schedule to reflect exceptional viability issues. The Government's consultation guidance document ⁽¹⁾ proposes (but does not favour) in very general terms a number of ways of reducing the CIL liability in such exceptional cases. These alternative approaches would either be time limited, or would impose a claw-back mechanism in the event that the scheme's viability improves.

⁽¹⁾ "Community Infrastructure Levy, Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy, Consultation (July 2009)"

- 3.6 Under the regulations, CIL is payable within 28 days of commencement of the development. Payment liability rests with developers and with land owners who will be jointly and severally liable. Detailed enforcement mechanisms are set out in the draft regulations, and include surcharging, interest on late payments, the issue of stop notices where CIL has not been paid, the exercise of distress, the imposition of charging orders and imprisonment.
- 3.7 A local authority can only use CIL to pay for infrastructure which supports development. That infrastructure may be either within or outside of its area. The payments may also be used to cover infrastructure costs which have already been incurred. The charging authority must also prepare an annual report of its CIL collection and expenditure. Notably, there is no provision in the Act or regulations for repayment of CIL receipts which remain unspent.
- 3.8 Importantly, Section 106 is intended to be cut back alongside the introduction of CIL. As it stands when CIL is introduced the ability to use s106 may be reduced, and there is a proposal that it will specifically be cut back to prevent tariffs after a transition period of 2 years. The Urban Development Corporations (UDCs) as a whole will be making representations asking for there to be specific measures for UDCs.

CHANGES IN NATIONAL POLICY GUIDANCE AND RECENT APPEAL DECISIONS

- 3.9 A revised PPS12 (Local Spatial Planning) was adopted in June 2008. PPS12 advises that core strategies should be supported by evidence of what physical, social and green infrastructure is needed to enable the amount of development proposed for the area. The evidence should also set out who will provide the infrastructure and the timing of its delivery. The Strategy and the supporting evidence provide a large part of what PPS12 requires albeit outside the development plan system.
- 3.10 Since the adoption of the Strategy, the Secretary of State has made a number of appeal decisions, in particular at Godalming, in October 2008, and Dartford, in March 2009, which has dealt with 'standard charge' or 'tariff' provisions. The Godalming decision also considered the basis on which development viability should be assessed and the general approach to viability was considered in a decision in Beverly. Although appeal decisions are not precedents, LTGDC needs to be aware of these, not least because applicants and their advisers will cite them.
- 3.11 The Secretary of State dismissed the Godalming appeal, which concerned a high density residential led mixed use scheme. She agreed with the Inspector that present market values should be the basis for appraisal and that any requirements for on-site affordable housing would make the scheme unviable. The Inspector dismissed the Council's requests for financial contributions to education, indoor sport and additional transport measures on the grounds that there was insufficient evidence that the development would exceed the capacity of the existing services.

- 3.12 The Dartford decision is of more direct relevance to LTGDC. The Secretary of State allowed this appeal for 49 dwellings refusing to support the local authorities' request for contributions. One of the considerations was the Council's interim Kent Thames-side Strategic Transport Tariff Policy, which imposed a flat rate tariff of £5,000 per dwelling. She confirmed that there was a development plan basis for such a tariff policy, in principle, but dismissed its application in this instance principally because the Council had implemented the policy without adequate public and stakeholder consultation and was imposing it as a flat rate per dwelling without alternatives having fully considered or scope for negotiation in respect of the circumstances of a particular site. The Secretary of State gave considerable weight to the Council's failure to test the tariff fully as part of the development plan.
- 3.13 The Dartford case does confirm the need for any 'standard charge' or 'tariff' policy to be supported by robust evidence and subject to proper public consultation. It is clear that a good evidence base is required to justify each element of the contribution and LTGDC needs to consider, on each application, whether each component of the standard charge is properly chargeable. For LTGDC this review takes place in the context that the developer is only being asked to contribute an amount significantly lower than the assessed infrastructure cost. The Beverly case emphasised that the Secretary of State is willing, in the context of affordable housing, to adopt an approach that provides for reviews of the financial ability of development to provide increased levels as the market changes.
- 3.14 The Strategy has followed these principles and the 2009 Review is an opportunity to ensure that the evidence is up to date and that the policy remains relevant under changing economic conditions.

LONDON PLAN REVIEW

- 3.15 Alterations to the London Plan were consolidated in February 2008. The Mayor commenced consultation on the London Plan review in July 2008 with 'Planning for a Better London'. The Mayor is proposing a less rigid approach to affordable housing targets, with greater emphasis on the delivery of more innovative options for low cost home ownership and a better matching of individual schemes to local circumstances. 'Proposals for the Mayor's London Plan' were subject to public consultation in April 2009. This incorporates the Mayor's approach to affordable housing. The priorities for the GLA in terms of planning obligations are to secure funding for Crossrail from qualifying developments, but also affordable housing, climate change, learning and skills, other public transport, health and childcare. CIL is seen as an appropriate tool to deliver cross-Borough initiative.
- 3.16 The draft Alteration to the London Plan for planning obligations and funding Crossrail was subject to formal consultation between May and August 2009. Policy 6A.4 is to be amended to give effect to the revised priorities for planning obligations. Policy 6A.5 promotes, inter alia, the voluntary pooling of contributions for cross-boundary facilities. Policy 6A.5A anticipates the application of CIL, including the preparation of an SPG to make sure that Boroughs adopt a consistent approach to CIL.

ODA LEGACY MASTERPLAN FRAMEWORK AND APPLICATIONS

- 3.17 The LDA published the 'Vision' for the Legacy Masterplan Framework (LMF) in early 2009 and this is due to be followed by confirmation of the Vision and the submission of outline planning application(s) for the LMF developments by the end of 2009. This will provide for the long term development of sites within the Olympic Park that will become available after their temporary use for the Olympics. In total, the LMF applications are likely to provide for 6 to 7,000 dwellings, employment, community and town centre uses.
- 3.18 The development will rely on a reworking, where necessary, of the physical infrastructure provided for the Olympics. The LDA is undertaking transport and social infrastructure studies to support the applications. Most of that infrastructure will be provided within the ODA boundary (which was excluded from consideration in the LTGDC Strategy in 2006), but there may be impacts or provisions necessary within the LTGDC LLV area. This requirement is not yet clear and this 2009 Review has excluded any consideration of such impacts.

PROGRESS WITH RELEVANT BOROUGH LOCAL DEVELOPMENT FRAMEWORKS

Hackney

- 3.19 The Council's Core Strategy Submission draft has been on public consultation in July/August 2009. The Planning Contributions SPD, adopted in 2006, is to be updated in due course.

Newham

- 3.20 The Council consulted on a new Core Strategy Issues and Options report in February 2008 and is preparing a Core Strategy for consultation.

Tower Hamlets

- 3.21 The Council published the Core Strategy: Options and Alternatives for consultation in February 2009, the Core Strategy is due for pre-submission consultation in autumn 2009.
- 3.22 The Council is preparing a Planning Obligations SPD for public consultation in late 2009.

Barking & Dagenham

- 3.23 The Core Strategy and Borough Wide Development Policies are due for Public Examination starting in October 2009. The Barking Town Centre Area Action Plan has been subject to public consultation in June/July 2009.

Havering

- 3.24 The Council's Core Strategy was adopted in July 2008. A Planning Obligations SPD, which is being prepared by ERM, will be subject to public consultation in late 2009.

CONCLUSIONS

- 3.25 The legal and policy context for the review has been examined. In our view, there have been no substantive changes which would require the LTGDC Board to reconsider the Strategy as a whole. The present refinement of the evidence base, with public consultation, provides the type of support for contribution policies that is required. The flexible application of the policy in practice, tailoring it to different developments, makes the operation of the Strategy consistent with present law and guidance.
- 3.26 If implemented the Community Infrastructure Levy may restrict the ability of local planning authorities to use tariffs. The GLA and the Boroughs may decide to implement CIL, but the requirements for such a Levy, including collecting evidence and progressing it through a similar process to that for Development Plan Documents. This means that it will be at least three years and possibly longer before any CIL has been adopted that might affect the LTGDC area.
- 3.27 At present the way in which CIL will operate in UDCs is unclear. As a working assumption, we have assumed that LTGDC will be allowed to continue to use the Strategy.

4 REVIEW OF INFRASTRUCTURE COSTS, HOUSING CAPACITY AND THE FULL STANDARD CHARGE

INTRODUCTION

- 4.1 The amounts and costs of infrastructure used to assess the Full Standard Charge in 2006 have been reviewed and brought up to date. This Review has relied on readily available information from published studies and LTGDC data. Primary research on infrastructure requirements, which would have necessarily have been extensive, has not been undertaken.

PRINCIPLES OF THE FULL STANDARD CHARGE AND THE REVIEW

- 4.2 The Full Standard Charge (FSC) represents the share of the total cost of providing essential infrastructure which is incurred by each individual unit of new development. A review and update of the FSC therefore involves assessing whether there have been any significant changes in either the quantity and cost of infrastructure or the quantities of planned development.
- 4.3 The FSC is calculated for a quantum of development planned to be built at a particular base date. Thus the current FSCs for the two parts (London Riverside and Lower Lea Valley) of the LTGDC area were established in 2006 according to the amount of development that was planned to be built at that time in those areas. As the aim is that the total cost of infrastructure should in principle be shared between all development planned for those areas, any reassessment of the FSC relates to the total planned development starting from the base date.
- 4.4 The update should not, therefore, exclude any development that may have been granted permission or completed since the start date, regardless of whether any contributions have already been raised or infrastructure provided. The infrastructure requirements relate to cumulative impacts e.g. schools, transport, healthcare facilities. Where that infrastructure has yet to be provided, and the cost of that infrastructure has increased, any increased cost should be shared among all of the development the facilities are proposed to support, not just the new development. In effect, this means that the public purse picks up the shortfall from development already permitted or built and new development only pays the proportion of the costs which can be attributed to it.

CALCULATION OF 2006 FULL STANDARD CHARGE

- 4.5 The starting point for the current review is the 2006 calculations of the FSCs for the Lower Lea Valley (LLV) and London Riverside (LR). When the LTGDC Community Benefits Strategy was developed in 2006, it was considered that the scale of anticipated commercial and other non-residential development and potential contribution would not warrant the development of a full contributions strategy for these uses (LTGDC Planning Obligations Community Benefits Strategy, Final Report, ERM, 2006). The FSCs for the

Lower Lea Valley (LLV) and London Riverside (LR) were therefore calculated on the basis of residential development only, and on a per dwelling basis. It was noted that if significant contributions were secured from non residential development then the FSC might need to be reviewed.

- 4.6 The FSC for the LLV related to development in that part of the LLV lying outside the Olympic Development Authority's area. The FSC of £22,600 per dwelling was calculated by dividing the estimated total infrastructure cost of £508.5m by the then planned number of dwellings, 22,500.
- 4.7 The FSC for the LR related to dwellings in that part of the LR lying outside the Barking Riverside development. The latter was excluded as Barking Riverside Ltd are funding all infrastructure in Barking Riverside except strategic highways, public transport, schools and community buildings. However the costs of the latter items were included in the calculation of the FSC. The FSC for the LR of £28,800 per dwelling was calculated by dividing the estimated total infrastructure cost of £670.1m by the planned number of dwellings, 23,300.

SCOPE OF REVIEW

- 4.8 The scope of the 2009 Review has been to:
- review the total number of dwellings likely to be built in the LLV and LR;
 - reassess the type or quantity of infrastructure projected to be required to serve the development; and
 - recalculate the cost of providing the projected types of infrastructure taking account of cost inflation since 2006.
- 4.9 The costs of infrastructure requirements to serve a long term development cannot be precisely estimated. Work is continually ongoing to establish the most cost-effective ways to meet the needs of planned future development. Furthermore the assessment of costs for the 2006 FSCs excluded items for which appropriate costs were not available at that time.
- 4.10 In view of the fluid nature of infrastructure planning it would not be worthwhile or an efficient use of resources to attempt to make a full re-assessment of the costs of meeting the infrastructure needs of the proposed developments in the LLV and LR after two years. The approach adopted here is therefore twofold. The costs for social infrastructure items which are unit based (i.e. the cost varies directly with the number of planned dwellings) are revised according to the latest quantities and unit costs. For other infrastructure items the previous 2006 cost estimates are updated for cost inflation and, in the case of public transport in LLV, adjusted as discussed below. The updated costs are backed as far as possible by supporting evidence of the costs of the types of schemes that are intended to be included within the various elements of the FSC to ensure the resulting cost estimates can be broadly justified.

- 4.11 It should be noted that the calculation of FSCs for the LLV and LR in 2006 was based on data derived from studies undertaken by following different methodologies. There were therefore minor differences in the way some aspects of the charges were built up. Wherever possible, the update seeks to remove those differences.
- 4.12 The current update of the FSC relates, as in 2006, to the LLV excluding the Olympic Delivery Authority (ODA) area, and LR, excluding all costs assignable to Barking Riverside.

REVIEW OF HOUSING TRAJECTORIES AND CAPACITY

Lower Lea Valley

- 4.13 The number of dwellings used to calculate the FSC for the LLV in 2006 was 22,500. However, this was the number of dwellings envisaged in the LLV and Olympic Area Planning Frameworks without planning permission at the time (excluding the ODA area). The total number of planned dwellings in 2006 was 24,300, as given in Table 3.3 of the LTGDC Planning Obligations Community Benefit Strategy Final Report, December 2006. To ensure that any changes in infrastructure costs are not carried disproportionately by development which is still to be permitted, the total number of planned dwellings either with permission after the introduction of the Strategy or without permission is the most appropriate denominator for assessing the total cost burden of each additional dwelling and has been used in the present review.
- 4.14 LTGDC keeps continually updated trajectories of planned housing numbers in its area, based on intelligence gathered from Local Planning Authorities and developers. The latest LTGDC trajectory, prepared in April 2009, for the LLV excluding the Olympic zone, shows a very substantial increase in the number of planned dwellings, from 24,300 in 2006, to around 36,200. The increase arises partly from the identification of additional sites, partly from proposals for increasing density on previously identified sites and partly from more detailed assessments of capacity in areas for which broad estimates only were available in 2006. However, the figure obtained by adding together the capacities of all sites estimated separately is likely to overestimate the potential number of dwellings that may be delivered in total.
- 4.15 A discount factor of 85% has been applied to the total of 36,200 to derive a more realistic capacity of 30,770 dwellings for the whole LLV development excluding the ODA area. It should be noted that a consequence of an increase in the planned dwelling numbers since 2006 is to reduce the share per dwelling of any “fixed” infrastructure costs, i.e. costs of types of infrastructure whose requirements do not vary directly with population. Although 85% may prove to be optimistic, any further reduction in assumed dwelling numbers, using a factor below 85%, would tend to increase the FSC in relative terms.

London Riverside

- 4.16 The number of dwellings used to calculate the FSC for the LR without Barking Riverside in 2006 was 23,300. The latest estimate, contained in the LTGDC London Riverside Delivery and Investment Strategy, May 2008, is 21,470 dwellings. This is adopted for the present review. Given the generally lower densities of development proposed in London Riverside and the more extensive overall area, we are confident that this represents a reasonable capacity and should not be discounted.

REVIEW OF SOCIAL INFRASTRUCTURE REQUIREMENTS AND COSTS

Social Infrastructure Quantities

- 4.17 Although most of the types of social infrastructure contributing to the calculation of the FSC for the LLV and LR were common to both areas, others were not. Both areas covered four levels of schooling (nursery, primary, secondary, and 16+), community centres, libraries (included with community centres for LLV) and leisure centres, police and fire stations and GP health centres. LR also included unspecified cultural services, social care centres and extensions to a court, which were not included in LLV. To avoid confusion and minimise inconsistency between the two areas, the costs of these additional items are not included in the updated build-up of the FSC for either area. They are, however, appropriate items for which funds raised through the standard charge may be spent, in both areas. A further item, swimming pools, is included in the build-up and scope of the FSC for LR, but not for LLV, where its deliberate exclusion was due to the high level of expected swimming provision arising from the Olympic legacy.
- 4.18 **Table 4.1** sets out the estimated social infrastructure quantities for the LLV excluding the ODA area for the present review. The table sets out for each facility the unit by which the requirement has been estimated and the number of units assumed to be required in 2006, as given in Annex C of the LTGDC Planning Obligations Community Benefit Strategy Final Report. The 2006 units are multiplied by 1.27, the ratio of increase between the number of dwellings for which facility requirements were calculated for the 2006 FSC (24,314) and the total number planned in 2009 (30770), to give the estimated units required to meet the updated dwelling numbers, in the final column.

Table 4.1 LLV Social Infrastructure Quantities

Category	Facility	Unit	Units in 2006	Dwelling increase factor	No of units projected, 2009
Education	Nursery	pupils	1080	1.27	1367
	Primary	pupils	5040	1.27	6378
	Secondary	pupils	2700	1.27	3417
	16+/FE	pupils	1080	1.27	1367
Community	Community facilities	m ²	7650	1.27	9681
	Leisure centre	courts	12	1.27	15
Emergency	Police station	m ²	1500	1.27	1898
	Fire station	station	1	1.27	1.3
Health	GP	GP	35	1.27	44

4.19 **Table 4.2** sets out the estimated social infrastructure quantities for LR. It should be noted that the figures exclude the social infrastructure needs of the planned Barking Riverside development.

4.20 **Table 4.2** sets out for each facility the unit by which the requirement has been estimated and the number of units assumed in 2009 to be required to support the development, as given in Appendix E of the London Riverside Delivery and Investment Strategy. As these are based on the dwelling numbers for LR used in this review no adjustment needs to be made to these figures.

Table 4.2 LR Social Infrastructure Quantities

Category	Facility	Unit	No of units projected, 2009
Education	Nursery	pupils	3096
	Primary	pupils	3632
	Secondary	pupils	2299
	16+/FE	pupils	1052
Community	Community facilities	m ²	2818
	Leisure centre	courts	10
	Swimming Pool	5 lane pool	3
	Library	m ²	1061
Emergency	Police station	m ²	2829
	Fire station	m ²	773
Health	GP	GP	27

Social Infrastructure Unit Costs

4.21 The review uses up-to-date unit costs for items of social infrastructure. These are set out, together with their dates, in *Table 4.3*. School costs are taken from the DCSF School Design Guidance cost multiplier, sports facility costs from the Sports England Toolkit, police and fire stations from the Building Cost and Information Service, library costs from the Museums Libraries and Archives South East tariff document and GP health centre costs from a recent example in Havering. National unit costs are subject to locational factors available from BCIS. The factor for LLV, 1.165, is the average of factors for Newham (1.12) and Tower Hamlets (1.21), the main constituent boroughs in the area. The factor for both Havering and Barking is 1.12. As most costs are very recent, cost inflation factors, taken from BCIS, need to be applied to only a few cases.

Table 4.3 LLV and LR Social Infrastructure Unit Costs

Facility	Basic Unit cost (£)	Date	Factor		LLV Unit cost (£)	Factor		LR Unit cost (£)
			Loc	Inf		Loc	Inf	
Nursery	12257	Q4 2008	1.165	1.0	14279	1.12	1.00	13728
Primary	12257	Q4 2008	1.165	1.0	14279	1.12	1.00	13728
Secondary	18469	Q4 2008	1.165	1.0	21516	1.12	1.00	20685
16+/FE	20030	Q4 2008	1.165	1.0	23335	1.12	1.00	22434
Community hall	1693	Q1 2009	1.165	1.0	1973	1.12	1.00	1896
Leisure centre	691250	Q2 2008	1.165	1.0	805306	1.12	1.00	774200
Swimming Pool	2.67m	Q2 2008	-	-	-	1.12	1.00	2990400
Library	2987	Q1 2007	-	-	-	1.12	1.03	3436
Police station	2066	Q1 2009	1.165	1.0	2407	1.12	1.00	2314
Fire station	1975	Q2 2006	1	1.036	3108000	1.12	1.00	2212
GP	775000	Q2 2007	1.04	1.0	806000	1.00	1.00	775000

Social Infrastructure Total and per Dwelling Costs

4.22 **Table 4.4** sets out the total cost of each type of infrastructure required to serve the planned number of dwellings in LLV and LR, obtained by multiplying the quantities and unit costs in previous tables. The total for each type of infrastructure is then divided by the number of planned dwellings in each area to give the per dwelling cost for that type of infrastructure.

Table 4.4 LLV and LR Total and per Dwelling Social Infrastructure Costs

Facility	Lower Lea Valley		London Riverside	
	Total cost (£m)	Cost per dw (£)	Total cost (£m)	Cost per dw (£)
Nursery	20	634	43	1980
Primary	91	2960	50	2322
Secondary	74	2389	48	2215
16+/FE	32	1037	24	1099
Community hall/library	19	621	10	667
Leisure centre	12	397	9	418
Swimming Pool	-	-	8	388
Police station	5	148	7	334
Fire station	4	128	2	91
GP	36	1160	23	1086
Total	292	9475	224	10600

OTHER TYPES OF INFRASTRUCTURE

Infrastructure Covered

4.23 The 2006 FSCs for non-social infrastructure for LLV and LR were compiled in different ways. The broad categories of infrastructure covered in one or both the areas comprised:

- remediation and site clearance;
- flood protection;
- utilities;
- highways and bridges;
- public transport; and
- public realm, open space and watercourses.

4.24 The coverage of these categories for each area in 2006 is discussed in the following sections.

Remediation and Site Clearance

4.25 In both areas, this includes demolition, site clearance and remodelling, and decontamination. While normally the responsibility of developers, because of the nature of land in the LTGDC area, these costs are treated as abnormal in that they are above normal site preparation costs, and potentially falling to the public authorities.

Flood Protection

- 4.26 The LLV FSC did not include a specific element for flood relief, although this item was included in the LR FSC. However, the costs in London Riverside were based on requirements for flood protection of individual sites (rather than on strategic needs) and it was assumed that this element of flood protection was included in the remediation costs for LLV. Costs for strategic flood protection measures were not included.

Utilities

- 4.27 The FSCs for both LLV and LR covered costs of providing energy, gas, water, waste water drainage, telecommunications and waste management. Most development should bear the cost of utilities but it was recognised that the public sector might need to forward fund/pay for some strengthening of the infrastructure, for example, decentralised energy distribution networks, in order to encourage development.

Highways and Bridges

- 4.28 The FSC for the LLV included the costs of providing a range of internal road and pedestrian connections, especially bridges linking the two sides of the River Lea and a new north-south spine road. However, it did not include shares of improvements to the sub-regional highway network that would serve the area. The FSC for the LR, which covers a wider area, was more comprehensive in this respect.

Public Transport

- 4.29 The FSC for the LLV did not include the costs of public transport provision. The DLR extension to Stratford was excluded on the basis that funding by the ODA was committed. The FSC for the LR included a number of major public transport schemes for rail and bus improvements serving the area, including the East London Transit and the DLR extension.

Public Realm, Open Space and Watercourses

- 4.30 Both FSCs included costs for unspecified amounts of green infrastructure, watercourse and public realm improvement. It is assumed that this included allowances for playing fields (specified in LR) and playspace.

Changes to Requirements and Costs

- 4.31 It has to be recognised that although the costs that were estimated in 2006 were the best available at the time, they were inevitably based on a large number of assumptions about future requirements and how these might be met. However, it is clearly impractical to undertake a full costing exercise that would derive a new set of costs to replace those prepared in 2006. While there are aspects for which more up-to-date information is available than in 2006, it is not a straightforward matter to determine the effect of such data on the overall cost build-up. This is because, in many cases, the new project does not directly replace any of the 2006 projects and if it does there is often not an identifiable separate cost for the project replaced.

- 4.32 The approach adopted generally for the 2009 Review has been to take the 2006 costs as still valid and to apply a cost inflation rate to them, but where possible to demonstrate that whatever new cost evidence exists tends to support the uplifted cost level. In some cases, this approach may indicate that the adjusted cost figure is a substantial under-estimate of the likely level of full cost.
- 4.33 In the case of LLV, where there is a substantial increase in planned dwelling numbers, a corresponding increase may be expected in requirements for and costs of some items of non-social infrastructure, such as public transport, utilities, open space. However, it is unlikely that the requirement would increase in proportion to the increase in dwelling numbers. There would be a need, rather, to provide for increased intensity of use of infrastructure already planned. It is not practicable to assess by how much the costs of different types of infrastructure should be increased for this purpose. It should therefore be borne in mind that the “other infrastructure” element of the FSC for the LLV is set at a minimum level and would almost certainly be significantly higher if the relevant costs had been available.
- 4.34 The infrastructure costs used in calculating the 2006 FSCs were at Q2 2006 prices. The BCIS Public Sector Tender Price Index rose by a factor of 1.036 between Q2 2006 and Q4 2008. The index decreased substantially between Q2 2008 and Q2 2009 but the current low level is unlikely to represent its future trajectory and the Q4 2008 level is taken as more realistic. **Table 4.5** shows the total cost of each infrastructure category within the 2006 FSCs for LLV and LR and the 2009 level implied by the adopted cost inflation rate. For each area it also shows the cost per dwelling.

Table 4.5 LLV and LR Total and Per Dwelling Other Infrastructure Costs

Category	Inflation factor	LLV			LR		
		2006 cost (£m)	2009 cost (£m)	Cost per dw (£)	2006 cost (£m)	2009 cost (£m)	Cost per dw (£)
Remediation and site clearance	1.036	89.0	92.2	2997	44.2	45.8	2133
Floor protection					66.6	69.0	3214
Utilities	1.036	133.0	137.8	4478	60.9	63.1	2939
Highways and bridges	1.036	76.5	79.3	2576	78.5	81.3	3788
Public transport			30.8	1000	83.3	86.3	4020
Public realm, open space, watercourses	1.036	54.5	56.5	1835	76.3	79.0	3682
Total			396.5	12885		424.6	19774

4.35 The following sections discuss the likelihood that the total costs in each of the categories for each area will reach at least the levels indicated in **Table 4.5**.

Remediation and Site Clearance

4.36 No further comprehensive assessments have been undertaken on this element since 2006 and there is no reason to assume that the overall cost has changed or that the figures in **Table 4.5** are not appropriate.

Flood Protection

4.37 In both the LLV and LR the costs of flood relief were estimated on an individual site basis. However, the major efforts in the LTGDC area will comprise strategic measures within the framework of the Environment Agency's Thames 2100 project. The latter, however, has not yet advanced sufficiently for selected schemes to be identified and costed. It is highly likely that the costs of flood protection will be substantially higher than are allowed for in **Table 4.5**.

Utilities

4.38 The 2006 FSC included standard utility items, together with, in the case of LR, an allowance for Sustainable Urban Drainage. However, it did not allow for other green measures such as Combined Heat and Power, which are planned for provision in the area. The updated figure therefore represents a conservative estimate of total costs.

Highways and Bridges

4.39 In the LLV there have been changes to the composition of the highway projects contributing to the 2006 cost build-up, in particular the abandonment of the north-south spine road, whose function has been taken over by other schemes. Numerous interventions related to the A12 are currently under investigation, some significant in scale, but none has yet been selected or costed. Further medium and long-term projects at least partially serving LLV may emerge as a result of work on the Mayor's Transport Strategy, river crossings and the East London Regional Transport Plan. As the 2006 FSC

covered mainly internal road links and included very limited strategic road links and connections, it is likely that the total cost for Highways and Bridges to serve the LLV as given in **Table 4.5** will be exceeded in practice.

- 4.40 In LR, the projects contributing to the 2006 FSC have not changed significantly. It is therefore reasonable to accept the 2006 costs updated for inflation.

Public Transport

- 4.41 The 2006 FSC for LLV did not include provision for public transport, beyond improving accessibility to rail stations, etc. LTGDC's LLV Bus Study, July 2009, recommends a bus route option costing £1.5m, probably extending eventually to a long term scheme at £6.4m. This will not meet all the bus needs of the area, however, and TfL have suggested that a rate of £1,000 per dwelling should be applied to pay for the provision of new bus services in the area, based on research undertaken in Barking. A range of additional rail projects is under consideration, including major improvements to Bromley-by-Bow station, DLR station access improvements, and an additional entrance to West Ham station. As these are likely to involve a very substantial cost there is a strong case for adding an item for public transport in LLV, at least equal to the £1,000 per dwelling figure for buses suggested by TfL, as shown in **Table 4.5**.

- 4.42 In LR, the specific projects contributing to the 2006 FSC have not changed significantly. There have been variations in the estimated costings for some of these projects, with some increasing (Barking Station interchange/upgrade up £11m) and some decreasing (New Beam Park Station down £11m). More significantly, some projects for which costs were not available or for which only limited costs were allowed in 2006 have now been given very substantial estimated costs. These include the DLR extension to Dagenham Dock, which will serve the LR outside Barking Riverside as well as Barking Riverside, and enhancements to the C2C line, which will serve external areas as well as LR without Barking Riverside. In principle, therefore, a share of these additional costs should be included within the LR FSC, but at present there is insufficient information for an appropriate share to be determined. However, this indicates that the updated FSC in **Table 4.5** is likely to represent a conservative and incomplete estimate, with the real figure significantly higher.

Public Realm, Open Space and Watercourses

- 4.43 No further comprehensive assessments have been undertaken on this element since 2006. In the LLV, the updated cost of the Lower Lea Valley Park (Fatwalk) is £14m although the 2006 estimated cost is not identifiable. There is no reason to assume the overall cost has changed in either area or that the figures in *Table 4.5* are not appropriate.

CONCLUSIONS ON FULL STANDARD CHARGE

4.44 The FSC comprises the sum of the total costs per dwelling for social infrastructure and other infrastructure from **Tables 4.4** and **4.5** respectively, as shown in **Table 4.6**.

Table 4.6 Total Infrastructure Cost and Full Standard Charge Per Dwelling

Category	Lower Lea Valley		London Riverside	
	Total cost (£m)	Cost per dw (£)	2009 cost (£m)	Cost per dw (£)
Social infrastructure	291.5	9,500	227.6	10,600
Other infrastructure	396.5	12,900	424.6	19,800
Total (2009)	688.0	22,400	652.1	30,400
<i>Total (2006)</i>		<i>22,600</i>		<i>28,800</i>

4.45 The FSC for the Lower Lea Valley is estimated at £22,400 and the FSC for London Riverside at £30,400. These figures are not substantially different from the 2006 figures of £22,600 and £28,800 respectively. The FSCs are, in our view, robust and should be adopted by LTGDC in any revision to the Strategy.

4.46 It should be borne in mind that in both areas a number of the infrastructure elements, especially flood protection and public transport, have been subject to conservative assumptions. The FSC does not include an amount for the cost of land associated with providing the public infrastructure. Although the FSC does not take account of the levels of public funding likely to be available, our view is that, in any case, the FSC significantly underestimates the likely gross full cost of the infrastructure required to support development.

5 PROPERTY MARKET REVIEW, RESIDENTIAL AND COMMERCIAL DEVELOPMENT APPRAISALS

INTRODUCTION

- 5.1 The development appraisals published in the 2006 Study were updated, but not published, before the Strategy was adopted in April 2008. The 2009 Review provides an opportunity to re-examine the viability of residential and commercial development in the LTGDC areas, taking account of the economic downturn, changes in costs and development values and also emerging policy responses, particularly in relation to affordable housing.

RESIDENTIAL DEVELOPMENT APPRAISALS AND COMMERCIAL DEVELOPMENT PROSPECTS

- 5.2 A detailed Review of Development Appraisals is provided in *Annex A*, with the full tables in *Annex B*. These have considered a wider range of residential development scenarios than in 2006, in particular:
- affordable housing requirements at 25%, 35% and 50%;
 - variable tenure splits for affordable housing, assuming social housing grant is available, at 70:30 Social Rented to Intermediate Housing, but also 60:40;
 - taking account of the banking pressures, which lead developers to need to be able to demonstrate higher profit margins;
 - taking account of the Code for Sustainable Homes; and
 - examining the resulting development surpluses against typical Existing Use Values in the LTGDC area, since the majority of development sites have been previously developed and have a value in their existing use.
- 5.3 The valuations for residential development have tested 'standard charges' for planning obligations of £6,000, £10,000 and £12,000 per dwelling.
- 5.4 These appraisals are standardised and are not intended to take account of exceptional costs that may arise on particular sites. They do however provide 'benchmark' values which are a robust way of testing the potential for residential development to afford planning obligations.
- 5.5 The Strategy provides for applicants to submit specific development appraisals where they consider that circumstances are exceptional, such that the Discounted Standard Charge and affordable housing requirements cannot be met.
- 5.6 LTGDC considers this, on their merits, as part of the negotiation of individual s106 agreements.

CONCLUSIONS

5.7 The key conclusions from the up to date development appraisals are:

- The adopted Strategy in terms of infrastructure contributions, namely £6,000 per residential units in the London Riverside area and £10,000 per unit in the Lower Lea Valley area will continue to be deliverable in many cases where higher residential sales coincide with lower Existing Use Values. Indeed, higher figures may be possible in a minority of cases and certainly, potentially on those schemes phased over an extended period.
- Until there is significant improvement in sales values, affordable housing provision in excess of 35% will be rare, albeit any shift in tenure split towards intermediate tenures will slightly improve prospects.
- We have reconsidered the position on non-residential developments but in the light of the difficulties of the last two years and in particular the sharp softening in property yields, we cannot recommend a 'standard' approach to commercial developments and infrastructure contributions, which will need to continue to be considered on a site specific basis.
- As is normal practice, the modelling does not take account of exceptional development costs, which may occur on particular sites, such as demolition of large structures or remediation on contaminated sites.

5.8 As such, there will continue to be cases where site specific financial circumstances will need to be taken account of in determining planning decisions. LTGDC will have to continue to be flexible about the application of the Strategy to individual sites.

6 OPERATION OF THE STRATEGY

INTRODUCTION

- 6.1 The ERM Team, in conjunction with the LTGDC officers, has reviewed the detailed operation of the Strategy, in the light of the economic and policy context, the updating of the infrastructure cost estimates and of development viability. This section summarises our findings and identifies amendments and clarifications to the Strategy that should be considered.

HOUSING CAPACITY AND TRAJECTORIES

- 6.2 We have reviewed the likely housing capacities of both the LLV and LR areas, using the April 2009 housing trajectory data base maintained by LTGDC. There has been a significant increase in the anticipated housing capacity of the LLV since 2006. We believe, for a number of reasons, that the LTGDC capacity estimate for LLV is unlikely to be achieved, except possibly in the very long term, but, being cautious, have only reduced it by a factor of 15%.
- 6.3 The capacity estimate in the London Riverside DIS is confirmed by the LTGDC database and is very close to the 2006 estimate.
- 6.4 The likely timetable for housing delivery in both LLV and LR will change as housing market conditions alter but, since the infrastructure requirements and costs effectively provide for the whole of that capacity, the uncertainty about development timing does affect the robustness of the update.

COMMERCIAL DEVELOPMENT PROSPECTS

- 6.5 We have reviewed commercial development prospects in the LLV and LR and have concluded that while these remain surprisingly buoyant at present in terms of development activity, values remain modest and our advice to LTGDC is that commercial development should continue to be excluded from the standard charge arrangements and that s106 obligations for commercial development should continue to be negotiated on an application by application basis. We have considered whether an allowance should be made in the assessed infrastructure costs for the infrastructure that is needed as a consequence of commercial development. Our view is that the allowance would be marginal. We recommend that the present practice, of committing in agreements to review the FSC for commercial developments, is the most practicable way of addressing this issue.

CONFIRMATION OF REVISED FULL STANDARD CHARGE

- 6.6 As in the 2006 Study, the Full Standard Charge has been assessed based on the total housing capacity.
- 6.7 The costs have been updated to Q4 2008 and this is seen as a realistic price base for 2009 looking forward to 2010.
- 6.8 The revised Full Standard Charge to be used in the Strategy are £22,400 per dwelling in the LLV and £30,400 in LR.

THE CALCULATION OF DISCOUNTED AND FULL STANDARD CHARGES ON A PER DWELLING BASIS

- 6.9 Standard Charges were set in 2006 on a per dwelling basis. This is consistent with the approach adopted by the Milton Keynes Partnership, Thurrock Thames Gateway and West Northamptonshire Development Corporations, as well as a number of other local planning authorities.
- 6.10 Certain applicants and Planning Inspectors in recent appeal decisions have taken the view that it would be more appropriate to assess standard charges or individual service by service tariff contributions based either on dwelling size or floor space. This is the practice of certain local planning authorities, particularly in relation to education contributions.
- 6.11 In our view, there remain four reasons why it would not be appropriate to depart from the per dwelling basis used in the adopted Strategy:
- there are no reliable estimates of either floorspace or dwelling size (measured in bedrooms or habitable rooms) for the housing proposed over the twenty or more years it will take to deliver the total amount of housing in the capacity estimates;
 - The Full Standard Charge is an assessment of the costs of a 'bundle' of services and, except for education, the relationship between dwelling size and service costs is complicated and there is limited evidence that justifies an alternative approach;
 - LTGDC and other planning authorities are actively promoting the provision of a mix of appropriately sized dwellings to ensure that balanced sustainable communities are created. Although unlikely to be a major factor in applicants' decisions about dwelling size or mix, a per dwelling charge will, if anything, encourage the provision of larger family dwellings and discourage the provision of too many small dwellings; and
 - The application of a discount to the Full Standard Charge accepts that there is likely to be a need for significant public funding for infrastructure. As a matter of policy LTGDC wish to give priority to family and larger housing units so, even if the FSC were to distinguish between sizes of dwelling, the LTGDC would be seeking to recover a greater percentage of the costs from smaller units.;

- 6.12 We have reviewed the other possible approaches to allocating costs (e.g. per bedroom, floorspace, per habitable room etc). Since, on most sites, a mix of sizes of unit will be provided on that site, any differences from applying, for example, a per bedroom approach rather than a per dwelling approach will be small as a result of averaging. In any event, the FSC significantly exceeds the proposed Discounted Standard Charge. Given the mechanisms in the Strategy there is limited, if any, prospect that any development will be required to pay a figure higher than the infrastructure cost, whichever measure is used to allocate costs.

SETTING THE LEVEL OF DISCOUNTED STANDARD CHARGES

- 6.13 The review of the property market and the residential development appraisals, in Section 5 and the Annexes, have explored changes that have taken place in development costs and values since 2006 and have examined, in particular, the effects of altering the assumptions about developers profit margins and affordable housing requirements.
- 6.14 Taking all of this analysis into account and considering the progress being made in recent negotiations with applicants, we would suggest that there is no strong evidence that LTGDC should revise the present levels of 'benchmark' Discounted Standard Charge, which are £10,000 per dwelling in the LLV and £6,000 per dwelling in LR.
- 6.15 These are, we believe, entirely sustainable in relation to the majority of housing developments of the scale and duration anticipated in the LTGDC areas. LTGDC must, as it already does, continue to consider each planning application on its merits and the Strategy provides for the submission and verification of site-specific development appraisal by applicants who consider that their application would not be viable if the Discounted Standard Charge were to apply in the 'standard' form envisaged in the Strategy. As noted above this means that the LTGDC should consider not only the overall level of the Charge but, in principle, whether each of the component elements of the FSC relate to the development. Our view, given the limited geographical areas, is that it is likely that all elements of the infrastructure cost relate to each development but this should be confirmed when determining applications.

FLEXIBILITY IN THE APPLICATION OF THE DISCOUNTED STANDARD CHARGE

- 6.16 The Strategy (and the Model Agreement) already makes provision for three options that applicants may choose for a Deferred Standard Charge, where this arrangement has been justified by appraisal and accepted by LTGDC. These are usually called the Deferred Charge, Fixed Deferred Charge and the Prevailing Discounted Standard Charge.
- 6.17 Deferred Standard Charges are normally only required by LTGDC in relation to schemes of 101 dwellings or more and only applies in relation to dwellings completed more than three years after grant of permission.

- 6.18 To date, all agreements concluded with a Deferred Standard Charge have adopted the simple Deferred Charge model, which is based on a matrix of banded average sales values achieved with a related level of Deferred Charge. The basic principle is that the Strategy assumes that units will achieve a (hypothetical) low sales value for a unit, and therefore permits a discount on the FSC to avoid stifling development. If actual prices (based on sales in the preceding calendar year) move significantly above that hypothetical sales value, then the level discount on the FSC is no longer justified. The development is able to support an increased proportion of the FSC, and the difference between the discount and the increased proportion of the FSC is paid as a Deferred Charge. The matrix is designed to be capped so that the overall charge paid cannot exceed the Full Standard Charge at the time the agreement is made. Allowances are made to address the need for a review of the FSC if there is, for example, a significant level of public funding for infrastructure or major unanticipated commercial contributions. The principles of this agreement are robust and have been accepted by applicants.
- 6.19 Our up to date development appraisal and recent agreements suggest that there is no strong case for altering the price bands and the amount of Deferred Charge payable although elements of the model agreement should be refined to address practical issues that have been identified. In particular, it has become normal practice to exclude the affordable housing element of schemes from the arrangement for payment of Deferred Charges.
- 6.20 LTGDC has already accepted, in relation to specific agreements, a higher level of average sales value at which the lowest band applies than that set out in the Model Agreement, where this has been justified by appraisal. A reduced number of bands have also been accepted in specific agreements. LTGDC must retain this discretion to alter these arrangements where justified in particular circumstances.
- 6.21 Applicants have suggested in relation to several recent applications that they believe that there is a strong case, in the present market, for adopting what can be called the Phased Reappraisal of Standard Charge. This would allow the applicant to submit a new development appraisal just prior to the submission of reserved matters for each later phase of development a new development appraisal justifying an appropriate level of Standard Charge to be payable in respect of that phase. The Discounted Standard Charge payable in respect of the first phase or phases to be built in the first three years would be fixed, as at present.
- 6.22 We recognises that such an arrangement is logical and has already been applied where there are parallel provision for varying the tenure or amount of affordable housing to be delivered in later phases.
- 6.23 Our experience of Phased Reappraisal as applied elsewhere suggests that it:
- is necessarily resource intensive in terms of negotiation and review of appraisals;
 - needs to be concluded on a minimum payment, upwards only arrangement;

- is likely to lead to difficult to resolve disputes unless, for example, the share of site-wide infrastructure costs to be borne by each phase is defined in the agreement; and
- does require other components of the future reappraisal to be defined in the main agreement.

6.24 From the perspective of the LTGDC as planning authority, Phased Reappraisal will lessen the certainty about the amount of charges that will be receivable, but if restricted as proposed in para 6.21, the level of certainty is not significantly less than under the 'sale value' Deferred Charge.

6.25 Our advice to LTGDC is that the Phased Reappraisal arrangement should continue to be treated as a 'last resort' which may be entertained where the applicant provides a cogent argument why the 'standard' Deferred Charge should not apply.

WORKS-IN-KIND OR OFFSETS

6.26 The Strategy allows for works-in-kind undertaken by the applicant on-site to be offset against the Discounted Standard Charge, where the works concerned are agreed to be an investment priority. Potential offsets include on-site provision of community and health facilities, education provision and green infrastructure. Acceptance of any offset is at the discretion of LTGDC, since the priorities for investment must continue to be set by LTGDC in consultation with the stakeholders.

6.27 Works-in-Kind are normally only offset against the Standard Charge which is due after the Works-in-Kind have been completed. This means that the DSC is paid in full at the outset, and then is abated/waived once the Works-in-Kind have been provided. If these works are essential prior to occupation of the development, an offset may be agreed in relation to the initial Standard Charge payment.

6.28 We believe that these arrangements are working satisfactorily and do not need to be amended.

LONG STOP DATES

6.29 The Model Agreement provides for a 'long stop date' of 10 years for implementation, otherwise the Discounted Standard Charge becomes payable for all permitted residential units. Where a Deferred Charge arrangement is in place, the level of charge payable at the 'long stop date' is normally assessed on the basis of the sales value of units averaged throughout the life of the development.

6.30 LTGDC should review the arrangements on Long Stop Dates for Deferred Charges. There is a need to ensure that development after the long stop date pays, but there are recognised funding difficulties with requiring payment for a contingent amount on un-built homes. Other options should be explored in consultation with the industry.

DESIGN QUALITY

- 6.31 Applicants are required to:
- make provision for housing to be constructed to the relevant levels in the Code for Sustainable Homes;
 - provide and maintain public areas, including open space; and
 - meet design and construction standards set by the Mayor of London in the London Housing Design Guide and borough level guidance.
- 6.32 These are all aspects of high quality urban design and implementation required by LTGDC and acknowledged by applicants.
- 6.33 All of these requirements are integral to 'good planning' and are required to be met by applicants outside any agreement in relation to the payment of Standard Charges. We see no reason why the Strategy needs to be amended in these respects.

AFFORDABLE HOUSING

- 6.34 Two trends have emerged more positively since the Strategy was adopted:
- The Mayor has through the Housing Strategy and in relation to individual applications recognised the merits of taking a more flexible approach to affordable housing requirements, to reflect local housing needs, changes in affordable housing provision arrangements and other local planning circumstances; and
 - The Government, through the Homes and Communities Agency, has been looking to sustain affordable housing provision through the economic downturn and explore a wider variety of ways to secure 'value for money' through the public funding element of affordable housing provision.
- 6.35 It is for these reasons that our development appraisals, in *Section 5* and the Annexes, have considered a wider range of assumptions, varying affordable housing levels from 25% to 50% and the mix of tenures from 70:30 Social rented to Intermediate tenures to a ratio of 60:40, which may be more appropriate in the market over the next few years.
- 6.36 LTGDC has already embraced these variations and, where justified on viability or 'good planning' grounds, other solutions in agreements already concluded. Our appraisal demonstrates that there will be circumstances where LTGDC can, in particular cases, achieve the optimal balance between securing appropriate levels of contributions towards community infrastructure, while also achieving the most appropriate amount and types of affordable housing.
- 6.37 Certain agreements have already included provisions for Phased Reappraisals, where, in parallel, the agreement allows for reconsideration of the affordable housing provision in later phases.

- 6.38 These arrangements have the capacity to work satisfactorily and we would recommend that the Strategy is amended to reflect the approach that LTGDC has, in practice, already adopted in particular cases.

PUBLIC FUNDING

- 6.39 One criticism of the Strategy has been that it assumes no public funding in calculating the FSC. In practice the DSC is set at a level at which it is highly unlikely that public funding would ever exceed the difference between FSC and DSC. However, there is a risk that public funding might, in future, affect the FSC. If deferred charges are paid then there is a marginal but greater risk that they will reach a level close to an FSC, reduced to take account of public funding. Accordingly provision is included in the model agreement for repayment of contributions should the FSC be reduced.
- 6.40 In practice this is unlikely to be triggered and we suggest that the approach should be reviewed so that, within each agreement, this issue is addressed part way through the build out. If there is a genuine risk at that point that the deferred charges will exceed a reduced FSC then the amounts required to be paid can be revisited. Clearly, this would be in the context of an ability of the development to pay an initial amount significantly higher than the normal Discounted Standard Charge.

CONCLUSIONS

- 6.41 We have reviewed the operation of the Strategy and concluded that it remains fundamentally robust. We have updated the estimates for the Full Standard Charge to 2009 and have concluded that the 'benchmark' levels of Discounted Standard Charge set in 2008 should not be changed. We are proposing minor revisions to the Strategy to take account of changes in economic conditions and the policy context.

7 CONCLUSIONS

- 7.1 LTGDC commissioned ERM in March 2009 to undertake a technical review of the Planning Obligations Community Benefit Strategy, in particular, to update the infrastructure costs evidence and provide up to date illustrative development appraisals.
- 7.2 In conjunction with Officers of LTGDC and Denton Wilde Sapte, we have also reviewed the operation of the Strategy.
- 7.3 Based on available infrastructure cost information and an updated assessment of housing capacity, revised estimates of the Full Standard Charge, of £22,400 in LLV and £30,400 in LR, are proposed. Since there are still certain items of necessary infrastructure that will require public funding for which there are no reliable cost estimates, these values for the FSC are conservative.
- 7.4 Residential development appraisals, employing wider range of assumptions than were used in 2006 to reflect changes in the economy and the policy context have been prepared. While these are necessarily illustrative, they support our conclusion that the 'benchmark' levels of the discounted Standard Charge should remain unaltered, at £10,000 per dwelling for the LLV and £6,000 per dwelling for LR. LTGDC, in the adopted Strategy, concluded that it was not appropriate to devise Standard Charges for different forms of commercial development and that planning obligations for commercial developments should be negotiated on a case by case basis. The review confirms that this arrangement should continue.
- 7.5 Operation of the Strategy has been reviewed, drawing on recent agreements and continuing negotiations. In particular, arrangements for the flexible application of Deferred Charges and affordable housing requirements which have evolved to take account of the economic downturn should be explicitly recognised in minor amendments to the Strategy.
- 7.6 LTGDC has established good working relationships with developers and landowners, the GLA and planning authorities as well as a wide range of service providers in the development and implementation of the Strategy. The minor revisions to the Strategy and this Review should be subject to formal public consultation, before the Revised Strategy is considered for adoption by the LTGDC Board.

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