

## FOREWORD FROM THE CHAIRMAN

London Thames Gateway Development Corporation is taking another step forward to secure the sustainable regeneration of east London with the review of this Planning Obligations Community Benefit Strategy. Adopted in March 2008, the Corporation believes now is the right time to review the operation of the Strategy and the level of the charges, in light of its initial period of operation and in relation to the changing economic climate. This document sets out the Corporation's proposed revised approach to planning obligations.

The Development Corporation was established to lead the renewal of two key London locations - Lower Lea Valley and London Riverside - and given the powers to do so. This means that the Development Corporation has the responsibility to champion the needs of existing and new communities, and ensure that future developments make a positive contribution to the area.

All developments must add value; not just homes and jobs, but infrastructure as well. In the Development Corporation's area that is best achieved by pooling contributions from individual schemes to ensure that infrastructure is delivered where it is needed and at the right time.

Infrastructure includes new transport projects, enhancement to existing provision, and improvements to community facilities. Priorities are informed by the work of two management groups, one for Lower Lea Valley and one for London Riverside. Each is chaired by the Development Corporation and draws memberships from key agencies as set out in this Strategy. The Development Corporation has also established a developer and landowner liaison group to involve developers and landowners in the process for spending the money collected through this Strategy. Stakeholders are therefore working together to manage this process and maximise local benefit. The Corporation has made a commitment that the current review should be a collaborative process with the management groups and developer liaison group, who have been involved throughout the development and refinement of this Strategy.

Because of this Strategy, developers now have clarity on what is expected of them and Government will maintain its commitment of investment in Thames Gateway. As a result, the Planning Obligations Community Benefit Strategy is a key component in achieving our ambitious plans for London Thames Gateway, and comments are welcomed on the proposed revisions.



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Bob Lane, Chairman London Thames Gateway Development Corporation

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## INTRODUCTION

The statutory purpose of the LTGDC is to secure the regeneration of its area. To do this effectively, there is a need to bring forward major infrastructure projects as set out in the Development Corporation's Regeneration Frameworks.

As the local planning authority for strategic applications relevant to its purpose, the Development Corporation can enter into planning agreements, under section 106 of the Town and Country Planning Act 1990 (as amended) when determining planning applications. Section 106 agreements (or planning obligations) are agreements negotiated between local planning authorities and developers and are intended to make acceptable development which would otherwise be unacceptable in planning terms. The Development Corporation does not have statutory plan making powers. However, it is appropriate for the organisation to explain how it will apply planning policy and the weight that it will give to planning obligations (or the lack of them) when determining planning applications.

The Development Corporation's approach to planning obligations as set out in this document aims to ensure that development contributes appropriately, both financially or in kind, towards the infrastructure that needs to be provided in the LTGDC area. Funding from planning obligations will form a relatively small part of the overall funding required for this infrastructure. The Development Corporation will use other funding streams and its influence on third party providers/funders to ensure that infrastructure is brought forward, so that the regeneration of the area can be achieved. These proposals have been developed in consultation with the Thames Gateway Executive at Communities and Local Government Department. As such they are part of the Department's drive to look for and develop innovative funding mechanisms.

### Consultation Process

In 2006 the LTGDC commissioned Environmental Resources Management (ERM) and Sustainable Property Consultants to produce a report regarding a potential Section 106 Strategy for the Development Corporation. Consultation took place in winter 2006-07 on the consultants report. A wide range of responses were received, and these have informed the approach to planning obligations set out in this document. Further consultation took place from August to November 2007 on the detailed provisions within the strategy and the appendices with a view to refining the detailed approach where necessary. The Development Corporation reviewed comments received, and amended the approach to that which is now set out in this revised strategy, adopted in March 2008.

At the point of adoption, the LTGDC Board noted a commitment to review the Strategy and charges in 2009, and that this process should be done collaboratively with the Management Groups and Developer Liaison Groups. LTGDC re-commissioned Environmental Resources Management (ERM) to review the process and level of charge, in light of its initial period of operation and any impacts in relation to the current economic climate. The findings of the review were presented to the Board in October 2009, with a recommendation to go out to consultation on the proposed revisions to the Strategy. Board agreed to this approach and therefore comments are invited on these proposed changes to the Planning Obligations Community Benefit Strategy.

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**Deleted:** A full summary of the consultation responses received and the LTGDC response to these comments was reported to LTGDC Board in April 2007

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**Deleted:** A further document has been produced to accompany this strategy, setting out a detailed explanation for the approach taken in the strategy as a response to issues raised in consultation. This is available from [www.ltgd.org.uk](http://www.ltgd.org.uk)

## CONTEXT

### London Thames Gateway Development Corporation

The LTGDC was established in 2004 with a ten year remit to regenerate the two key growth areas of the Thames Gateway – the Lower Lea Valley and London Riverside. The Development Corporation is wholly funded by the Department for Communities & Local Government, with an operating budget in excess of £100 million to March 2008, and a further £120 million to March 2011.

The LTGDC combines powers of planning control and an ability to develop to deliver practical outcomes which contribute to creating better places to live, work, invest and relax. It is focused on developing infrastructure and services for neighbourhoods and communities, improving the environment, and promoting transport and accessibility.

The Development Corporation works in partnership with the Mayor of London, the London Development Agency, ~~the Homes and Communities Agency~~, the Olympic Delivery Authority ~~and Olympic Legacy Company~~ and London Boroughs to deliver the objectives of the London Plan and other relevant development plans.

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The starting point for the process of developing the Development Corporation's interventions in its area is government policy set out in the Sustainable Communities Plan (2001), Delivering the Gateway (2005) and the Thames Gateway Delivery Plan (2007).

The Development Corporation has been closely involved in the preparation of the east London elements of Communities and Local Government's Policy Framework and the Development Prospectus. Regeneration frameworks for Lower Lea Valley and London Riverside set out clear visions and strategies for these areas, providing the guidance for policy and delivery.

### Regeneration Frameworks

The Development Corporation's two regeneration frameworks for Lower Lea Valley and London Riverside will guide our detailed area plans and strategies. There are three core components to each of the Frameworks:

1. The Vision - the overarching document setting out the role the area has to play in the growth of London and how it will develop to perform that function with clear principles relating to the development of sustainable communities;
2. The Opportunity Area Planning Frameworks (OAPF); the key sub-regional planning documents which are developed with the GLA and the boroughs and adopted by the Mayor to provide a sound planning policy background for the implementation of the regeneration strategy;
3. The Delivery and Implementation Strategies (DIS); set out in detail the financial investments needed to secure sustainable, desirable, high quality successful centres for jobs, homes and leisure.

For the Lower Lea Valley, all three components are completed and have been the subject of extensive consultation. For London Riverside, the Vision ~~and DIS have~~ been published, ~~and the OAPF is~~ under development.

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The Regeneration Frameworks are underpinned by a suite of technical documents and analytical models. The technical document which this Planning Obligations Community Benefit Strategy feeds into and supports is the Delivery and Investment Strategy.

### Infrastructure Needs in the LTGDC Area

One of the key areas of ongoing work is to clarify the programme for the delivery of the infrastructure towards which the standard charge contributes. The existing programmes will be clarified and the necessary delivery arrangements/contracts will be drawn up so that contributions can be used effectively and efficiently to deliver the required infrastructure. The existing programmes will be used as the basis for a commitment in planning obligations that the LTGDC will use reasonable endeavours to deliver the infrastructure in accordance with the programme. As programmes are clarified the nature and detail of that obligation will also be developed.

The combined impact of the number of developments coming forward in the LTGDC area is extensive, and this generates significant need for infrastructure. The Development Corporation believes it is reasonable, in accordance with Circular 05/05, for developers' contributions towards this planned and anticipated infrastructure to be pooled, in order to allow the infrastructure to be secured in a fair and equitable way. As the Development Corporation covers several local authorities, pooled funds established through this strategy would be set up on a cross local authority basis, with the funds managed by LTGDC. This strategy seeks to set out, transparently and in advance, the need for this supporting infrastructure and the levels of contributions that are required, in accordance with Government advice in Circular 05/05. Appendix 2 sets out in more detail the basis for assessing the overall infrastructure costs as part of the evidence base for the contributions sought under this strategy.

## STATUTORY PLANNING FRAMEWORK

### Power to enter into section 106 agreements

The power of the LTGDC as local planning authority to enter into a planning obligation with an owner of land in its area is set out in s106 of the Town and Country Planning Act 1990 (as amended). The Government's guidance on planning obligations is contained in Circular 05/2005 on Planning Obligations.

### Circular 05/2005 Planning Obligations

The Circular sets out the guiding principles of planning obligations i.e. to make otherwise unacceptable applications acceptable when conditions cannot achieve this. The policy is that obligations can 'prescribe' (e.g. require the provision of affordable housing), 'compensate' (e.g. loss of open space) or 'mitigate' (e.g. through increased public transport provision).

The Circular encourages pooled contributions to address major investment needs or impacts wider than a single development, which is a key aim of this strategy. The Circular emphasises the need for a clear audit trail for these contributions, which will be facilitated by the proposed monitoring and spending processes as set out in this strategy.

It also supports the use of published formulae and standard charges, defined as "the quantitative indications of the level of contribution likely to be sought by a local planning authority towards the provision of infrastructure that is necessitated by a new development". This is intended to provide greater certainty about costs to those promoting development.

Support is also offered for standard agreements and model clauses. The LTGDC has prepared such a standard agreement which forms part of this strategy and which has been published separately and is available on the LTGDC's website.

The Circular also clarifies that maintenance payments can be sought in certain cases, when facilities are predominantly for the benefit of the users of the development.

Importantly the Circular notes that contributions policies must be applied flexibly and must have regard to the circumstances of individual sites.

### Community Infrastructure Levy

Since the Strategy was adopted in March 2008, the Government has consulted on the draft Regulations for the Community Infrastructure Levy (CIL), the mechanism proposed in the Planning Act 2008 to fund the infrastructure necessary to support development in a particular area via a standardised infrastructure charge. The draft Regulations (July 2009) included potential measures to restrict the use of tariffs and tie S106 obligations to site specific issues. The introduction of CIL therefore has the potential to limit the operation of this Strategy, but the Corporation has responded to the CIL consultation making the case for the continuation of the LTGDC tariff (please see link to LTGDC response on our website). In any event, it is likely to be several

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years before S106 is formally restricted so as to prevent tariffs and several years before boroughs are in a position to implement CIL. LTGDC has therefore concluded that there have been no substantive policy changes which require the Corporation to reconsider the Strategy as a whole. This Strategy will however be reviewed at an appropriate time to reflect the introduction of the CIL.

**Deleted:** The Bill's proposed approach is broadly similar to that set out in this Strategy, in particular that all or part of infrastructure costs may be covered by the CIL, that it may be possible in certain circumstances to reduce the amount of CIL payable, and that rates of CIL or the criteria on which CIL is based may be revised. It is proposed that CIL will be set through the local development framework process. How this will apply in areas where development corporations operate is not clear on the face of the Bill.¶

## Extension of Mayor of London's Planning Powers

The Mayor's planning powers have been extended to give the Mayor power to take over strategically important planning applications in London and in doing so determine the details of and be a signatory to s106 agreements from April 2008. However, the extended powers do not apply to the LTGDC (or ODA) planning functions areas, and so the approach set out in this strategy continues to apply and LTGDC will continue to be the negotiator of and signatory to legal agreements.

## Use of Obligations or Conditions

Planning obligations (s106 agreements and undertakings) are normally used where planning conditions cannot adequately control the development. For example, they can cover areas of land outside the application site, they can deal with the payment of money to the local planning authority, and they can be drafted in greater detail than conditions in order to deal with complex matters such as management regimes, mechanisms for the provision of affordable housing and provision of access to and management of the public realm. Government policy is that conditions should be used where possible, although the relevant guidance does not address the position where the local planning authority is not the enforcement body.

When considering applications, the Development Corporation will consider whether planning conditions can adequately deal with all of the direct and indirect impacts of the development before it decides that a planning obligation is necessary. As a matter of policy, and having had regard to the relevant guidance and the powers available to Urban Development Corporations, the Development Corporation will normally seek to use planning obligations rather than conditions. Financial contributions payable under this strategy will always be secured through a planning obligation.

## The Development Plan and status of this Strategy

The LTGDC area covers parts of the London Boroughs of Hackney, Havering, Newham, Tower Hamlets, Barking and Dagenham and Waltham Forest.

The Development Plan that the LTGDC refers to when determining planning applications is therefore made up of the London Plan, existing adopted UDPs and any adopted DPDs. In making decisions account will be taken of the emerging London Plan alterations and emerging LDF documents for each of the boroughs, depending on where the development is situated.

All of these documents contain policies on Planning Obligations and have been taken into account in preparing this LTGDC Planning Obligations Community Benefit Strategy. LTGDC do not believe there are any material conflicts between this strategy and statutory policies in terms of approach or outcome.

Although not part of the Development Plan, LTGDC will give weight to this Planning Obligations Community Benefit Strategy when determining planning applications. It will also take national, regional and local planning policy into account. If a conflict arises when an application is determined, then the relevant policies and this document will have to be judged and weighted appropriately in the consideration of the application.

This strategy sets out the general approach that the LTGDC will take in relation to planning obligations. It is recognised however that the application of the Strategy and the detail of individual legal agreements will vary according to the nature of the development and site circumstances.

## THE LTGDC APPROACH TO PLANNING OBLIGATIONS

### Guiding Principle

Where LTGDC grants planning permission for a development, the development will normally be required to make financial and in kind contributions towards infrastructure and community facilities. These contributions will be secured through a section 106 agreement. The level of financial and in kind contributions sought will be in accordance with the guidance in this Strategy, and subsequent updates to it.

### Standard Charge

The advice to LTGDC is that a standard charge per dwelling of £22,400 in the Lower Lea Valley (previously £22,600) and - £30,400 in London Riverside (previously £28,800) would be justified as a contribution towards the significant infrastructure needs of the area. We recognise that this is, in most cases, not viable and seeking to levy a charge at that level would, at the moment, inhibit regeneration.

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### Residential Developments

For residential developments, the normal contribution will continue to be a discounted standard charge of £10,000 per unit in the Lower Lea Valley and £6,000 per unit in London Riverside. This discounted charge will be reviewed every two years.

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### Commercial Developments

Although it is believed that there is a proper planning justification for a standard charge associated with retail, office, hotel and industrial developments one will not currently be applied. This issue was reviewed again in 2009 and the same conclusion was reached. At present, the scale of anticipated development and potential contribution does not warrant the development of a full contributions strategy. Financial and in kind contributions will however still be negotiated on a site by site basis, taking into account site circumstances and the impact of the proposed development.

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### Other Developments

Planning obligations will continue to be negotiated on a case by case basis for other applications which the LTGDC determines.

## RELATIONSHIP WITH OTHER PLANNING POLICY PRIORITIES FOR THE LTGDC AREA

### Planning Obligations Community Benefit Strategy and sustainability

It is important that development in the LTGDC area is sustainable, and the LTGDC supports the Mayor of London's policies on carbon reduction and renewable energy. In general development proposals will be expected to meet the requirements of these policies and the costs of doing this will not normally be offset against the financial and in kind contributions required by the Planning Obligations Community Benefit Strategy.

### Planning Obligations Community Benefit Strategy and on site provision of Affordable Housing

In relation to affordable housing, two trends have emerged since the Strategy was adopted in 2008:

- The Mayor has 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. The current London Plan strategic target that 50% of all additional housing should be affordable, has been replaced in the draft replacement London Plan (October 2009) with a statement that the Mayor will seek to maximise affordable housing provision and that boroughs should set an overall target in LDFs for the amount of affordable housing provision needed over the plan period in their areas.
- 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.

The development appraisals that form part of the 2009 technical review considered a wide 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 60:40. LTGDC has already embraced these variations and, where justified on viability or 'good planning' grounds, other solutions in agreements already concluded. The development appraisals demonstrate that an optimal balance between securing appropriate levels of contributions towards community infrastructure, while also achieving the most appropriate amount and types of affordable housing can be achieved. The Corporation is currently actively considering agreements that include draft provisions for Phased Reappraisals where the agreement allows for reconsideration of the affordable housing provision in later phases of the scheme, where the applicant has provided a coherent argument that this is necessary for the viability of the scheme.

**Deleted:** The LTGDC supports the Mayor of London's strategic target that 50% of all additional housing should be affordable. However it is clear from the background development viability work carried out in preparation of this strategy, that the target of 50% affordable housing is unlikely to be generally deliverable on every application site within the LTGDC area, in addition to the infrastructure requirements and community benefits that it is also important to provide to achieve sustainable regeneration. ¶

**Deleted:** The LTGDC planning obligations strategy is therefore predicated on an average level of on site affordable housing across the area being provided at 35%. It is assumed that Housing Corporation grant funding will support the 35% provision, where grant seekers can demonstrate that grant is needed to achieve this by adding value to viable levels of on-site developer provision. Where the LTGDC and/or Mayor/GLA are successful in achieving a level of affordable housing higher than 35% on a particular site, the discounted standard charge will still apply and will only be reduced if a full financial appraisal demonstrates to the satisfaction of the LTGDC that the development would thereby be unviable

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## Planning Obligations Community Benefit Strategy and requirements to provide high standards of design

The LTGDC will ensure high standards of design in all developments, in accordance with policies in the London Plan and Borough UDPs and LDFs. The costs of ensuring a successfully designed development and meeting urban design policies will not normally be able to be offset against payment of the discounted standard charge. For example a development may need to incorporate as part of the design, new open / amenity space for the residents of the development, or for developments adjacent to the waterways, new footpaths and landscaping of the river bank. Public realm enhancements immediately around and within the site may also be needed. The LTGDC would expect such elements to be an inherent part of the design of the scheme and be provided and paid for by the developers.

## PRACTICAL MATTERS

### Discounted standard charge

The discounted standard charge has been set by reaching a balance between the costs of infrastructure required in the LTGDC area, the likely scale of development that will come forward, and the level of charge that it is appropriate for developments to provide without stifling development. Further information is provided in Appendix 2.

The discounted standard charge will be reviewed every two years, and is set at the current level of £10,000 per dwelling in the Lower Lea Valley and £6,000 in London Riverside until [spring 2012](#). The discounted standard charge payable is that which is applicable at the time a planning application is determined.

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The charge will be levied on a per dwelling basis. This is to help ensure a balance between the infrastructure needs of a development, and the achievement of mixed and balanced communities through provision of a range of unit sizes including larger units. The LTGDC recognises that larger dwellings may give rise to a greater need for infrastructure as more people are likely to live in each dwelling. However, the LTGDC has decided that the discounted standard charge should apply on a per unit basis in order not to prejudice the delivery of family housing and the creation of mixed and balanced communities. [LTGDC has re-considered the methodology of setting the charge on a per dwelling basis during the 2009 review and continues to consider this a robust and appropriate approach.](#)

### Recapturing the Discount / Deferred Standard Charge

The discounted standard charge has been set at a discounted level by the LTGDC to minimise the risk that development is generally made unviable. Where development will take a significant time to complete there is a prospect that the justification for discounting the standard charge may no longer apply. Accordingly, LTGDC proposes that there should be a mechanism for the discount or part of it to be recaptured through a Deferred Standard Charge if the viability assumptions justifying the original discount prove unwarranted. Any recaptured discount will be limited to the amount of the standard charge applicable at the time the additional contribution becomes payable

This element of the strategy provoked much comment from the development industry. However, LTGDC believe that fundamentally, provision still needs to be made for the discount to be recaptured on large developments where build out will take some time and circumstances change as time elapses after planning permission is granted. Following consultation, LTGDC proposes a number of mechanisms for the discount to be recaptured as set out below. The proposed mechanism will normally be for the applicant to choose and agree with LTGDC at the time of entry into the appropriate planning agreement.

No deferred charge is required from developments of less than 100 units, or units which are completed within 3 years of the grant of planning permission. This is to incentivise the early completion of development and speed up housing delivery.

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The standard charge has been set at a level that assumes no public funding of the identified infrastructure. If public funding is secured for specific elements of infrastructure, and other necessary infrastructure is fully funded, the deferred element of the Standard Charge will be appropriately reduced. Similarly, the deferred element of the Standard Charge payable by residential development will be reduced by an appropriate amount if the Standard Charge is subsequently extended to commercial development or other receipts funding the infrastructure are received.

Consideration has been given to the possibility of public funding and receipts being at a level that means that the discounted charge exceeds the cost of infrastructure. Given the extent of infrastructure required in the area, and the limited contribution being made by development, this is felt to be very unlikely. If it happens then the LTGDC will make appropriate ex gratia repayments on a fair and equitable basis.

The options for the deferred charge are set out below. The aim is to provide applicants with a reasonable level of certainty about the charges that will be levied, with each of the options offering differing levels of certainty.

### **Option 1: Matrix of Average Sales Values and Deferred Charges**

If sales values increase substantially from those anticipated by the applicant at the date when the legal agreement is signed, a deferred charge would be payable up to the Standard Charge, with the amount of the deferred charge rising in steps with increased sales values, but only accounting for around 35% of the additional receipts arising from the development. The initial sales values used as a base would need to be justified by the applicant.

### **Option 2: The Prevailing Discounted Standard Charge**

The deferred charge would be the Discounted Standard Charge applicable at the time the contribution was payable. Since the LTGDC intends to review the standard charge, and the level of discount, every two years this ought to ensure that the charge levied is at a level that remains viable for the majority of development.

### **Option 3: The Fixed Deferred Charge**

The level and timing of deferred charge contributions would be fixed and set out in the legal agreement. It is envisaged that the later contributions would be considerably above the discounted standard charge applicable at signing of the agreement, and would be index linked.

### **Option 4: Phased Reappraisal of the Deferred Standard Charge**

Applicants are able to submit development appraisals prior to the submission of reserved matters for later phases of development, justifying an appropriate level of Deferred Standard Charge to be payable in respect of that phase.

### **Fees**

Applicants will be required to pay the Development Corporation's fees for auditing development appraisals which they provide to support requests to offset the cost of

infrastructure provision or to allow for exceptional costs or on site provision. Applicants will also be required to pay the Development Corporation's legal fees incurred in settling the legal agreement.

## Index Linking

All figures quoted in this document are set at April 2009 prices. The discounted standard charges payable will be index linked from April 2007 to the date on which payment is made, using the BCIS index. The legal agreement will set out how the charge plus inflation will be calculated.

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## Long Stop Date

LTGDC may need to forward fund the provision of essential facilities to support the regeneration of its area before the development paying contributions takes place. In order to ensure certainty of funding, the full Discounted Standard Charge as applicable at the time of payment for any development must be paid on the expiry of 10 years from the implementation of the permission.

The Corporation is suggesting a review of the long stop date for the deferred standard charge as part of the 2009 review. A number of options are listed below for comment:

- The removal of the long stop date for deferred standard charge
- Increasing the long stop date for deferred standard charge to 15 years
- Seeking deferred standard charge at the long stop date only on phases that have commenced, provided 50% of the units have been built out.

## Offsets to the discounted standard charge

LTGDC recognises that in some circumstances a development may be able to provide strategic infrastructure that will benefit a population wider than that of its own development, for example by providing land or buildings for a school, or providing strategic public space. In such cases, and subject to any rules on procurement and state aid, the LTGDC will agree with the developer what costs will be able to be offset against the financial contribution that would normally be payable under this strategy. Any discussions about costs will have to take account of the cost estimated for that element of infrastructure in the calculations justifying the Standard Charge .

The following works are likely to be considered as offsets to the Discounted Standard Charge:

- Education services - buildings for LEA (not including land cost)
- Health services - buildings for PCT (not including land cost)
- Strategic public open space, parks, public realm and ecological enhancement
- Public transport infrastructure serving a wider community e.g. bridge links / DLR
- Affordable business space
- Strategic Flood Relief Works
- Strategic Off-site Highway Works
- Emergency Services

- [Community Centres](#)
- [Sports and Leisure Centres for community use](#)

[Works that would \*\*not\*\* normally be considered as offsets:](#)

- [Provision of land for infrastructure is not normally considered as an offset](#)
- [Open space / landscaping that forms part of the development, for use predominantly by residents](#)
- [Highways works immediately related to the site](#)
- [Abnormals e.g. river wall works](#)
- [Facilities for exclusive use of residents of the related development](#)

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## Public sector land

Development on public sector land will have the same impact and requirements for infrastructure as development on private land, therefore the standard charge will also apply to such development. Where on site provision of community buildings for example is provided as part of development on public sector land, the agreed cost may be capable of being offset as set out above.

## Triggers

25% of the total financial contribution for the application site will normally become payable on commencement of development.

The timing of remaining payments will be agreed by LTGDC and the developer before the grant of planning permission, and will be set out in the legal agreement. The timing of payments will be linked to the phases of construction and completion of development. The balance will normally become payable on completion of individual dwellings or groups of dwellings within the development.

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## Viability / Exceptional costs

As set out above and in Appendix 2, there are significant infrastructure needs in the LTGDC area, generated by the combined impact of the development proposals that are coming forward. It is reasonable that development contributes towards the provision of this infrastructure, and the Development Corporation believes that the fairest and equitable way of doing so is through seeking a contribution per residential unit.

The Development Corporation will not normally expect there to be any further reductions to the discounted standard charge on individual sites, as it is believed that the discounted standard charge represents an appropriate balance between the impact of a development in infrastructure terms, and the general viability of development.

There may be rare circumstances where this is necessary in order for development to proceed. In such circumstances it is highly unlikely that land values other than existing use values will be taken into account. Decisions on the level of contribution will be based on negotiation with developers over the level of contribution that can be demonstrated as reasonable whilst still allowing development to take place.

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## MANAGEMENT AND MONITORING

### How financial contributions collected by LTGDC are managed

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Where LTGDC is signatory to a section 106 agreement, the section 106 will require that any financial contributions will be payable to the Development Corporation.

Two pooled funds have been established, one for the lower Lea Valley and the other for London Riverside. Section 106 money raised in the Lower Lea Valley will not be spent on projects in London Riverside and vice versa. Nor will money be spent on infrastructure outside the LLV and LR boundaries unless it is clear that the infrastructure to be provided will benefit the area where the section 106 money was raised.

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The primary use to which these contributions will be put will be the provision of physical and social infrastructure to support new and existing communities. The infrastructure will include those categories of infrastructure identified in the ERM report, (as developed by the Delivery and Investment Strategies for the Lower Lea Valley and London Riverside and the associated Public Sector Investment Plans) and/or other substitute infrastructure similarly supporting development in the two areas.

A Lower Lea Valley Management Group and a London Riverside Management Group have been established. These groups are led by LTGDC but have director level representatives from partner organisations. A list of partner organisations is set out in Appendix 1. The Management Groups will be responsible for advising the LTGDC Board on the proper use and expenditure of the money raised through section 106 agreements. They will also be asked to advise on the programme for the provision of infrastructure and the programme for implementation. The developer and landowner liaison group is also asked for its views on proposed S106 expenditure. The final decision on expenditure and programme will rest with the LTGDC Board.

This approach will ensure that the money is spent on appropriate projects. In some cases LTGDC will spend the money itself, in others it may be appropriate for it to be passed to other agencies, including local authorities, to spend.

The money raised through section 106 agreements will not be able to pay for all of the new infrastructure that is necessary to ensure the regeneration of the LTGDC area. LTGDC will therefore use its powers and influence to lever in further investment in addition to section 106 contributions with the aim of ensuring that the necessary infrastructure is provided.

Prior to entering into any new planning obligation the Development Corporation will review the then present investment programme to confirm that any contributions requested in accordance with this Strategy remain justified and that the programme for the delivery of the underlying infrastructure justifies the proposed payment obligations

## Monitoring contributions

LTGDC ~~has~~ set up a system to monitor financial and in kind contributions agreed through section 106 agreements.

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An annual report to board and planning committee ~~is~~ produced setting out:

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- Financial contributions and in kind benefits negotiated
- Financial contributions and in kind benefits received / provided
- Financial contributions spent

Quarterly update reports ~~are also~~ provided to the planning committee setting out financial contributions and in kind benefits negotiated each quarter.

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It is intended that there will be a clear audit trail between the contribution made and the infrastructure provided.

## Keeping Developers and Landowners Involved and Informed

Developer and Landowner Liaison Groups have been established and meet on a regular basis as necessary. The role of these groups is to ensure developer and landowner involvement in the provision of infrastructure and expenditure of monies collected under this strategy as well as sharing information on general planning issues in the LTGDC area. ~~The liaison group has been closely involved in the 2009 review of the~~ Standard Charge and Discounted Standard Charge ~~and will continue to be~~ involved in this ~~ongoing review~~ process. If developers and landowners would like to find out more about the Liaison Groups, they should contact LTGDC.

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Deleted: is carried out before April 2009, the Liaison Groups will also be

## APPENDIX 1

### Membership of Lower Lea Valley Management Group

London Thames Gateway Development Corporation

London Development Agency

Greater London Authority

Transport for London

Olympic Delivery Authority

[Olympic Legacy Company](#)

[Homes and Communities Agency](#)

[London Borough of Newham](#)

London Borough of Tower Hamlets

London Borough of Hackney

London Borough of Waltham Forest

Lea Valley Regional Park Authority

Communities and Local Government

Environment Agency

Design for London

Newham Primary Care Trust

Deleted: English Partnerships

Deleted: Housing Corporation

### Membership of London Riverside Management Group

London Thames Gateway Development Corporation

London Development Agency

Greater London Authority

Transport for London

[Homes and Communities Agency](#)

London Borough of Newham

London Borough of Barking & Dagenham

London Borough of Havering

Communities and Local Government

Environment Agency

Design for London

Newham Primary Care Trust

Deleted: English Partnerships  
Deleted: Housing Corporation

## APPENDIX 2

### BASIS FOR INFRASTRUCTURE COST ESTIMATES

#### Introduction

LTGDC commissioned consultants, ERM and Sustainable Property Consultants to help formulate a Planning Obligations Community Benefit Strategy that could be applied across its area. The Strategy and charges have been reviewed in 2009 to provide an update on infrastructure costs and housing capacity. The review provides an update of the housing capacity and trajectories for the Lower Lea Valley and London Riverside and also the best available estimates of the amount and cost, at 2009 prices, of providing the infrastructure required within these areas given the revised housing capacities.

The report analysed the requirements for infrastructure and community facilities in the LTGDC area and related these to the existing pattern of land ownership and the ability of development to fund, in whole or in part, these infrastructure requirements.

The table below shows the gross cost and cost per dwelling of this infrastructure for the Lower Lea Valley and London Riverside.

The consultants recommended for viability reasons that LTGDC did not require developers to contribute the full cost per dwelling through planning obligations, within the early years of operation of the strategy. A Discounted Standard Charge, as shown in the table below, was set by reaching a balance between the costs of infrastructure required in the LTGDC area, the likely scale of development that will come forward, and the level of charge that it is appropriate for developments to provide without stifling development.

	Gross cost of infrastructure and community facilities	Cost per dwelling / Full Standard Charge	Discounted Standard Charge
<b>Lower Lea Valley</b>	<u>£688 million</u> (£509)	<u>£22,400</u> (£22,600)	<u>To remain at £10,000</u>
<b>London Riverside</b>	<u>£652 million</u> (£765)	<u>£30,400</u> (£28,800)	<u>To remain at £6,000</u>

(previous figures from the 2008 adopted Strategy are shown in brackets)

The details of the assessment carried out are set out in the ERM reports:

- Planning Obligations Community Benefit Strategy Review, Final Report, October 09,

- 'Planning Obligations Community Benefit Strategy Review, Annexes, October 09,

The information set out below is quoted from those reports, primarily from Chapter Four – Review of Infrastructure Costs, Housing Capacity and the Full Standard Charge.

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## Scope of 2009 Review

The two variables (the amount of housing and the cost of the associated infrastructure) provide the building blocks for the Strategy, as the Full Standard Charge is derived by dividing the overall infrastructure cost by the number of dwellings planned, which is then adjusted in relation to viability, to result in the Discounted Standard Charge.

The 2009 review considered whether there have been any significant changes in either the quantity and cost of infrastructure or the quantities of planned development. It re-assessed:

- the total number of dwellings likely to be built in the LLV and LR;
- the type or quantity of infrastructure projected to be required to serve the development; and
- the cost of providing the projected types of infrastructure taking account of cost inflation since 2006 (to Q4 2008 i.e. April 2009)

In relation to updating the **housing trajectories**, the number of dwellings used to calculate the FSC for the LLV in 2006 was 22,500, which represented the number of dwellings envisaged, yet to be permitted. The total number of planned dwellings in 2006 was 24,300, which represents both the number of planned dwellings without permission and those with permission. This is now considered to be the most appropriate denominator for assessing the total cost burden of each additional dwelling and has been used in the present review, as it ensures that any changes in infrastructure costs are not carried disproportionately by development which is still to be permitted.

The latest LTGDC trajectory of planned housing numbers, prepared in April 2009, for the LLV excluding the Olympic zone, shows a 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. 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. 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.

In relation to updating the **infrastructure costs**, the approach is 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. 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 costs can be broadly justified.

Infrastructure requirements and costs are split into 'social infrastructure' i.e. schooling (nursery, primary, secondary, and 16+), community centres, libraries and leisure centres, police and fire stations and GP health centres and 'other

infrastructure' i.e. remediation and site clearance, flood protection, utilities, highways and bridges, public transport, public realm, open space and watercourses.

**Social infrastructure** has been adjusted to reflect the uplifted number of planned residential units and also up-to-date unit costs for items of social infrastructure. 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. As most costs are very recent, cost inflation factors, taken from BCIS, need to be applied to only a few cases. Detailed quantities and costs of social infrastructure, broken down by type, are set out in the ERM technical report.

In relation to **Other infrastructure**, as defined above, the approach adopted for the 2009 Review has been to take the 2006 costs as 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 the case of LLV, where there is a substantial increase in planned dwelling numbers, a corresponding increase may be expected in requirements for and therefore 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, but rather there be an increased intensity of use of infrastructure. Detailed information on the costs of other infrastructure, broken down by type, is set out in the ERM technical report.

## Overall Infrastructure Cost Estimates: Lower Lea Valley

The overall infrastructure cost estimates for the Lower Lea Valley were set out in sections 4.17 – 4.46 of the Final Report (2009) and Table 4.4, 4.5 and 4.6 are reproduced below:

Table 4.4 Total and per Dwelling Social Infrastructure Costs

Facility	Social Infrastructure Lower Lea Valley	
	Total cost (£m)	Cost per dw (£)
Nursery	20	634
Primary	91	2960
Secondary	74	2389
16+/FE	32	1037
Community hall/library	19	621
Leisure centre	12	397
Swimming Pool	-	-
Police station	5	148
Fire station	4	128
GP	36	1160
<b>Total</b>	<b>£292 million</b>	<b>£9,475</b>

Table 4.5 Total and Per Dwelling Other Infrastructure Costs

Category	Inflation factor	Other Infrastructure Lower Lea Valley		
		2006 cost (£m)	2009 cost (£m)	Cost per dw (£)
Remediation and site clearance	1.036	89.0	92.2	2997
Flood relief	-	-	-	-
Utilities	1.036	133.0	137.8	4478
Highways and bridges	1.036	76.5	79.3	2576
Public transport	-	-	30.8	1000
Public realm, open space, watercourses	1.036	54.5	56.5	1835
<b>Total</b>	-	-	<b>£396.5 million</b>	<b>£12,885</b>

Table 4.6 Total Infrastructure Cost and Full Standard Charge Per Dwelling

Category	Summary Lower Lea Valley	
	Total cost (£m)	Cost per dw (£)
Social infrastructure	291.5	9,500
Other infrastructure	396.5	12,900
<b>Total (2009)</b>	<b>688.0</b>	<b>22,400</b>
Total (2006)		22,600

## Overall Infrastructure Cost Estimates: London riverside

The overall infrastructure cost estimates for London Riverside are set out in sections 4.17 – 4.46 of the Final Report (2009) and Table 4.4, 4.5 and 4.6 are reproduced below:

Table 4.4 Total and per Dwelling Social Infrastructure Costs

Facility	Social Infrastructure London Riverside	
	Total cost (£m)	Cost per dw (£)
Nursery	43	1980
Primary	50	2322
Secondary	48	2215
16+/FE	24	1099
Community hall/library	10	667
Leisure centre	9	418
Swimming Pool	8	388
Police station	7	334
Fire station	2	91
GP	23	1086
<b>Total</b>	<b>£224 million</b>	<b>£10,600</b>

Table 4.5 Total and Per Dwelling Other Infrastructure Costs

Category	Inflation factor	Other Infrastructure London Riverside		
		2006 cost (£m)	2009 cost (£m)	Cost per dw (£)
Remediation and site clearance	1.036	44.2	45.8	2133
Flood relief	-	66.6	69.0	3214
Utilities	1.036	60.9	63.1	2939
Highways and bridges	1.036	78.5	81.3	3788
Public transport	-	83.3	86.3	4020
Public realm, open space, watercourses	1.036	76.3	79.0	3682
<b>Total</b>		-	<b>£424.6 million</b>	<b>£19,774</b>

Table 4.6 Total Infrastructure Cost and Full Standard Charge Per Dwelling

Category	Summary London Riverside	
	2009 cost (£m)	Cost per dw (£)
Social infrastructure	227.6	10,600
Other infrastructure	424.6	19,800
<b>Total (2009)</b>	<b>652.1</b>	<b>30,400</b>
Total (2006)		28,800

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## APPENDIX 3

### LTGDC standard legal agreement

This is available from [www.ltgdc.org.uk](http://www.ltgdc.org.uk)