

Appendix 3

DATED

2010

(1) LONDON THAMES GATEWAY DEVELOPMENT CORPORATION

- and -

(2) [*FREEHOLD OWNER*]

- and -

(3) [*LEASEHOLD OWNER*]

(4) [*DEVELOPER*]

-and-

(5) [*MORTGAGEE*]

-and-

(6) [*ANY OTHER PARTY WITH SIGNIFICANT INTEREST IN SITE*]

DEED

made pursuant to section 106 of the
Town and Country Planning Act 1990
(as amended) relating to land at

Contents

1	Definitions and interpretation	2
2	Interpretation	7
3	Legal Basis	8
4	Conditionality	8
5	Provisions for Release	8
6	Covenants by the Owner and Developer	8
7	Provisions Relating to the Corporation	9
8	Mortgagee's Consent	9
9	Successors in Title	9
10	Registration	9
11	Third Party Rights	9
12	Dispute Resolution	9
13	Variations	10
14	Service of Notices	10
15	The Corporation's Legal and other Professional Costs	10
16	VAT	10
17	Interest	10
18	Transfers to the Corporation	10

Schedule 1 - Site Specific Covenants	12
Schedule 2 – Deferred Part of the Standard Charge	18
Schedule 3 – Works in Kind	21
Schedule 4 - Corporation's Obligations	22
Schedule 5 – Public Sector Investment Plan	23
Appendix 1	24
Appendix 2	25

THIS DEED is made on

2010

BETWEEN

- (1) **LONDON THAMES GATEWAY DEVELOPMENT CORPORATION** of 9th Floor, South Quay Plaza 3, 189 Marsh Wall, London E14 9SH (the **Corporation**);
- (2) ** (company number **) whose registered office is situated at **
and ** (company number **) whose registered office is situated at **
(the **Owner**); and
- (3) ** (company number **) whose registered office is situated at **
(the **Developer**); and
- (4) ** (company number **) whose registered office is situated at **
(the **Mortgagee**);

WHEREAS

- A By virtue of the London Thames Gateway Development Corporation (Planning Functions) Order 2005, which came into force on 31 October 2005, the Corporation is the Local Planning Authority for the area within which the Property is situated and for development of the nature of the Development.
- B The Corporation is the appropriate statutory body to enforce this Deed for the purposes of section 106 of the 1990 Act.
- C The Owner is registered at HM Land Registry as the [freehold/leasehold] owner of the Property.
- D The Mortgagee is the proprietor of a registered a charge on the [freehold/leasehold] title of the Property dated ** .
- E The [Owner/Developer] submitted the Application to the Corporation.
- F Having taken account of the Planning Obligations and Community Benefit Strategy the Corporation considers that the planning obligations, including the payment of the Discounted Standard Charge [and the potential payment of the Deferred Part of the Standard Charge][Fixed Deferred Charge], in this Deed are reasons for the grant of the Permission.
- G The Owner, the Developer and the Mortgagee have agreed to enter into this Deed, accepting that the obligations that it contains can properly be taken into account as reasons for the grant of the Permission.
- H The Discounted Standard Charge applicable to this Development has been set at £** for the area within which the Development is located.
- I [The Corporation has agreed to offset the cost of [*specify works***]] against payment of the Discounted Standard Charge]
- J The Corporation has resolved to grant the Planning Permission pursuant to the Application subject to the conditions set out in the Planning Permission and subject to the covenants, undertakings and restrictions contained in this Deed.

NOW THIS DEED WITNESSETH as follows:

1 Definitions and interpretation

In this Deed the following expressions shall have the following meanings:

1.1 Definitions

1990 Act means the Town and Country Planning Act 1990 (as amended) or any re-enactment or modification for the time being in force

Affordable Housing means residential accommodation for which the asking price or rent is significantly lower than prevailing market prices for similar units and which is subject to arrangements which seek to ensure its availability on similar terms in perpetuity and comprising :

- (a) Social Rented Units;
- (b) Intermediate Affordable Housing Units

Affordable Housing Land means that part of the Property containing the Affordable Housing Units

Affordable Housing Provider means either :

- (a) a Registered Social Landlord; or
- (b) a provider and manager of Affordable Housing approved by the Corporation or the Council

Affordable Housing Scheme means a scheme to be submitted to and approved by the local planning authority containing the details and mechanisms for securing the provision and retention of the Affordable Housing Units

Affordable Housing Units means the units of Affordable Housing to be provided in the Development pursuant to the Planning Permission

All Items Retail Prices Index means the index of retail prices published by the Office of National Statistics or any successor

Application means the [full/outline] planning application for the Development dated ** and given reference number ** for the **

BC Index means the Building Cost Information Service All in Tender Price Index as published by BCIS (a trading division of the Royal Institution of Chartered Surveyors Business Services Ltd) or such similar index as may from time to time be published to replace such index

Commercial Unit means any unit of commercial floorspace constructed on the Property pursuant to the Planning Permission

Community Facilities means the community facilities to be provided within the Development being ** for the purpose of ** to be located within that part of the Property shown for indicative purposes only edged** on the Plan attached at Appendix **

Completion shall be deemed to take place on the proper issue of a certificate of practical completion by an independent architect, engineer or other certifying professional as the case may be of any works carried out pursuant to this Deed or any part, section or phase and the terms "Complete", "Completed" and cognate expressions shall be interpreted in accordance with this definition and Occupation of any Residential Unit shall be determinative of Completion even in the absence of a certificate

Corporation's Planning Functions areas means the areas set out in the maps referred to in the London Thames Gateway Development Corporation (Planning Functions) Order 2005

Council means the London Borough of **

[Deferred Part of the Standard Charge means that part of the Standard Charge for each Residential Unit the payment of which is conditional on the level of the Realised Average Sales Value reaching certain thresholds]¹

Development means the development of the Property in accordance with the Planning Permission

Development Realised Average Sales Value means the average sale price per metre realised for sales to an independent third party of Open Market Units within the Development throughout the whole of the period of development calculated in accordance with Schedule 2

Discounted Standard Charge means a charge of £** (** pounds) Index-linked from ** to date of payment the charge being a discount to the Standard Charge relevant to the Development having reached a balance between the costs of infrastructure required in the Corporation's area to support development, the likely scale of the development that will come forward and the initial level of charge that it is appropriate for developments to meet without stifling development [taking account of the potential conditional payment of the Deferred Part of the Standard Charge][Fixed Deferred Charge]

Discounted Market Units means ** 2

Expert means such expert as may from time to time be appointed for the purposes of resolving a relevant dispute as follows:

- (a) if the dispute relates to transport or highway works, engineering, demolition, or construction works, a chartered civil engineer being a member of the Institution of Civil Engineers (having not less than 10 years' relevant experience in the public or private sector) agreed by the parties to the dispute but in default of agreement appointed at the request of any of the parties by or on behalf of the President from time to time of the Institution of Civil Engineers;
- (b) if the dispute relates to any building within the Development or any similar matter, a chartered surveyor (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of either party by or on behalf of the President from time to time of the Royal Institution of Chartered Surveyors;
- (c) if the dispute relates to financial matters or matters of accounting usually and properly within the knowledge of a chartered accountant, a chartered accountant (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of either party by or on behalf of the

¹ Delete if not using this alternative under paragraph 2.4 of Schedule 1

² Affordable housing definitions will be agreed for each local authority area

President from time to time of the Royal Institute of Chartered Accountants in England and Wales; and

- (d) if the parties to the dispute shall fail to agree upon the nature or difference in question then it should be referred to a solicitor or barrister of at least 15 years' standing agreed by the parties but in default of agreement appointed at the request of either party by or on behalf of the President for the time being of the Law Society

[Fixed Deferred Charge means the figure set out below per Residential Unit Index-Linked from the date of this Deed to date of payment]³

Date of Completion of Residential Unit	Fixed Deferred Charge
**	**
**	**
**	**

Highway Works means a highway works to be carried out to provide ** in accordance with the Highway Works Scheme

Highway Works Scheme means the scheme containing the details and mechanisms for carrying out and maintaining the Highway Works

Homes and Communities Agency means the non-departmental government body that funds Registered Social Landlords or such other body as may replace it

Implementation means the implementation of the Development in accordance with the Planning Permission by the carrying out of any material operation within the meaning of sections 56(2) and (4) of the 1990 Act provided that for the avoidance of doubt the carrying out of archaeological investigations demolition remediation works site clearance site preparation, surveys, erection of fencing or hoardings, provision of security measures or lighting, erection of temporary buildings or structures associated with the Development, laying and diversion of services, and the provision of construction compounds shall be deemed not to constitute a material operation

Implementation Notice means a written notice given by or on behalf of the Developer or Owner to the Corporation stating the date of Implementation of the Development and the application reference number and a notice will be deemed to have been given if Implementation has occurred

Index-Linked means the adjustment of the financial sums referred to in this Deed by Indexing from April 2009 to the date of payment or between such other dates as may be specified in this Deed

Indexing means the recalculation of any amount specified in this Deed by applying the following formula:

$A \times B/C = D$ where:

A = the sum specified in this Deed in pounds sterling

³ Delete if not using this alternative under paragraph 2.4 of Schedule 1

B = 101% of the figures shown in the BC Index (provisional index if that is the latest information available) for the period prior to the date to which the sum concerned is to be indexed under the provisions of this Deed⁴

C = the figure shown in the BC Index for latest period prior to date from which the sum concerned is to be indexed under the provisions of this Deed

D = the recalculated sum in pounds sterling applying under this Deed

Provided B/C shall never be less than 1

Provided also that if the BC Index becomes no longer maintained the said formula shall be applied mutatis mutandis (so far as concerns periods after it ceases to be so maintained) by reference to such other similar publication or index as may specified from time to time by the Corporation

Interest means interest at 3% per cent above the base lending rate of the National Westminster Bank Plc from time to time

Intermediate Affordable Housing Units means any of the following :

- (a) Shared Ownership Units
- (b) Shared Equity Units
- (c) Discounted Market Units

Management Scheme means a scheme containing the details and mechanisms for the management and maintenance of the Public Realm Areas and ** within the Development

Maximum Number of Residential Units means [**] [the higher of the maximum number of Residential Units that may be constructed pursuant to the Planning Permission within a Phase as specified either in the Phasing Scheme or as specified in any reserved matters application relating to such Phase]⁵

Monitoring Officer means any officer or third party appointed by the Corporation to monitor and report on the Completion of the Residential Units and/or to monitor compliance with the terms of this Deed

Nominations Agreement means an agreement to be entered into between the Council and the Registered Social Landlord

Occupation means the use of the buildings and land at the Property for the purposes permitted by the Planning Permission save for temporary occupation for the purposes of construction or fitting out the buildings and the word "Occupy" and "Occupied" and cognate expressions shall be construed accordingly

Open Market Units means Residential Units that are not Affordable Housing Units

Phasing Scheme means a scheme containing details and mechanisms for the phasing of the Development and which shall set out the Maximum Number of Residential Units to be

⁴ The additional 1% takes account of the fact that the BC Index report will always be at least 3 months out of date

⁵ If the development will be carried out in a single phase then the Maximum Number of Residential Units should be specified. If not then it will be specified in the Phasing Scheme or the reserved matters applications.

constructed within each Phase which scheme may be amended and resubmitted to the Corporation from time to time

Plan means the plan marked ** attached to this Deed at Appendix 1

Planning Permission means the planning permission to be granted pursuant to the Application for the Development as annexed at Appendix 2 to this Deed

Planning Obligations and Community Benefit Strategy means the planning obligations and community benefit strategy as adopted in July 2010 and as subsequently amended

[Prevailing Discounted Standard Charge means the figure for the Discounted Standard Charge adopted by the Corporation in the Quarter prior to which a payment becomes due under Paragraph [2.4 or] 2.5 of Schedule 1 and which is Index-Linked from the date of adoption to date of payment]

Property means land at ** and registered at the Land Registry under title number(s) ** shown for the purposes of identification only edged red on the Plan

Public Realm Areas means the areas of public realm comprised within the Development of at least ** square metres to be located within that part of the Property shown for the purposes of identification only edged ** on the Plan

Public Realm Scheme means a scheme containing the details and mechanisms for providing managing and maintaining the Public Realm Areas

Public Sector Investment Plan means the plan for infrastructure to be provided in the Lower Lea Valley or London Riverside Areas (as appropriate) as contained in Schedule 5 to this Deed and as may be revised from time to time

Quarter means the period of three calendar months ending on 31 March, 30 June, 30 September and 31 December in each year

Realised Average Sales Value means the average sale price per metre realised for sales to independent third parties of Open Market Units within the Development calculated in accordance with Schedule 2

Realised Sales Value means the total consideration payable for the market units within the Development calculated in accordance with Schedule 2

Registered Social Landlord means a registered social landlord as defined in Part 1 of the Housing Act 1996 registered with the Homes and Communities Agency

Request for Security Confirmation means a written notice from the Corporation requesting a Security Confirmation in relation to specified Residential Units within the Development

Residential Unit means any separate unit of residential accommodation constructed on the Property pursuant to the Planning Permission

Security means in relation to any Residential Units specified in a Request for Security Confirmation legal provision by way of a bank bond cash deposit mortgage parent company guarantee or other mechanism agreed between the Corporation and the Owner guaranteeing the availability of funds to pay [all Discounted Standard Charges (including the Prevailing Discounted Standard Charge) [and any [Deferred Parts of the Standard Charge][Fixed Deferred Charge] in relation to the Residential Units when they fall due in accordance with this Deed

Security Confirmation means a document that provides detailed information about the resources available to the Owner (including the value of the land)

Security Notice means a notice from the Corporation specifying why the Corporation is not reasonably satisfied that the Security Confirmation is sufficient to provide the Corporation with a good level of confidence that the remaining Discounted Standard Charges, Prevailing Discounted Standard Charge (where appropriate) and Deferred Part of the Standard Charges in relation to the Residential Units will be paid when they fall due in accordance with this Deed

Shared Equity Units means ** 6

Shared Ownership Units means ** 5

Standard Charge means the average cost per Residential Unit of providing infrastructure and services assessed at the date of this Deed as ** by the Corporation or such reduced figure notified to the Owner and Developer pursuant to Paragraph 3 of Schedule 4 and which figure is believed to be less than the full cost of providing all infrastructure and services properly required to support the Development

Works in Kind means those works which the Owner or Developer wish to carry out themselves the details specification(s) and programming of which are approved by the Corporation in accordance with the provisions of this Deed

Works in Kind Costs means (as appropriate in the particular context) either:

- (a) the estimated construction costs of carrying out any Works in Kind together with associated design fees and supervision fees and required maintenance contributions (where applicable) excluding any bond fees; and
- (b) the actual construction costs of carrying out any Works in Kind together with associated design fees and supervision fees and required maintenance contributions (where applicable) excluding any bond fees

[and in each the costs case shall not exceed the amount assessed as being the cost of those works used in the calculation of the Standard Charge]

2 Interpretation

- 2.1 The headings appearing in this Deed are for ease of reference only and will not affect the construction of this Deed.
- 2.2 Unless the context requires otherwise references in this Deed to clauses, sub-clauses, paragraphs, recitals, sub-paragraphs, annexures, appendices and schedules are references to those contained in this Deed and references to plans and drawings are references to plans and drawings annexed to this Deed.
- 2.3 The word "including" shall mean "including without limitation or prejudice to the generality of any description defining term or phrase preceding that word" and the word "include" and its derivatives shall be construed accordingly.
- 2.4 References in this Deed to statutes, bye-laws, regulations, orders and delegated legislation shall include any statute, bye-law, regulation, order or delegated legislation amending, re-enacting or made pursuant to the same.

⁶ Affordable housing definitions will be agreed for each local authority area

- 2.5 In this Deed words importing the singular shall include the plural and vice versa and words importing one gender shall include all other genders.
- 2.6 In this Deed the expressions "Owner", "Developer", "Mortgagee", "Council" and "Corporation" shall include their respective statutory successors in respect of the functions to which this Deed relates and/or successors in title to the Property as the case may be.
- 2.7 Any obligations of the parties to this Deed contained in this Deed which are or may be deemed to be obligations of one or more persons shall be joint and several obligations on the part of those persons unless the context otherwise requires provided that nothing herein shall impose any liability upon either of the parties for the actions of the other.
- 2.8 Any covenant by the Owner and/or Developer not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred and any covenant by the Owner and/or Developer to do an act or thing may be deemed to include an obligation to procure that the act or thing is done.
- 2.9 In the event of any conflict between the provisions of this Deed and any annexed document the terms, conditions and provisions of this Deed will prevail.
- 2.10 Where any approval, consent, agreement or the like is required to be given pursuant to the terms of this Deed it shall be in writing and no party shall unreasonably withhold or delay any such approval, consent, agreement or the like.

3 Legal Basis

- 3.1 This Deed is made under section 106 of the 1990 Act and the obligations in it are planning obligations for the purposes of the 1990 Act enforceable by the Corporation as the local planning authority.
- 3.2 It is agreed that the Owner and Developer and Mortgagee enter this Deed so that the planning obligations bind the Property.

4 Conditionality

- 4.1 The planning obligations in Schedule 1 of this Deed are conditional upon:
- (a) the grant of the Planning Permission; and
 - (b) the Implementation Notice being given or deemed to have been given.

5 Provisions for Release

- 5.1 It is agreed that this Deed will determine if the Planning Permission is quashed, cancelled, revoked or expires prior to Implementation.
- 5.2 Upon reasonable request from the Owner and/or Developer and subject to payment of its reasonable and proper professional costs and charges the Corporation will certify compliance or partial compliance (as and if appropriate) with the provisions of this Deed.

6 Covenants by the Owner and Developer

- 6.1 The Owner and Developer jointly and severally covenant with the Corporation to carry out and comply with the obligations on their part contained in Schedules 1 and 2 to this Deed.

7 Provisions Relating to the Corporation

- 7.1 Nothing in this document in any way fetters the statutory rights, powers and duties of the Corporation as local planning authority.

8 Mortgagee's Consent

- 8.1 The Mortgagee consents to the Owner and Developer entering into this Deed and acknowledges that the Property will be bound by the terms and obligations contained in this Deed and if the Mortgagee become a mortgagee in possession of the whole or any part of the Property the Mortgagee will not carry out or procure the Development or any part without performing and observing the terms and obligations contained in this Deed.

9 Successors in Title

- 9.1 It is agreed that this Deed will be binding upon the Property and will be enforceable against the Owner, Developer and Mortgagee and their successors in title and those deriving title under them in respect of the Property and as provided in section 106(3) of the 1990 Act.
- 9.2 In accordance with section 106(4) of the 1990 Act it is the intention of the parties that neither the Owner, Developer or Mortgagee nor their successors in title nor those deriving title under them will have any further liability under this Deed (but without prejudice to any rights of the Local Planning Authority in respect of any antecedent breach) in respect of any period during which the Owner or Developer or Mortgagee or as the case may be any of their successors in title or those deriving title under them no longer have an interest in the Property.

10 Registration

- 10.1 It is agreed that this Deed will be registered as a Local Land Charge for the purposes of the Local Land Charges Act 1975.

11 Third Party Rights

- 11.1 A person who is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

12 Dispute Resolution

- 12.1 If there is any dispute or difference between the Owner, Developer and Mortgagee and the Corporation or any of them arising out of this Deed (other than a dispute or difference relating to a question of law or in relation to the interpretation of this Deed) the Owner, Developer and Mortgagee and the Corporation agree that the matter in dispute will on the application of either of the parties be referred to the Expert and it is further agreed that:
- (a) the determination of the Expert will be final and binding on the parties save in the case of manifest error;
 - (b) the parties will be entitled to make representations and counter-representations in accordance with such timetable as the Expert directs;
 - (c) the Expert's costs will be borne in such proportions as he/she may direct failing which the parties will each bear their own costs of the reference and determination and the

Expert's costs calculated by dividing the Expert's costs by the number of sides to the reference; and

- (d) the Expert may be replaced by a fresh appointee in the event of his/her becoming at any time unable or unwilling for any reason to proceed to discharge his/her function and such fresh appointee will be appointed in the same manner as the Expert.

13 Variations

- 13.1 No variation to this Deed will be effective unless made by Deed or pursuant to the determination of an application made under section 106A of the 1990 Act.

14 Service of Notices

- 14.1 All notices, requests, demands or other written communications to or upon the respective parties pursuant to this Deed will be deemed to have been properly given or made if despatched by first class letter to the party to which such notice, request, demand or other written communication is to be given or made under this Deed and addressed as follows:
 - (a) if to the Corporation to the address set out above for the attention of the Director of Planning;
 - (b) if to the Owner to the address set out above for the attention of ** ;
 - (c) if to the Developer to the address set out above for the attention of ** ;
and
 - (d) if to the Mortgagee to the address set out above for the attention of ** .

15 The Corporation's Legal and other Professional Costs

- 15.1 The Owner and Developer agree that upon completion of this Deed it will pay the Corporation's reasonable professional costs including the costs of legal advice, valuation and cost consultancy and any costs incurred in preparing or reviewing development appraisals including any VAT thereon and disbursements properly incurred in the negotiation and completion of this Deed in the sum of ** .

16 VAT

- 16.1 If VAT becomes payable on payments made under this Deed that VAT will be additional to the sums required, provided that the Owner and/or Developer will be entitled to valid VAT receipts in respect of any vatiable supplies properly incurred under this Deed.

17 Interest

- 17.1 If any payment due under this Deed is paid late, Interest will be payable from the date payment was due to the date of payment.

18 Transfers to the Corporation

- 18.1 The parties agree that the transfer of land to the Corporation for public use will be at nil value
- 18.2 The parties will use reasonable endeavours to ensure that no Stamp Duty Land Tax is payable in accordance with the provisions of section 61 of the Finance Act 2003 on any

transfer of land to the Corporation and the parties will take such lawful steps as may be appropriate to structure the transfer arrangements accordingly.

- 18.3 The Owner and/or Developer covenant to the Corporation that if any transfer to the Corporation has Stamp Duty Land Tax (or any equivalent replacement tax) payable on it the Owner and/or Developer will be responsible for all such tax due in relation to the transfer.

IN WITNESS whereof this Deed has been executed by the parties and is intended to be and is delivered on the date first above written

Schedule 1 - Site Specific Covenants

1 Implementation

- 1.1 The Owner and Developer will serve an Implementation Notice on the Corporation fifteen (15) working days prior to the anticipated Implementation of the Development
- 1.2 The Owner and Developer agree that prior to Implementation it will pay the reasonable costs of the Monitoring Officer to be properly incurred in the carrying out of its functions under this Deed in the sum of ** *[£200 per principal obligation]*
- 1.3 The Owner and Developer agree that prior to Implementation it will agree a Phasing Scheme with the Corporation and will comply with that Phasing Scheme unless otherwise agreed with the Corporation

2 Standard Charge

General Obligations

- 2.1 The Owner and Developer will pay to the Corporation an amount up to the full amount of the Index Linked Standard Charge for each Residential Unit within the Development in accordance with the provisions that follow in this paragraph

Payment of Discounted Standard Charge

- 2.2 The Owner and the Developer will be liable to pay to the Corporation the Discounted Standard Charge as follows
- (a) twenty five per cent (25%) of the Discounted Standard Charge for the Maximum Number of Residential Units will be payable and will be paid on Implementation of the Planning Permission⁷; and
- (b) unless previously paid pursuant to paragraph 2.5 [seventy five per cent (75%) of the Discounted Standard Charge] [and in relation to any housing unit completed more than three years after the date of the Planning Permission the balance of the Prevailing Discounted Standard Charge]⁹ will be payable in respect of each Residential Unit on Completion of each Residential Unit
- 2.3 The payment of any Discounted Standard Charge due under paragraph 2.2(b) will be made within 20 working days of the end of each Quarter in relation to all Residential Units Completed within that Quarter

Payment of [Deferred Part of the Standard Charge] [Fixed Deferred Charge]¹⁰

- 2.4 [The Owners and Developer shall pay the Deferred Part of the Standard Charge in relation to all Residential Units Completed more than three (3) years after the date of the Planning Permission within 20 days of the end of each calendar year in relation to all Residential Units Completed within that calendar year.]¹¹

⁷ In the case of phased developments, the Corporation will consider relating the triggers under paragraph 2.2 (a) to each phase

⁸ LTGDC has decided that for schemes implemented between 1/8/10 and 31/7/11 it will waive this payment for all phases properly implemented

⁹ Only applicable if the Development includes one hundred (100) or more residential units and the Developer opts to pay the Prevailing Discounted Standard Charge

¹⁰ Delete as appropriate depending on whether Developer opts to pay the Deferred Part of the Standard Charge, or the Fixed Deferred Charge. If the Developer opts to undertake Phased Reappraisals (provisions available separately), delete paragraphs 2.4, 2.5, 2.6 and 2.7

¹¹ This provision applies to all developments comprising 100 or more Residential Units

[or]

[The Owner and Developer shall pay the Fixed Deferred Charge in relation to all Residential Units Completed more than three (3) years after the date of the Planning Permission within 20 days of the end of each calendar year in relation to all Residential Units Completed within that calendar year.]¹²

Long Stop Date

- 2.5 On the tenth (10th) anniversary of Implementation:
- (a) the Owner and Developer will pay the [Index Linked][Discounted Standard Charge][Prevailing Discounted Standard Charge] for the Maximum Number of Residential Units [within any Phase that has been Implemented]¹³ less any sums paid under paragraph 2.2 (a) of this Schedule; and
 - (b) if 50% (fifty percent) or more of the Residential Units [in any Phase of the Development] have been Completed then the Owner and the Developer will pay a [Fixed Deferred Charge] [Deferred Part of the Standard Charge] for each Residential Unit within the Maximum Number of Residential Units not then Complete¹⁴ [and the amount of the Deferred Part of the Standard Charge payable under this paragraph 2.5(b) shall be calculated by applying the most recently available figures for the Development Realised Average Sales Value for the Development at the date of payment]¹⁵

General

- 2.6 The payment obligations set out at paragraph 2.5 above are without prejudice to the payment obligations in paragraphs 2.2, 2.3 and 2.4 of this Schedule which shall continue notwithstanding the 10th anniversary for Residential Units in relation to which payments have not been made under paragraph 2.5
- 2.7 The payments set out at paragraph 2.5 above shall be paid irrespective of whether the Residential Unit to which they relate has been Completed
- 2.8 The sum of the Discounted Standard Charge and the [Deferred Part of the Standard Charge][Fixed Deferred Charge] in relation to any Residential Unit will never exceed the Standard Charge for that Residential Unit]
- 2.9 The Owner and the Developer shall act in good faith in relation to the sale and rental of Residential Units and the disclosure of financial information with the objective of ensuring that additional payments will be made if higher values are achieved for the Residential Units (whether as capital receipts or rents for Residential Units) than had been anticipated
- 2.10 Other than with the approval of the Corporation at least 50% of the Open Market Units shall be sold freehold or on a long leasehold basis for a capital sum
- 2.11 The Owner and the Developer shall use reasonable endeavours to ensure that certificates of Completion are issued as soon as practicable following the completion of any Residential Unit or other relevant work

¹² This provision only applies if the Development comprises 100 or more Residential Units

¹³ Use words in brackets where the Development is phased

¹⁴ Delete this provision if Owner/Developer opts to pay Prevailing Discounted Standard Charge.

¹⁵ Delete is the Developer opts to pay the Fixed Deferred Charge

Maximum Charge

- 2.12 The sum of the Discounted Standard Charge and the [Deferred Part of the Standard Charge][Fixed Deferred Charge] paid in relation to any Residential Unit shall never exceed the Index Linked Standard Charge in relation to that Residential Unit

3 Works the Owner and/or Developer wishes to undertake

- 3.1 If the Owner or Developer wish to carry out any Works in Kind it will submit to the Corporation for approval:
- (a) comprehensive details and specifications of the proposed Works in Kind sufficient to enable the Corporation to assess whether or not the proposed works fall within the scope of those works in the Public Sector Investment Plan;
 - (b) a detailed delivery programme setting out the timescales within which the proposed Works in Kind will be carried out and completed sufficient to enable the Corporation to assess whether or not they fall within the works programme in the Public Sector Investment Plan; and
 - (c) a detailed estimate of the Works in Kind Costs
- 3.2 If the Corporation determines that:
- (a) the details and specifications fall within the scope of those in relation to which the Standard Charge has been calculated;
 - (b) the details and specifications adequately define the Works in Kind;
 - (c) they can properly and lawfully procure the Works in Kind from the Owner or Developer; and
 - (d) that the proposed delivery programme would not adversely affect the Corporation's programming of works or adversely affect the cost of other works which the Corporation intends to carry out then

the Owner or Developer will carry out and complete the said Works in Kind entirely in accordance with the details specifications and delivery programme approved pursuant to paragraphs 3.1 and 3.2

- 3.3 The Works in Kind Costs will:
- (a) be Index-Linked from the date that they were agreed; and
 - (b) after (and only after) Completion of the Works in Kind be off-set against any payments of the Standard Charge payable by the Owner or Developer
- 3.4 The following Works in Kind Costs have been approved and upon Completion of the Works in Kinds the Works in Kind Costs may then be offset against any payments of the Standard Charge then falling due
- (a) **

4 Security

- 4.1 At any time after [the Completion of ** Residential Units] the Corporation may issue a Request for Security Confirmation from the Owner.
- 4.2 A Security Confirmation must be provided within twenty eight (28) days of a Request for Security Confirmation.

- 4.3 If following receipt of a Security Confirmation the Corporation is not reasonably satisfied that the Owner will be able to pay the Discounted Standard Charges or [Deferred Part of the Standard Charges] [Prevailing Discounted Standard Charges] [Fixed Deferred Charges] required when they fall due in accordance with the Deed it shall be entitled to serve a Security Notice on the Owner.
- 4.4 Unless there is a dispute which shall be resolved using Dispute Resolution the Owner shall provide Security to the Corporation within twenty eight (28) days of the date of the Security Notice.
- 4.5 Subject to paragraph 4.4 if the Owner fails to provide Security within twenty eight (28) days of the date of the Security Notice there shall be a deemed default of the longstop provisions contained in paragraph 2.5 and the Corporation may commence enforcement proceedings as it sees fit to obtain the provision of Security and/or recover the Discounted Standard Charge and the [Deferred Part of the Standard Charges] [Prevailing Discounted Standard Charges] [Fixed Deferred Charges] at the rate last charged in relation to the Maximum Number of Residential Units and shall be entitled to prevent any further development on the land specified until such time as the Security has been provided.

5 Contribution and Environmental Parameters

- 5.1 No more than the Maximum Number of Residential Units will be built within the Development or any Phase of the Development.
- 5.2 No more than [•] sq metres of floorspace (gross external area) of Commercial Units will be built within the Development Site.

6 Affordable Housing

[These provisions will be drafted as appropriate to specific sites]

[Note that the Corporation has agreed the principle that in exceptional cases affordable housing levels may be reconsidered on a phase by phase basis on large scheme]

7 On Site Obligations

[These provisions will be drafted as appropriate to specific sites]

- (a) *Design obligations*
- (b) *On site Community Facilities obligations*
- (c) *On site Public Realm obligations*
- (d) *On site sustainability obligations*

8 Planning Considerations

The Owner and Developer covenant with the Corporation:

- (a) not to Implement the Planning Permission until any conditions attached to the Planning Permission which must be discharged before Implementation of the Planning Permission have been discharged and to comply with the requirements of the Act; and
- (b) to comply with all conditions attached to the Planning Permission.

Phased Reappraisal

The following provisions apply where a developer/owner opts to undertake a phase viability appraisal instead of paying the Deferred Part of the Standard Charge / Fixed Deferred Charge / Prevailing Discounted Charge under paragraph 2.4 of Schedule 1 to the Standard Legal Agreement. The draft paragraphs are intended to give parties an indication of what would be required. Further work would be necessary to tailor the provisions to the scheme and the financial models being used.

The definitions below would be added to clause 1 and the substantive provisions added to Schedule 1 and appropriate revisions would need to be made to the existing provisions.

1. Before submitting the Viability Appraisal Methodology¹⁶ the Development the Owner and Developer will submit the Phasing Scheme to the Corporation for its written approval and will not Implement the Development before written approval has been obtained.
2. Before submitting any reserved matters application for the Development the Owner and the Developer will submit the Viability Appraisal Methodology to the Corporation for its written approval and will not submit any reserved matters application before written approval has been obtained.
3. Before submitting any reserved matters application¹⁷ for any Phase of the Development the Owner and Developer will submit a Phase Viability Appraisal relating to that Phase to the Corporation for its written approval.
4. The Owner and Developer will not submit any reserved matters application for any Phase of the Development to which a Phase Viability Appraisal required under Paragraph 3 of this Schedule relates until the Phase Viability Appraisal has been approved in writing by the Corporation.
5. The proportion of Affordable Housing for the Development and for each Phase of the Development will be specified in the Phase Viability Appraisal first submitted and will not be changed in any subsequent Phase Viability Appraisal without the consent of the Corporation¹⁸.
6. Where the Phase Viability Appraisal shows an Available Standard Charge Sum then subject to the cap on payments of the Standard Charge at paragraph [2.6.3 of this Schedule] 50% (fifty percent) of such sum shall be paid to the Corporation before the Phase is Implemented and the Phase to which the Phase Viability Appraisal relates will not be Implemented before the payment is made.
7. The Owner or the Developer will pay the Corporation the reasonable costs of approving the Viability Appraisal Methodology.
8. The Development will not be Implemented unless the reasonable costs of approving the Viability Appraisal Methodology have been paid.
9. The Owner or the Developer will pay the Corporation the reasonable costs of approving the Phase Viability Appraisal.
10. No Phase of the Development will be Implemented unless the reasonable costs of approving the Phase Viability Appraisal have been paid.

¹⁶ This will be critical to the Viability Appraisal Methodology

¹⁷ It will be necessary to understand the viability of a proposed phase before the submission of reserved matters since that will be the stage at which discussions (if any) about affordable housing levels will have to take place. If there is a change in the level of affordable housing as a consequence then the reserved matters submission will need to change to reflect that.

¹⁸ The level of affordable housing will be a key input in terms of timing of types of housing, and the modelling is needed at the outset. There is flexibility but only to the extent that LTGDC approve changes.

Available Standard Charge Sum means the projected revenue from the Development of a Phase less the relevant costs incurred as set out in the Phase Viability Appraisal

Phase Viability Appraisal means an assessment of the financial viability of a Phase of the Development to be carried out in accordance with the Viability Appraisal Methodology as approved by the Corporation under paragraph [2] of Schedule 1

Viability Appraisal Methodology means a methodology for assessing the viability of the Development as a whole and the projected costs and revenues of each Phase and shall set out for the Development and for each Phase of the Development:

- projected sales or capitalised rental values for open market residential units and any commercial units and such values to be evidenced by appropriate market research;
- any projected revenue from the sale of the Affordable Housing Units, specifying any grant this is anticipated;
- any other projected receipts or revenues;
- [if not already agreed at a fixed amount][the assumed land value for the Property and for each phase supported by appropriate evidence and the proposals for the apportionment of this value across each Phase of the Development];
- the amount of Discounted Standard Charge for the Development and for each Phase of the Development;
- the total construction costs together with a contingency amount assessed at no more than 5% of the total construction costs supported by a costs assessment prepared by a reputable cost consultant or as evidenced by independent tender prices;
- design and planning costs at no more than []% of the construction costs;
- sales and marketing costs at no more than []% of the projected sales values for the open market units and for any commercial units;
- finance costs at the prevailing market rate on all outstanding cost balances;
- the apportionment of all costs between Phases of the Development with the presumption being that all infrastructure serving the Development as a whole shall be apportioned proportionately between phases
- developer's profit at [20%] on the costs (excluding land) set out above; and
- the format of the Phase Viability Appraisal

Schedule 2 – Deferred Part of the Standard Charge¹⁹

Realised Average Sales Value

The Realised Average Sales Value will be determined using the following process:

1. The Developer will disclose to the Corporation within 20 working days of the end of each calendar year until the cessation of development all relevant financial information including records from the Valuation Office and Land Registry relating to the Realised Sales Values achieved for sales of all Open Market Units within the Development in the preceding calendar year.
2. The Corporation will apply the following calculation to assess the Realised Average Sales Value:
 - (a) divide the Realised Sales Value of each Open Market Unit sold within the preceding calendar year by the total floorspace of that Open Market Unit to obtain the average sales value per square metre for that unit;
 - (b) add the average sales values per square metre for each of the Open Market Units sold within the preceding calendar year;
 - (c) divide this figure by the total number of Open Market Units sold in the preceding calendar year.
4. A Deferred Part of the Standard Charge will be required as follows:

Realised Average Sales Value ²⁰	Additional payment of Standard Charge	Additional payment of Standard Charge
	Lower Lea Valley	London Riverside
£3,300 to £3,600 per sq. metre	An amount of £4,000 of the Standard Charge payable on all Residential Units Completed in the preceding calendar year	An amount of £2,500 of the Standard Charge payable on all Residential Units Completed in the preceding calendar year
£3,600 to £3,900 per sq. metre	An amount of £8,000 of the Standard Charge payable on all Residential Units Completed in the preceding calendar year	An amount of £5,000 of the Standard Charge payable on all Residential Units Completed in the preceding calendar year
£3,900 to £4,200 per sq. metre	The Standard Charge less the Discounted Standard Charge on all Residential Units Completed in the preceding calendar year	An amount of £10,000 of the Standard Charge payable on all Residential Units Completed in the preceding calendar year
£4,200 to £4,500 per sq. metre	The Standard Charge less the Discounted Standard Charge on all Residential Units	An amount of £15,000 of the Standard Charge payable on all Residential

¹⁹ Delete this Schedule if Developer opts to pay Prevailing Discounted Standard Charge, Fixed Deferred Charge or opts for a Phased Reappraisal under paragraph 2.4. of Schedule 1

²⁰ The Corporation is willing to consider other sales value figures if justified and evidenced by the developer. Alternatively the Corporation will use a sliding scale so that, instead of there being "jumps" at the threshold levels the additional amount payable increases linearly.

Realised Average Sales Value²⁰	Additional payment of Standard Charge	
	Lower Lea Valley	London Riverside
	Completed in the preceding calendar year	Units Completed in the preceding calendar year
£4,500 per sq. metre	The Standard Charge less the Discounted Standard Charge on all Residential Units Completed in the preceding calendar year	The Standard Charge less the Discounted Standard Charge on all Residential Units Completed in the preceding calendar year

Development Realised Average Sales Value

The Development Realised Average Sales Value will be determined using the following process:

5. The Corporation will apply the following calculation to assess the Development Realised Average Sales Value:
 - (a) add together the Realised Sales Values for each year in which Open Market Units forming part of the Development have been sold to obtain the total Realised Average Sales Values obtained during such years;
 - (b) divide this figure by the floorspace of all Open Market Units forming part of the Development which have been sold to get the Development Realised Average Sales Value
6. For the purposes of paragraph 2.5 (b) of Schedule 1 (Long Stop Date) a Deferred Part of the Standard Charge will be required as follows:

Development Realised Average Sales Value²¹	Additional payment of Standard Charge	
	Lower Lea Valley	London Riverside
£3,300 to £3,600 per sq. metre	An amount of £4,000 of the Standard Charge payable on all Residential Units	An amount of £2,500 of the Standard Charge payable on all Residential Units
£3,600 to £3,900 per sq. metre	An amount of £8,000 of the Standard Charge payable on all Residential Units	An amount of £5,000 of the Standard Charge payable on all Residential Units
£3,900 to £4,200 per sq. metre	The Standard Charge less the Discounted Standard Charge on all Residential Units	An amount of £10,000 of the Standard Charge payable on all Residential Units
£4,200 to £4,500 per sq. metre	The Standard Charge less the Discounted Standard Charge	An amount of £15,000 of the Standard Charge payable on all Residential

²¹ The Corporation is willing to consider other figures if justified and evidenced by the developer

Development Realised Average Sales Value²¹	Additional payment of Standard Charge	Additional payment of Standard Charge
	Lower Lea Valley	London Riverside
	on all Residential Units	Units
£4,500] per sq. metre	The Standard Charge less the Discounted Standard Charge on all Residential Units	The Standard Charge less the Discounted Standard Charge on all Residential Units

Schedule 3 – Works in Kind

[This Schedule will set out for the Development, the specification of any works which the Corporation and the Developer agree will be undertaken as Works in Kind and the amount or proportion of the Costs of those works which the Developer will be entitled to off-set against the Standard Charge.]

Schedule 4 - Corporation's Obligations

1 Site Specific Obligations

This section will set out the any obligations accepted by the Corporation in relation to the site specific obligations.

2 Management of Standard Charges by the Corporation

- 2.1 The Corporation covenants with the Owner and Developer to use reasonable endeavours to secure the provision of the infrastructure in relation to which the Standard Charges are being paid in accordance with the Public Sector Investment Plan.
- 2.2 The Corporation covenants with the Owner and Developer to procure that the Standard Charge will only be applied towards the provision of Infrastructure in accordance with the Public Sector Investment Plan and will use reasonable endeavours to make sure that by the end of the Public Sector Investment Plan an amount equivalent to all payments of the Standard Charge made by the Owner or Developer are spent on Infrastructure that falls within the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.
- 2.3 The Corporation covenants with the Owner and Developer to use reasonable endeavours to ensure that all details (including applications for Reserved Matters approvals and details specifications and delivery programmes of Works in Kind) submitted by the Owner or Developer pursuant to the Planning Permission and this Deed respectively are considered expeditiously and with all due diligence.

3 Level of Standard Charge

- 3.1 The Corporation covenants with the Owners and Developer that within 20 days of the end of each financial year and if the circumstances set out in Paragraph 3.2 below exist, it will reduce the level of the Standard Charge specified in this Deed by an appropriate amount to take into account the secured level of public funding or any contribution it expects to receive from Commercial Units and notify the Parties of any such reduction.
- 3.2 The circumstances referred to in paragraph 3.1 are that the Corporation either:
- (a) considers that either public funding or full funding from other sources (excluding any funding secured in accordance with the Corporation's Planning Obligations and Community Benefit Strategy) has been secured for a specific element of infrastructure specified in the Public Sector Investment Plan; or
 - (b) extends the Standard Charge to commercial development.

4 Repayment

- 4.1 If a surplus of Standard Charge receipts remain uncommitted 31 December ** following the provision of all infrastructure specified in the Public Sector Investment Plan the Corporation covenants with the Owner and Developer to use its reasonable endeavours to return an appropriate and equitable proportion of such surplus to the Owner and Developer.

5 Planning Conditions

- 5.1 The Corporation covenants with the Owner and the Developer that if the Owner and/or Developer are in breach of Paragraph 8 of Schedule 1 and such a breach constitutes also a breach of planning control against which the Council may take action under Part VII of the Act then if the Council takes enforcement action the Corporation will not take enforcement action against the breach pursuant to Paragraph 8 of Schedule 1 and/or will withdraw any action it has instigated pursuant to Paragraph 8 of Schedule 1 in relation to the said breach.

Schedule 5 – Public Sector Investment Plan

Appendix 1

PLAN

Appendix 2

DRAFT PLANNING PERMISSION

THE COMMON SEAL of London)
Thames Gateway Development)
Corporation was hereunto affixed in the)
presence of:)

THE COMMON SEAL of)
 was hereunto affixed in the)
presence of:)

Director

Director/Secretary

THE COMMON SEAL of)
 was hereunto affixed in the)
presence of:)

Director

Director/Secretary

THE COMMON SEAL of)
 was hereunto affixed in the)
presence of:)

Director

Director/Secretary

12-month 'Holiday' Procedures (1 August 2010 – 31 July 2011)

Due to concerns expressed by stakeholders during consultation on revisions to the Planning Obligations Community Benefit Strategy (POCBS) and the lack of recent starts on sites in the London Thames Gateway area, the Corporation has agreed to introduce a 12 month 'holiday' on the *Discounted* Standard Charge element normally due on implementation (i.e. 25% of £6,000 in LR /25% of £10,000 in LLV per residential unit) for units within schemes *implemented* in the next 12 months, in order to incentivise early commencement.

This holiday period will run from 1 August 2010 - 31 July 2011.

This holiday will apply to both schemes already permitted but not yet started and schemes in the pipeline that are consented and implemented this year. Where S106 agreements have already been signed, a simple deed of variation will be required. A standard form of document will be prepared. Where schemes have a resolution to grant, LTGDC will report these collectively back to planning committee to ensure that the proposed holiday period is included within their terms. Schemes that have already been implemented are not eligible for the holiday.

For the avoidance of doubt, this holiday applies to 25% of the *Discounted* Standard Charge, currently set at £6,000 per residential unit in London Riverside and £10,000 per unit in the Lower Lea Valley (25% of it is usually due on commencement and 75% on completion). The holiday does not apply to the 75% of the discounted standard charge due on completion nor to the *Deferred* Standard Charge element which will still remain payable on all units if the appropriate sales price thresholds are reached, although it should be noted that the existing Strategy does not seek a *Deferred* Charge on schemes under 100 units or units which are completed within 3 years of the date of planning permission. This is an existing measure that LTGDC have used to incentivise the early completion of development.

Where a development is phased (or would normally be phased), the holiday will apply to all units in phases implemented within the 12-month period. LTGDC will review each scheme to ensure that an equitable approach is adopted.

Implementation in relation to this holiday provision will be defined in the same way that it has been in the model planning agreement; that is:
Implementation means the implementation of the Development in accordance with the Planning Permission by the carrying out of any material operation within the meaning of sections 56(2) and (4) of the 1990 Act provided that for the avoidance of doubt the carrying out of archaeological investigations, demolition, remediation works, site clearance, site preparation, surveys, erection of fencing or hoardings, provision of security measures or lighting, erection of temporary buildings or structures associated with the Development, laying and diversion of services, and the provision of construction compounds shall be deemed not to constitute a material operation.

The intention is that a substantive start on site should have been carried out in order to qualify for the holiday. Developers are reminded that all pre-commencement conditions would need to be satisfied with the LPA before implementation.

Natasha Trinidad
CLG
Planning.obligations@communities.gsi.gov.uk

Phone : 0207 517 4737
Email : john.allen@ltgdc.org.uk

10 June 2010

Dear Ms Lambert

CLG consultation on 'New Policy Document for Planning Obligations'

Thank you for providing London Thames Gateway Development Corporation (LTGDC) with the opportunity to comment on above consultation document. A report was considered by the LTGDC Board on 7th June 2010 where the following response was agreed.

LTGDC supports the principle of formalising developer contributions towards essential infrastructure and there is a general recognition that the principles on which CIL is based are sound. The Corporation was pleased to note the transitional period after which existing tariff arrangements will be restricted has been extended to four years (to April 2014), to provide a sufficient transition period by which time the respective LPAs should be putting CIL in place and which would cover the likely lifespan of the UDCs.

LTGDC was disappointed that UDCs have not been identified as CIL charging authorities, but it is understood that this is restricted to plan making authorities, since CIL funds are raised as part of the infrastructure planning undertaken to support development plans. Whilst it is recognised that the CIL Regulations specifically provide for borough charging authorities to pass CIL receipts to UDCs for developments in their areas, the Corporation believes that the receipts should be passed directly to UDCs, to fund essential infrastructure in the growth and regeneration areas. The Regulations are drafted such that if boroughs set a CIL, LTGDC would be only able to collect and spend the CIL contributions, if this was agreed by the borough, rather than it being utilised by the UDC as the default position.

In relation to the specific questions proposed by the consultation, the consultation document notes that the content of Circular 5/05: Planning Obligations has largely been retained and therefore comments are provided in relation to the following areas of change.

Three tests – it is understood that the CIL Regulations put the three planning obligations tests into law. However, Paragraph 1.29 and question 2 state that "it will be unlawful for a planning obligation to be taken into account when determining a planning application if the obligation does not meet all of the following tests". Regulation 122 prevents an LPA treating a non-compliant obligation as a "reason for granting planning permission". That is different from saying that it will be "unlawful" to take a non-compliant obligation into account, and although Part 2 does not repeat this, it should be clarified in the supporting text.

Pooled contributions – the legal framework with which planning obligations may be used to seek pooled contributions for infrastructure items has been changed by CIL regulation 123 and the updates reflect these changes. As set out above, LTGDC support the extension of the transitional period for the phasing out of tariffs (to April 2014). This timeframe should be referenced in Para P05.3. Transparency and Accountability – LTGDC support the move to strengthen the information provided to local communities about how planning obligations have been delivered by developers and how the local authority has put those contributions to use. LTGDC produce quarterly monitoring reports on S106s agreed (resolution to grant) and signed and an annual update report including contributions received and spent.

Paragraph PO7.3 suggests that local planning authorities should publish on their websites, on a quarterly basis, details of all planning obligations agreed and delivered during that period including any monies that remain unspent and their intended use. It is suggested that planning obligations agreed should be reported on a quarterly basis but that the financial reporting (i.e. including monies unspent) should be reported on an annual basis when Councils reconcile accounts and calculate interest, in order to avoid placing a considerable administrative burden on LPAs.

In addition, there should be an awareness that the majority of London boroughs were recently approached by a legal firm with FOI requests on all negotiated planning agreements in order to seek to recoup unspent contributions for unspecified developers on a no-win-no-fee basis. Although it is right to improve transparency in the planning obligations process and ensure the timely expenditure of contributions received, reasonable timeframes for expenditure (i.e. 5-10 years) should be agreed to avoid the necessity for repayment.

Further Guidance – the consultation document notes that the Government is intending to review and replace the current Planning Obligations: Practice Guidance (August 2006) and addition to a new practice guide on the use of CIL. There is a danger in producing too many policy and guidance documents to the extent that the key messages become lost and there is overlap and confusion. Indeed, the current consultation document was published with three other guidance documents on 25 March 2010:


- New Policy Document for Planning Obligations: Consultation
- The Incidence, Value and Delivery of Planning Obligations in England in 2007-08

- Community Infrastructure Levy: An overview
- Community Infrastructure Levy Guidance: Charge setting and charging schedule procedures

It is therefore suggested that only one policy/guidance/best practice document is produced on planning obligations and one on CIL, making a clear distinction between the elements that are law and those that reflect guidance and best practice.

Please do not hesitate to contact me if you have any queries in relation to any of the comments outlined above.

Yours sincerely

A handwritten signature in black ink, appearing to read "J.P. Allen". The signature is written in a cursive style with a large initial "J" and "A".

John Allen, Director of Planning, LTGDC