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Supplementary Planning Guidance  
**Use of planning obligations in the funding of Crossrail**



**MAYOR OF LONDON**

**Greater London Authority July 2010**

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# Supplementary Planning Guidance

## **Use of planning obligations in the funding of Crossrail**

### **Contents**

	page
Explanatory note	4
• Background	4
• The Panel report of the Crossrail EiP and the Mayor's response	4
Ch 1: Introduction	7
Ch 2: Crossrail background and policy context	11
Ch 3: Funding Crossrail and use of planning obligations	16
Ch 4: Crossrail contributions: formulae and standard charges	21
• What type of development, and in what locations?	21
• Charging Levels	25
• Central London Contributions Area	25
• Isle of Dogs Contributions Area	26
• Rest of London Contributions Areas	27
• Table 2: Indicative level of charge per sqm by land use and location	28
• Initial reductions	29
• Viability	29
• Measurement of floorspace	29
• Arrangements for cleared brownfield sites	30
• Indexation	31
• Reporting, monitoring and review	31
• Collection	31
• Consistency with Government policy tests and viability	32
Ch 5: The Community Infrastructure Levy	34
Annex 1: Central London Contribution Area map	36
Annex 2: Isle of Dogs Contribution Area map	37
Annex 3: Rest of London Contribution Areas – West London map	38
Annex 3: Rest of London Contribution Areas – East London map	39
Annex 4: Worked example of a mixed-use scheme (hypothetical)	40

## Explanatory note

This Supplementary Planning Guidance (SPG) has been prepared to accompany Alterations to the London Plan<sup>1</sup> relating to the use of planning obligations – commonly known as Section 106 agreements – to raise contributions towards the funding of Crossrail.

In general terms, the Crossrail contributions policy framework has two elements.

- first, there are detailed alterations to the Plan itself, providing the basis for seeking contributions which have the force of statutory development plan process
- the second is more detailed supplementary planning guidance (SPG), which sets out the details of the policy – explaining which uses are covered in which locations, the sums sought and the basis on which they should be calculated

This SPG has been prepared in accordance with the procedure set out in Government Office for London Circular 1/2008 (paragraphs 2.22 to 2.23).

## Background

This SPG has been subject to considerable public consultation, and is now in its final form. It has evolved over time:

- an initial draft of the SPG was published on 4 December 2008 – when the Mayor wrote to the London Assembly and the GLA group (Transport for London, the London Development Agency, the Metropolitan Police Authority, and the London Fire and Emergency Planning Authority) to inform them of his proposed London Plan Crossrail Alterations – and at this stage the draft SPG was also open for public comment from December 2008 to February 2009
- a further draft of the SPG was open for full public consultation, together with the proposed Alterations, for a period running from 18 May to 10 August 2009
- on 26 October 2009 the Mayor published another version of the SPG, amended in the light of public consultation comments, to inform the December 2009 Examination in Public (EiP)
- following consideration of the EiP Panel report's comments on the draft, a revised SPG was published by the Mayor for eight weeks' consultation on 23 March 2010
- This version, the final published version, reflects changes in response to the last round of consultation.

Downloadable copies of each of these documents are available from <http://www.london.gov.uk/priorities/planning/vision/london-plan/crossrail-alterations>

## The Panel Report of the Crossrail Alterations EiP and the Mayor's response

The Crossrail EiP took place in City Hall over four days running from 14 to 18 December 2009. On 1 February 2010 the independent EiP Panel submitted its report to the Mayor, and this was published by the Mayor on 5 February 2010.

In their report the Panel made recommendations to the Mayor on the Alterations and comments to the Mayor on the draft SPG. The Panel report and all other EiP

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<sup>1</sup> The London Plan (consolidated with Alterations since 2004), published February 2008

documentation is available from the EiP's website at <http://www.london.gov.uk/london-plan-eip/2009-eip.jsp>

While the Examination was formally into the Alterations alone, it was agreed that the Alterations could not be considered sensibly in isolation from the SPG. In fact, much of the EiP was taken up with discussion of issues dealt with in the SPG, rather than the Alterations themselves.

### *The Alterations*

The Panel agreed that the draft Alterations were properly founded on legislation and national guidance on the use of section 106 agreements. It agreed that the split between what was proposed to be dealt with in the Alterations and in the SPG was appropriate and consistent with national guidance. It also considered that the Alterations were procedurally sound.

On 12 March 2010 the Mayor wrote to John Denham, CLG Secretary of State, to inform him that, following consideration of the Panel report, he intended to formally publish (ie adopt) the Crossrail Alterations. Under the GLA Acts and associated SDS Regulations, publication of London Plan alterations by the Mayor is possible only after a period of six weeks from submission to the Secretary of State has lapsed, unless the Secretary of State directs otherwise.

In this letter, the Mayor informed the Secretary of State that he had decided to accept the Panel's Alterations recommendations R1.1, R1.2, R1.4, R1.4 and R2.1 in full, and to partially accept recommendations R2.2 and R2.3, together with some minor textual changes.

The Alterations as amended following the Mayor's consideration of the Panel's recommendations in their report are as set out Chapter 1 of this draft SPG. It should be noted, however, that these remain potentially subject to direction by the Secretary of State.

### *The SPG*

The Panel also made a considerable number of comments regarding the SPG, in particular changes to the areas in which Crossrail contributions should be sought, and to the range of uses from which contributions should be sought.

In respect of the contribution areas, the Panel in their comments to the Mayor:

- upheld the removal of the Vauxhall, Nine Elms and Battersea area from the Central London Contribution Area (as previously taken out by the Mayor)
- proposed removing Elephant and Castle and Waterloo from the Central London Contribution Area and widening the Isle of Dogs Contribution Area
- proposed making explicit that outside the Central London and Isle of Dogs Contribution Areas, contributions should be sought from areas within approximate 1km circles around proposed Crossrail stations within Greater London (with the exception of Woolwich)

In respect of the uses from which contributions should be sought, the Panel in their comments to the Mayor proposed widening the range of uses to include hotel and retail as well as offices.

**SPG: use of planning obligations in the funding of Crossrail July 2010**

The Mayor has decided to accept the comments of the EiP Panel on the draft SPG in their report to him.

In accordance with the advice in GOL Circular 1/2008, on publication of the final SPG a statement of the consultation undertaken, the representations received and the Mayor's response to them will be placed on the GLA website.

*Please note that this Explanatory Note does not form part of the SPG*

## 1. Introduction

1.1 The London Plan (published, consolidated with alterations since 2004 in February 2008) is the Mayor of London's statutory spatial development strategy for London, providing the strategic framework for London's sustainable development in order to meet London's economic and population growth to 2026. The policy directions underpinning the strategy are:

- Accommodating London's growth within its boundaries without encroaching on open spaces;
- Making London a better city for people to live in;
- Making London a more prosperous city with strong and diverse economic growth;
- Promoting social inclusion and tackling deprivation and discrimination;
- Improving London's accessibility; and
- Making London a more attractive, well-designed and green city.

The London Plan makes clear the importance of infrastructure, including public transport, to ensuring realisation of these objectives. It particularly highlights the vital strategic role to be played by Crossrail. This consists of Crossrail 1, (which would link Heathrow airport, the West End, the City, Canary Wharf and the Thames Gateway), and Crossrail 2 (which would connect Clapham Junction and Wimbledon with Hackney). Funding is not currently available for Crossrail 2, and in what follows, "Crossrail" means Crossrail 1.

1.2 Against this background it sets out in policy a framework for seeking contributions through the planning system towards funding of the project:

### **New Policy 3C.12A**

#### **Funding of Crossrail** and other strategically important transport infrastructure

In view of the strategic regional importance of Crossrail to London's economic regeneration and development, and in order to bring the project to fruition in a suitably timely and economic manner, contributions will be sought from developments likely to add to, or create, congestion on London's rail network that Crossrail is intended to mitigate. This will be through planning obligations, arrangements for the use of which will be established at strategic level, in accordance with relevant legislation and policy guidance.

The Mayor will provide guidance for boroughs and other partners for the negotiation of planning obligations requiring, where appropriate, developers to contribute towards the costs of funding Crossrail having regard to:

- The requirement for contributions from development of up to £600 million under the arrangements for funding Crossrail agreed with Government;
- Central government policy and guidance;
- Strategic and local considerations;
- The impacts of different types of development in particular locations in contributing to transport needs; and
- Economic viability of each development concerned.

The guidance will include:

- Criteria for identifying developments in respect of which Crossrail contributions should be required sought in accordance with national policy guidance;
- Standard charges and formulae for calculating fair and reasonable contributions to be sought and guidance on how these should be applied in specific localities and to different kinds of development; and
- The period over which contributions will be sought and arrangements for periodic review.

In consultation with the Mayor, boroughs should seek to identify in their DPDs particular sites and sub-areas where contributions are likely to be appropriate and should be sought.

The Mayor will, when considering relevant planning applications of potential strategic importance, take account of the existence and content of planning obligations supporting the funding of Crossrail among other material planning considerations.

The approach outlined in this policy could where appropriate also be applied to other transport infrastructure of regional strategic importance to London's economic regeneration and development and other objectives of this Plan (such as extension of the Northern Line to Battersea). Any proposal of this kind will have regard to the issues outlined above.

## **Amended Policy 6A.4**

### **Priorities in planning obligations**

The Mayor will, and boroughs must, reflect the policies of this plan (in particular Policy 3C.12A), as well as local needs in their policies for planning obligations (see ODPM Circular 5/2005).

Affordable housing; supporting the funding of Crossrail where this is appropriate (see Policy 3C.12A); and other public transport improvements should be given the highest importance. Where it is appropriate to seek a Crossrail contribution in accordance with Policy 3C.12A, this should generally be given higher priority than other public transport improvements.

Importance should also be given to tackling climate change, learning and skills, health facilities and services and childcare provisions.

The Mayor will, when considering planning applications of potential strategic importance, take into account, among other issues, the existence and content of planning obligations.



## **Amended Policy 6A.5**

### **Planning obligations**

Boroughs must set out a clear framework for negotiations on planning obligations in DPDs having regard to central government policy and guidance and local and strategic considerations (see Policy 6A.4) to the effect that:

- It will be a material consideration whether a development makes an appropriate contribution or other provision (or some combination thereof) towards meeting the requirements made necessary by, and related to, the proposed development;
- Negotiations should seek a contribution towards the full cost of all such provision that is fairly and reasonably related in scale and kind to the proposed development and its impact on a wider area; and
- Boroughs must refer to planning obligations that would be sought in the relevant parts of the DPDs (such as transport and housing policies).

The Mayor will provide guidance for boroughs and other partners on the preparation of these frameworks. In particular, the Mayor wishes to develop with boroughs a voluntary system of pooling contributions for the provision of facilities related to proposed developments.

## **New Policy 6A.5A**

### **Community Infrastructure Levy**

The Mayor will work with Government and other stakeholders to ensure the effective development and implementation of the proposed Community Infrastructure Levy.

The Mayor will prepare guidance for boroughs and other partners setting out a clear framework for application of the Community Infrastructure Levy to ensure the costs incurred in providing the infrastructure which supports the policies in this plan (particularly public transport including Crossrail – see Policy 3C.12) can be funded wholly or partly by those with an interest in land benefiting from grant of planning permission.

- 1.3 This SPG is the guidance referred to in Policy 3C.12A. It provides detailed guidance on how these London Plan policies (3C.12A, 6A.4, 6A.5 and 6A.5A) will be applied to ensure the implementation of Crossrail.
- 1.4 Government has recognised that the delivery of Crossrail is fundamental to the future of London's, and in turn the United Kingdom's, economy. In order to ensure that Crossrail is fully funded, a funding package has been agreed that involves securing resources from three main sources:
- The taxpayer, via national government;
  - London businesses, including through a business rate supplement and through contributions by developers; and
  - Borrowing against the fares to be paid by users of Crossrail, via Transport for London.

The focus of this document is on the developer contributions referred to in second element.

## SPG: use of planning obligations in the funding of Crossrail July 2010

- 1.5 The impact, both individually and cumulatively, of development proposals will give rise to additional pressures and crowding on London's transport infrastructure. Crossrail is vital to alleviate these pressures, and is national and regional government's chosen method of improving capacity. Office of the Deputy Prime Minister (ODPM) Circular 05/2005 makes it clear that contributions can be sought to mitigate the impact of a development (Para B15) and that contributions can be pooled (Paras B21-B23). The circular (B25 and B26) requires that a policy requiring a contribution is set out in the Development Plan (in this case the London Plan) with the details left to supplementary planning guidance setting out likely levels of contribution. The Circular also provides for the use of formula and standard charges (B33-B35) to ease understanding and transparency.
- 1.6 The Government has introduced legislation to empower local authorities and other bodies including the Mayor of London to levy a Community Infrastructure Levy to help ensure the delivery of local and sub-regional large-scale infrastructure such as Crossrail (see section 5 below). The legislation was laid in Parliament on 10<sup>th</sup> February 2010 and came into force on 6<sup>th</sup> April 2010.
- 1.7 Policy 6A.5 indicates that:  
"Boroughs must set out a clear framework for negotiations on planning obligations in DPDs having regard to central government policy and guidance and local and strategic considerations (see Policy 6A.4) ... The Mayor will provide guidance for boroughs and other partners on the preparation of these frameworks. In particular, the Mayor wishes to develop with boroughs a voluntary system of pooling contributions for the provision of facilities related to proposed developments."  
This SPG deals with use of planning obligations to secure contributions towards the funding of Crossrail (identified as a purpose for obligations in Policy 6A.4 of the highest importance); it is likely that further, more general, guidance on use of planning obligations will be brought forward in due course.
- 1.8 This SPG sets out:
- The background and policy context for Crossrail (section 2).
  - The funding arrangements for Crossrail, and in particular the use of planning obligations to deliver the scheme in terms of relevant legislation and Government guidance (section 3).
  - Details of the standard charges and formula that will be applied to work out the contribution to be made in each case (section 4). This includes where the charge will apply, what type of development will be covered, the level at which the charge will be set, and how it will be collected and monitored.
  - Information about the Community Infrastructure Levy (section 5).
- 1.9 This SPG provides greater clarification of policies set out in the London Plan (Feb 2008) (Consolidated with Alterations). On 12 October 2009 the Mayor issued for public consultation his draft replacement London Plan. The relevant policies 3C.12, 3C.12A, 6A.4, 6A.5 and 6A.5A are carried over into the draft replacement plan (6.5, 8.2 and 8.3). The replacement plan is due to have its examination in public in the summer of 2010.

## 2. Crossrail background and policy context

2.1 Crossrail is a major cross-London rail link project developed to serve London and the south-east of England, providing fast, efficient and convenient rail access to the West End, the City and Canary Wharf and linking existing routes from Shenfield and Abbey Wood to the east to Maidenhead and Heathrow Airport to the west. It will ensure improved services for rail users by relieving crowding, ensuring faster journeys and providing a range of new direct journey options while also facilitating interchange between different public transport modes. It will also have wider social and economic benefits for London, enabling the continued growth of key economic sectors and locations. It has three key objectives:

- To support the development of London as a world city, and its role as the financial centre of Europe and the United Kingdom;
- To support the economic growth of London and its regeneration areas by tackling congestion and the lack of capacity on the existing rail network; and
- To improve rail access into and within London.<sup>2</sup>

It will achieve these objectives by:

- Addressing problems of inadequate capacity on the National Rail and London Underground networks;
- Improving accessibility to regeneration areas; and
- Providing transport capacity for the growth expected for London.

2.2 The project involves construction of seven central area stations (Paddington, Bond Street, Tottenham Court Road, Farringdon, Liverpool Street, Whitechapel and Canary Wharf) providing interchange with London Underground, National Rail, London Overground, the Docklands Light Railway and London Bus services. It also involves upgrading or renewal of existing stations outside central London. The route is shown in figure 1. From west to east, the route as approved will consist of:

- Use of the existing Great Western Main Line between Maidenhead and Westbourne Park, with a new flyover structure at Stockley to allow trains to access the existing tunnel to Heathrow, and a rail underpass west of Acton Yard. A new line, within the existing rail corridor, will be provided between Langley and West Drayton. Enhancements will be made to stations, with the most significant works at Ealing Broadway, Southall, Hayes and Harlington and West Drayton;
- A central section, largely through a twin-bore tunnel beneath central London with portals at Royal Oak to the west, Pudding Mill Lane to the north-east and a point just to the east of Poplar Dock and the A1206 Prestons Road in the Isle of Dogs in the south east. New stations and associated structures, like ventilation shafts, will be provided along this part of the route;
- A northeast route section, using the existing Great Eastern Main Line between Pudding Mill Lane and Shenfield. This will include station

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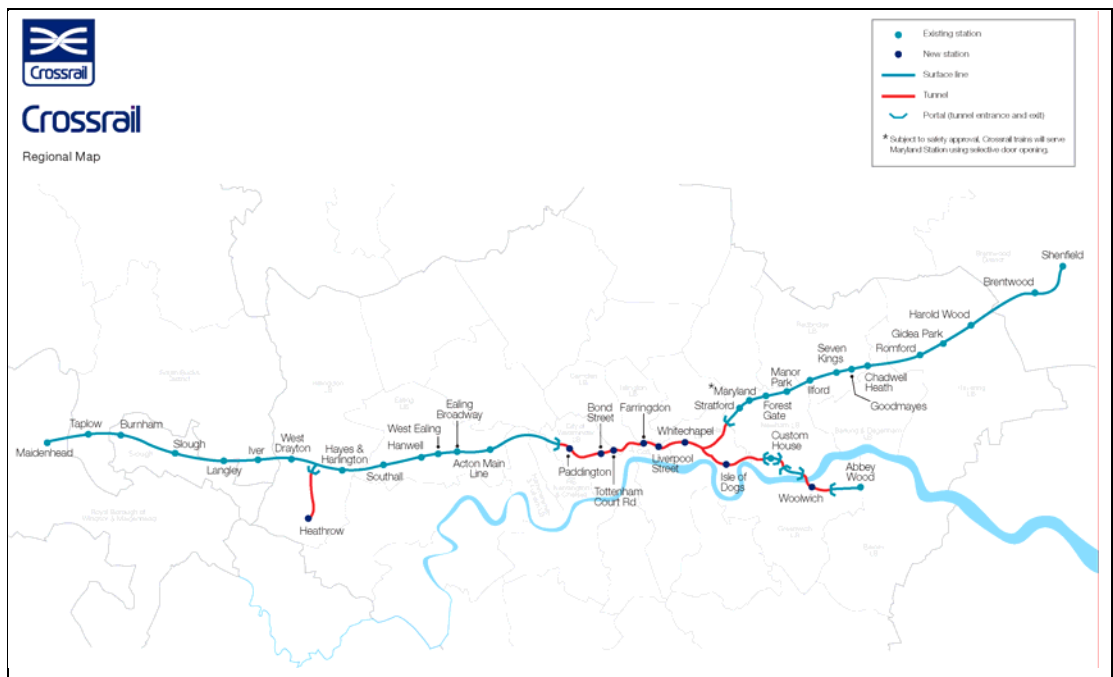
<sup>2</sup> Crossrail Environmental Statement, Volume 1

## SPG: use of planning obligations in the funding of Crossrail July 2010

enhancements, with the most significant at Ilford and Romford, and reinstatement of track between Goodmayes and Chadwell Heath; and

- A southeast route section, running from a point east of the Isle of Dogs station and the eastern terminus at Abbey Wood, where Crossrail will serve a reconstructed station. It will run through a twin-bore tunnel to a reconstructed station at Custom House, then follow the former North London Line alignment through the Connaught Tunnel to Silvertown. At North Woolwich a new twin-bore tunnel will pass beneath the Thames. There will be a station at Woolwich, and two new tracks will run between Plumstead to a point east of Abbey Wood station to accommodate Crossrail services on the North Kent corridor.

- 2.3 Powers to construct and maintain Crossrail, and the necessary planning and other consents and powers have been secured by the Crossrail Act 2008. During its passage through Parliament, the Act was supported by a comprehensive Environmental Statement. Some enabling works for the scheme have already started; full construction is expected to be underway during 2010, with phased delivery of services commencing in 2017.



**Figure 1 - Crossrail Route**

- 2.4 Crossrail is essential to delivery of the strategic objectives of the London Plan, particularly accommodating London's growth within its boundaries without encroaching on open spaces, making London a more prosperous city with strong and diverse economic growth and improving London's accessibility:

- Demand for public transport into and within central London is nearing capacity, with crowding on Network Rail services and on London Underground routes towards central London (in particular, the West End and the City) and the Isle of Dogs. Employment growth envisaged in the London Plan will further increase demand, with employment in the West End, the City of London and Canary Wharf projected to grow by about 415,000 by 2026. The result is likely to be a 40 per cent increase in demand

for peak hour public transport by 2025, particularly on radial routes into central London. On certain limited areas of the network, passenger flows are projected to be higher than could be supported in reality, with consequential constraints on demand arising. Increasing congestion on London's rail network therefore poses a threat to achieving the projected growth in jobs and economic activity envisaged in the London Plan;

- Crossrail will reduce current levels of overcrowding on the Underground, particularly in the central area (all Underground lines other than the Northern Line should see a reduction in passengers following the opening of Crossrail) and the Isle of Dogs. It will also reduce crowding on some National Rail services (particularly those using Liverpool Street, Paddington, Fenchurch Street, Charing Cross and Cannon Street);
- Addressing these capacity issues is essential to enabling the continued growth in central and eastern London outlined in the London Plan. In particular, Crossrail is critical to supporting the growth of the financial and business services sectors in central London and the Isle of Dogs, where there is market demand for additional development capacity - providing increases in rail capacity into each area of 20 per cent and 50 per cent respectively. It will also provide much-needed additional transport capacity to the West End, supporting the future development of that area as London's premier retail and leisure location envisaged in the London Plan. The scheme will also improve links to Heathrow, thereby supporting connections for London's global businesses. By linking these areas, Crossrail will help create a virtual unified economic and business core in London. It is also crucial to the realisation of regeneration and intensification opportunities around key interchanges within the Central Activities Zone<sup>3</sup> and to its east and west;
- Crossrail will also support delivery of London Plan policies supporting the development and regeneration of east London and the London Thames Gateway in particular. Crossrail will make a vital contribution to improving the accessibility and attractiveness of the Thames Gateway to the east of the Isle of Dogs, through its cross-river link to south-east London and its links to the east including interchange with the DLR at Custom House;
- Crossrail will also help support growth in west London identified in the Plan. It will support development opportunities around Heathrow and at Hayes/West Drayton/Southall, and will assist in supporting West London's network of town centres; and
- Crossrail stations will lie within eight opportunity areas and areas for intensification identified in the London Plan. Together, these areas have spatial capacity for 216,000 new jobs - over half of which are planned for the Isle of Dogs - and 85,000 new homes (over one third in Stratford).

2.5 It is for these reasons that existing London Plan Policy 3C.12 (which deals with a range of new cross-London rail links within an enhanced London National rail network, including Crossrail) supports the implementation of Crossrail:

“The Mayor will work with strategic partners to improve the strategic public transport system in London, including cross-London rail links to support future development and regeneration priority areas, and increase public transport capacity by: implementing Crossrail 1, a particularly high priority to support London's core business areas... This will help improve access to the Central

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<sup>3</sup> Designated by Policy 5G.1 of the London Plan. See figure 2.

Activities Zone, town centres, major Opportunity Areas and regeneration sites and many parts of suburban London. DPD policies should identify development, intensification and regeneration opportunities that these new Cross-London links and national rail enhancements will support. They should identify and protect land used for rail purposes, and identify proposals for major schemes.”

2.6 Crossrail is also strongly supported by planning policy at national and regional levels. Both in itself, and in the way it supports creation of sustainable communities, it follows the general principles of national planning policy set out in Planning Policy Statement 1 (“Delivering Sustainable Development”), particularly in facilitating and promoting:

- Sustainable and inclusive patterns of urban development by making suitable land available for development in line with economic, social and environmental objectives to improve people’s quality of life, contributing to sustainable economic development (see below);<sup>4</sup>
- Delivery of sustainable development by addressing the causes and potential impacts of climate change, through policies which reduce energy use and reduce emissions (for example, by encouraging patterns of development which reduce the need to travel by private car);<sup>5</sup>
- Social cohesion and inclusion, by addressing accessibility (both in terms of location and physical access) for all members of the community to jobs, health, housing, education, shops, leisure and community facilities;<sup>6</sup>
- Sustainable economic development, through:
  - Helping ensure availability of suitable locations for industrial, commercial, retail, public sector, tourism and leisure developments so the economy can prosper;
  - Providing for improved productivity, choice and competition;
  - Actively promoting and facilitating good quality development;
  - Ensuring the provision of sufficient, good quality new homes in suitable locations; and
  - Ensuring that infrastructure and services are provided to support new and existing economic development and housing.<sup>7</sup>

2.7 Crossrail will also further the policy objectives set out in Planning Policy Guidance (PPG) 13 (“Transport”). This emphasises the importance of integrated approaches to transport infrastructure and land use planning, and to promoting:

- More sustainable transport choices;
- Accessibility to jobs, shopping, leisure facilities and services by public transport; and
- Reducing the need to travel, particularly by car.<sup>8</sup>

2.8 Crossrail will help enable management of the pattern of urban growth in London to make the fullest use of public transport, and focus major generators of travel demand in city, town and district centres and near to public transport

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<sup>4</sup> PPS1, para.5

<sup>5</sup> PPS1, para. 13

<sup>6</sup> PPS1, para 16

<sup>7</sup> PPS1, para. 23

<sup>8</sup> PPG 13, para. 4

interchanges. By supporting a denser pattern of development, and enabling the accommodation of London's growth within its existing boundaries, it will help reduce the need to travel. In providing substantial additional public transport capacity it will help provide more sustainable transport choices and reduce reliance on the car.

- 2.9 At the regional level, Crossrail is strongly endorsed in the London Plan. Policy 3C.12 states that the Mayor will work with strategic partners to improve the strategic public transport system in London, including cross-London rail links to support future development and regeneration priority areas, and increase public transport by implementing Crossrail 1 and developing Crossrail 2 in the later period of the Plan, among other enhanced rail links. The importance of matching development to transport capacity is emphasised in Policy 3C.2, which makes clear that the Mayor will, and boroughs should, consider proposals for development in terms of existing transport capacity, both at a corridor and a local level. It states that where existing transport capacity is not sufficient to allow for travel generated by proposed developments, and no firm plans exist for a sufficient increase in capacity to cater for this, development proposals should be appropriately phased until it is known that these requirements can be met. This support is carried forward in the draft replacement London Plan issued for public consultation in October 2009 (draft policies 6.4 and 6.5).
- 2.10 It is also endorsed in the regional spatial strategy for the South-East<sup>9</sup>, which identifies inter-regional connections around/through London as an overall priority for transport investment, with Crossrail identified as one of the regionally significant schemes supporting this objective (Policy T14 and Annex A) and helping delivery of policies on management and investment (Policy T1), mobility management (Policy T2), support and development of regional spokes (Policy T8) and airports (Policy T9).

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<sup>9</sup> Regional Planning Guidance for the South-East (RPG9)

### 3. Funding Crossrail and use of planning obligations

- 3.1 The funding arrangements for Crossrail were announced by the Government in October 2007 and confirmed through the Crossrail funding and governance agreement signed by the Department of Transport and Transport for London in December 2008. The Crossrail funding package is £15.9 billion (including contingency and provision for inflation), and agreement was reached between the Government, the then Mayor and London businesses on a funding package under which each contributes approximately one third of the expected cost:
- The Government will provide a grant of over £5 billion through the Department for Transport during Crossrail's construction;
  - Crossrail farepayers will ultimately contribute around another third of the cost, with revenue servicing debt raised during construction by Transport for London and by Network Rail in respect of works on the national rail network; and
  - London businesses will contribute through a variety of mechanisms:
    - Direct contributions have been agreed with some of the project's key beneficiaries along its route. Canary Wharf Group has agreed to make a significant contribution to the project and will in addition be responsible for delivering the Canary Wharf station. The City of London Corporation will make an additional contribution from their own funds, and will assist in delivering additional voluntary contributions from the largest London businesses. BAA has also agreed to make a contribution;
    - ⊖ The Business Rate Supplements Act 2009 (the 'BRS Act'), which received Royal Assent on 2 July 2009, grants the power to the Mayor to raise a business rate supplement to finance projects which promote economic development across the capital. The Mayor published his Initial Prospectus in July 2009 outlining his proposals for a supplement of two pence per pound of rateable value across London from 2010 on rateable values of more than £50,000. The main change is that the threshold for the supplement has been raised to £55,000.
    - The Mayor also indicated that he envisaged securing contributions from developers, both through use of planning obligations and, once it is implemented, the proposed Community Infrastructure Levy. This London Plan alteration and supplementary guidance sets the framework under which these contributions will be sought.
- 3.2 The heads of terms between the Secretary of State for Transport and Transport for London setting these arrangements out in detail have been published, and are available on the Department for Transport website.<sup>10</sup> The Core Agreements, which developed out of the heads of terms, were signed by TfL, DfT and CRL in December 2008. A summary of the Sponsors Agreement can be found at the following link:  
<http://www.dft.gov.uk/pgr/rail/pi/crossrail/fundingandgovernance/sponsorsagreementssummary>.

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<sup>10</sup> <http://www.dft.gov.uk/162259/165234/302038/headsofterms.pdf>



- 3.3 The then Mayor set out his proposals for securing contributions from developers in a letter to the Secretary of State for Transport dated 4 October 2007:
- "In addition, I anticipate securing contributions from property developers who develop in the vicinity of the Crossrail stations on the following basis:
- (i) Subject to any appropriate obligations and responsibilities (including consultations and examinations in public), I expect to bring forward London Plan alterations with the aim of securing contributions under section 106 of the Town and Country Planning Act 1990 (or any other appropriate powers that might come forward, such as those proposed in the Government's Housing Green Paper of July 2007, on which I would expect to be fully consulted) [a sentence follows that is redacted for reasons of commercial confidentiality];
  - (ii) This is on the assumption that any changes that the Government makes to policy, guidance or legislation governing developer contributions will at least not diminish (apart from any minor transitional disruption) the ability of the GLA and Mayor (and TfL as a functional body) to secure such contributions relative to the current body of policy, guidance or legislation;
  - (iii) I will endeavour to ensure such developer contributions for Crossrail will be consistent with Circular 5/05 and other relevant Government guidance."<sup>11</sup>
- 3.4 The funding heads of terms indicate that £300 million will be raised in contributions from development. Part of this sum will be raised in respect of certain specific developments. It is expected that this will leave some £200 million to be raised by use of planning obligations through the policies and arrangements outlined in this guidance. Although this is a relatively small sum seen against the total cost of the project, it is an integral part of the Crossrail funding package. If it is not raised, it will either have to be found from elsewhere in the TfL budget (which would mean other strategically important transport priorities having their funding reduced) or the funding arrangements would have to be revisited, which could well jeopardise or seriously delay Crossrail.
- 3.5 In "Planning for a Better London", the Mayor indicated (page 30) that he would, as a priority, look at ways of using the planning system to seek contributions towards the cost of Crossrail from development. He also stated that an early alteration would be made to the London Plan to enable use of the planning system in this way.
- 3.6 The heads of terms also refer to a second sum of £300 million to be raised from a "Statutory Planning Charge" (now referred to as the "Community Infrastructure Levy"). The CIL has been introduced through regulations made on 23<sup>rd</sup> March 2010 under the Planning Act 2008 (see Section 5) and CIL came into effect on 6<sup>th</sup> April. The Government will provide additional grant to make good any shortfall if a CIL cannot be raised by 2010. It is understood that the Government will provide additional grant to make good this second sum if it is

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<sup>11</sup> Full text available on the DfT website:  
<http://www.dft.gov.uk/162259/165235/302038/letterfrommayor.pdf>

not possible to raise it through a Mayoral CIL in a way that would be additional to S106 contributions.

### **Use of planning obligations**

- 3.7 PPG 13 makes clear that “planning obligations may be used to achieve improvements to public transport, walking and cycling, where such measures would be likely to influence travel patterns to the site involved, either on their own or as part of a package of measures.”<sup>12</sup> It also states that planning obligations “appropriate in relation to transport should be based around securing improved accessibility to sites by all modes, with the emphasis on achieving the greatest degree of access by public transport, walking and cycling,”<sup>13</sup> and that when entering into a planning obligation consideration should be given to the usual statutory and policy tests. By relieving congestion and providing significant additional public transport capacity in key areas of London, Crossrail clearly meets these tests for the appropriate use of planning obligations.
- 3.8 PPG 13 also states that the development plan “should indicate the likely nature and scope of contributions which will be sought towards transport improvements as part of development in particular areas or on key sites. This will give greater certainty to developers as to what will be expected as part of development proposals and also provide a firmer basis for investment decisions in the plan area.”<sup>14</sup> In this case, the London Plan policies set out earlier indicate the nature and scope of the contributions that will be sought, while this guidance gives detailed information about how these policies will be applied.
- 3.9 The Government has given guidance on the use of planning obligations under section 106 of the Town and Country Planning Act 1990 (as amended) in Office of the Deputy Prime Minister Circular 5/2005. This sets out policy tests that should be taken into account by authorities in the use of planning obligations. It states<sup>15</sup> that a planning obligation must be:
- Relevant to planning;
  - Necessary to make the proposed development acceptable in planning terms – in order to bring a development in line with the objectives of sustainable development as articulated through the relevant local, regional or national planning policies;<sup>16</sup>
  - Directly related to the proposed development – obligations must be so directly related to proposed developments that the development ought not be permitted without them; for example, there should be a functional or geographical link between the development and the item being provided as part of the developer’s contribution;<sup>17</sup>
  - Fairly and reasonably related in scale and kind to the proposed development; and
  - Reasonable in all other respects.

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<sup>12</sup> PPG 13, para 84

<sup>13</sup> PPG 13, para 85

<sup>14</sup> PPG 13, para 83

<sup>15</sup> ODPM Circular 5/05, para B5

<sup>16</sup> ODPM Circular 5/05, para B8

<sup>17</sup> *ibid*

- 3.10 The Circular expands upon the last two of these tests in paragraph B9: “For example, developers may reasonably be expected to pay for or contribute to the cost of all, or that part of, additional infrastructure which would not have been necessary but for their development. The effect of the infrastructure investment may be to confer some wider benefit on the community but payment should be directly related in scale to the impact the development will make.” Later in the Circular, general examples of what might reasonably be achieved through use of planning obligations are given.<sup>18</sup> These include mitigating the impact of a development, where “a proposed development would, if implemented, create a need for a particular facility that is relevant to planning but cannot be required through the use of planning conditions...it will usually be reasonable for planning obligations to be secured to meet this need.”<sup>19</sup>
- 3.11 The Circular makes clear that where the combined impact of a number of developments creates the need for infrastructure, it may be reasonable for the associated developers’ contributions to be pooled in order to allow the infrastructure to be secured in a fair and equitable way. It states that local authorities should set out in advance the need for this joint supporting infrastructure and the likelihood of a contribution being required, demonstrating both the direct relationship between the development and the infrastructure and the fair and reasonable scale of the contribution being sought.<sup>20</sup>
- 3.12 On procedural matters, the Circular states that where there are issues of strategic or regional importance that need to be addressed through planning obligations, it may be appropriate for these to be referred to in regional spatial strategies, which will set a strategic framework to be interpreted at the local level through the Local Development Framework.<sup>21</sup> The Circular also emphasises the importance of development plan policies in deciding when contributions towards infrastructure are “necessary to make the proposed development acceptable in planning terms.”<sup>22</sup>
- 3.13 Finally, the Circular encourages the use of formulae and standard charges – quantitative indications of the level of contribution likely to be sought by a local planning authority through a planning obligation towards the provision of infrastructure that is necessitated by a new development, noting that these can help speed up negotiations, ensure predictability and promote transparency.<sup>23</sup> It states that where an authority proposes to rely upon formulae and standard charges, they should be published in advance in a public document (paragraph B26 indicates that more detailed policies applying the principles in the development plan ought to be included in Supplementary Planning Documents).<sup>24</sup> Standard charges and formulae should reflect the actual impacts of the development, and should comply with the general policy tests outlined in paragraph 3.9 of this document. They should not be applied in a blanket form

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<sup>18</sup> Circular 5/05, para B11 et seq

<sup>19</sup> Circular 5/05, para B15

<sup>20</sup> Circular 5/05, para B21

<sup>21</sup> Circular 5/05, para B29

<sup>22</sup> Circular 5/05, para B8

<sup>23</sup> Circular 5/05, para B33

<sup>24</sup> Circular 5/05, para B34

regardless of actual impacts, but there needs to be a consistent approach to their application.<sup>25</sup>

- 3.14 As shown in sections 1 and 2 of this document, the London Plan recognises how critical Crossrail is to London's continued sustainable development and economic success, and how in its absence, the development capacity of some of London's most important locations for commercial and residential development will be constrained. For this reason, the Plan makes delivery of the project a key strategic priority.
- 3.15 Against this background, seeking contributions towards the cost of the construction of Crossrail is relevant to planning and a reasonable use of planning obligations. It is also an appropriate case for pooling contributions, and for use of the formulae/standard charge approach as set out in the Circular. Accordingly, London Plan Policy 3C.12A states that:
- "In view of the strategic regional importance of Crossrail to London's economic regeneration and development, and in order to bring the project to fruition in a suitably timely and economic manner, contributions will be sought from developments likely to add to, or create, congestion on London's rail network that crossrail is intended to mitigate. This will be through planning obligations, arrangements for the use of which will be established at strategic level, in accordance with relevant legislation and policy guidance."
- 3.16 The London Plan further emphasises the importance of Crossrail in indicating that it is among the purposes to which the highest priority should generally be given in the use of planning obligations (see Policy 6A.4).
- 3.17 With the introduction of the CIL, regulation 122 made statutory three of the Government's policy tests on the use of planning obligations set out in ODPM Circular 5/05. Since the 6<sup>th</sup> April 2010 it became unlawful for a planning obligation to be taken into account when determining a planning application for development, or any part of a development that is capable of being charged CIL if the obligation does not meet all of the following tests:
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.
- 3.18 Section 4 of this document sets out and applies a methodology that addresses the other Circular 5/05 tests, in particular for identifying types of development in particular locations in London for which it would be reasonable to seek a contribution, and a methodology for calculating the amount of contribution to be paid in each case.

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<sup>25</sup> Circular 5/05, para B35

## 4. Crossrail contributions: formulae and standard charges

4.1 This section sets out the detailed guidance for boroughs and other partners for the negotiation of planning obligations requiring, where appropriate, developers to contribute towards the costs of funding Crossrail as set out in London Plan Policy 3C.12A.

4.2 In order to meet the tests set out in Circular 5/05, the methodology used to assess when it is appropriate to seek a contribution towards the construction cost of Crossrail, and the amount to be sought, must be capable of:

- Demonstrating a functional or geographic link between a development and Crossrail that makes seeking a contribution reasonable in the terms of the Circular;
- Providing a basis to demonstrate that the scale of contribution sought fairly and reasonably relates to the proposed development concerned; and
- Demonstrating that the amount of the contribution sought is directly related to the scale of the impact that the development concerned will have.

For the arrangements to work effectively, the broad levels of contribution set out in Table 2 are necessary and appropriate in these terms.

### What type of development, and in what locations?

4.3 As explained earlier, Circular 5/05 makes clear that planning obligations should be used to address the effects or impacts of development (compensating for loss or damage caused by a development or mitigating its impact, for example – see paragraph B3). It is not properly used as a means of capturing a share in the additional profits developers may make because of the provision of a particular piece of infrastructure. As paragraph B7 of the Circular makes clear, “planning obligations should never be used purely as a means of securing for local communities a share in the profits of development, ie as a means of securing a ‘betterment levy’ “. Accordingly, the first step has been to identify the impact of development (and not the extent to which a development or area “benefits” from Crossrail). This looks at patterns of crowding on rail services (National Rail and London Underground) in London. Crowding costs, and changes in the level of passenger crowding, are key elements used in assessing the costs and benefits of rail schemes, and are an established and well-understood way of assessing the effects on transport networks of changing patterns of development and assessing the impact these have. These have been used to assess the extent to which developments of particular types, sizes and locations either contribute to, or exacerbate crowding. Three things have been considered:

- How many trips are generated by different land uses in different areas of London, and when. This has been established using data from English Partnerships (now the Homes and Communities Agency) on employment densities, standard databases of trip rates by development types, surveys of trip rates by tourists and different types of housing and occupancies by area;
- The share of these trips likely to be made by rail. This is based on analysis of the 2001 Census, which includes information about rail mode share by area of residence and workplace by local output area; and

- How rail crowding costs vary according to different trip patterns, looking particularly at different trip destinations and time periods (“cost” here being worked out by applying a “crowding factor” - which takes account of passenger demand and a combination of seating and standing capacity - to actual journey times on each part of the network). These are based on Select Link Analysis undertaken by consultants Colin Buchanan and Partners for Crossrail in 2004, which assesses the proportion of time trips to Central London spend under particular levels of crowding.

The methodology is set out in more detail in background reports from TfL’s consultants Jones Lang LaSalle and Colin Buchanan. These are available on the GLA’s website.<sup>26</sup>

- 4.4 This methodology has been used to work out which types of development contributions should be sought for, and where, looking at:
- Central London (an area informed by the Central Activities Zone (CAZ) designated by Policy 5G.1 of the London Plan) - shown in Annex 1);
  - The main business area of the Isle of Dogs (IoD) centred on the northern parts of Millwall and Blackwall wards of the London Borough of Tower Hamlets – the area designated by the London Borough of Tower Hamlets as the “Northern Sub-Area” in their former Isle of Dogs Area Action Plan – see Annex 2);
  - Areas in the rest of outer London within approximately 1 km 960m of proposed Crossrail stations (zones chosen because they represent a 12 minute walk from stations; the area within which rail use is likely to be highest);<sup>27</sup>and
  - Different types of land use - office, retail, hotels and residential development.
- 4.5 Using this methodology, it has been found that:
- Congestion on rail is predominantly a peak period issue, and the approach taken here – consistent with the policy tests in Circular 5/05 - is to focus on the time of day when developments of different kinds make the most significant contribution to crowding.
  - The impact of development in terms of increased congestion and costs of crowding differs according to the use and location involved. The relative impact (where office uses in central London – which have the highest impact – are shown as 100) is shown in Table 1:

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<sup>26</sup> [www.london.gov.uk/mayor/planning/crossrail/index.jsp](http://www.london.gov.uk/mayor/planning/crossrail/index.jsp)

<sup>27</sup> Paragraph 4.22 uses a figure of 960 metres as per PTAL guidance, but it is not thought that this makes an appreciable difference.

<b>Table 1: Impact on the rail network in the AM peak (07:00-10:00) by location and land use</b>		
<b>Type of Development</b>	<b>Central London (CAZ/IoD)</b>	<b>Outer London 800m zones</b>
<b>Offices</b>	100	22
<b>Retail</b>	64	12
<b>Hotels</b>	44	-
<b>Residential</b>	6	10

- 4.6 In summary, office development has the most impact, with residential having the least. For office and retail uses, impacts are higher in central London than outer areas, while for residential uses the pattern is reversed, reflecting different choices of transport modes for the comparatively shorter trips from more centrally-located homes. In central London office development has an impact just over 50% higher than the next highest form of development, retail. Development in central London has a significantly higher impact than that in outer London. For office development, impact in outer London is about a fifth of that in the centre.
- 4.7 Circular 5/05 requires that standard charges and formulae should reflect the actual impacts of development and should comply with the general tests it sets out. Of particular relevance in deciding what type of development and location the charge should apply to are the need to ensure contributions are directly related to proposed development, fairly and reasonably related in scale and kind, and reasonable in all respects. In this case this has been done by focussing on those places and uses where a particularly clear link can be shown between the impact of additional development and rail network crowding. This approach also meets the requirement in the Circular to show a functional or geographic link between development and the item being provided as part of developers' contributions.<sup>28</sup>
- 4.8 Taking this approach and the information provided by consultants, it has been decided that contributions should be sought in respect of retail and hotel and office development, in Central London and the northern part of the Isle of Dogs, which involves a net increase in office floorspace of more than 500 square metres with contributions proportionate to the calculated impact shown in Table 1. This is the form of development that gives rise to the most substantial "impact" that Crossrail will mitigate:
- Contributions should be sought in the rest of London in respect of office and retail development within an approximate radius of 1 km around Crossrail stations other than Woolwich Arsenal (which has its own contributions regime operated by the London Borough of Greenwich) based on the reduced relative impact shown in Table 1;
  - The de minimis threshold excluding development that would result in additional office, retail or hotel floorspace of 500 square metres or less has been set to reflect that developments below this size are unlikely to have crowding impacts sufficient to meet the tests of proportionality and

<sup>28</sup> Paragraph B8, Circular 5/05

reasonableness in Circular 5/05, the benefits of seeking contributions from smaller developments of this scale are likely to be outweighed by the costs of entering into obligations and collecting contributions and the large number of smaller developments would make application of a policy of this kind uneconomic to administer.

- 4.9 Congestion pressure on the network is at its worst during the morning peak period (7 - 10am), and most of this pressure is due to people travelling to their place of work. It is these movements which require the maximum enhancement of capacity which will be provided by Crossrail, and without it future development for employment uses will be increasingly unsustainable. The three hour morning peak period can be broken down into two shoulder hours (7 - 8am, 9 - 10am) and one peak hour (8 - 9 am), which has the highest daily level of congestion. The additional capacity from Crossrail, which is necessary for office development will also support sectors like retail and hotels.
- 4.10 As the impact of development is at its most acute at the busiest part of the am peak, this is the point at which it can be shown most clearly that development is creating the need for a particular item of infrastructure – Crossrail – that it is reasonable to use planning obligations to help fund the infrastructure concerned. At this point, there is clear evidence that office development is the most substantial contributor to congestion, and it is therefore reasonable to seek contributions from them. However, the relative impact of retail and hotel developments is, nevertheless, still significant and proportionate contributions will be sought from them.
- 4.11 This approach focuses on destinations. Congestion is caused by concentrations of development to which people need to travel at peak hours, and it is because of this impact that it is reasonable to seek planning obligations from them under the tests set out in Circular 5/05. It would be likely to be unreasonable as well as uneconomic to try to seek contributions from residential developments in outer London, and many centres of employment in outer London have jobs substantially filled by people living nearby who cause very little congestion on rail links (in those that have a wider impact it may well be legitimate to seek contributions – see paragraph 4.23).
- 4.12 In short, the approach taken has been to focus on the type of developments having the most direct impact on rail capacity – office, retail and hotel development in the area of the Central London contributions area shown in Annex 1 and the Isle of Dogs contributions area (Annex 2) and office and retail developments within an approximate 1 km radius around Crossrail stations in the rest of London, apart from around Woolwich Arsenal (Annex 3). This also restricts the number of applications in respect of which a contribution will have to be sought, minimising the administrative and cost burden on planning authorities and also the impact on other planning obligations. This approach is in compliance with the guidance in Circular 5/05. Although not part of the contributions scheme, certain leisure and entertainment proposals may warrant contributions towards Crossrail to mitigate their impact in accordance with the Circular's advice. These will be assessed on a case by case basis. Leisure and entertainment – means any leisure use falling within Class D2 of the Town and Country Planning (Use Classes) Order 1987 as amended, or any other order



altering, amending or varying that order and related “sui generis” uses such as theatres, nightclubs and amusement arcades.

### **Charging Levels**

- 4.13 The second step is to use this information as the basis for apportioning contributions across the different uses and locations. Although there is a particular requirement to raise the sum required under the Crossrail funding agreement during the project’s construction period (the years to 2017), it is recognised that given the current economic situation it is probably unlikely that this will be practicable. Given this, the arrangements in this guidance will extend until 2026 – the period covered by the current London Plan. With this in mind, assumptions have been made about the likely patterns and amount of development between 2008 and 2026 based on information about historical and future office, retail and hotel completions held by consultants Jones Lang LaSalle (JLL), tested against data held by the Greater London Authority. A de minimis threshold of 500 sq m has been applied.
- 4.14 A prudent approach has been taken to this, based on:
- Taking an upper case based on a projection of historic development data 2000-2008;
  - Taking a lower case, assuming a lower level of development, removing exceptional years from the data; and
  - Setting a central case – the median of the upper and lower cases.
- This approach is prudent because it looks over a complete development cycle (2000-2008), over which there have been varying levels of development activity.
- 4.15 Further adjustments have been made to:
- Apply a 50% net increase to gross development area ratio (based on historic precedent, to reflect the fact that it will usually only be appropriate to seek contributions in respect of net increases in relevant floorspace
  - Account for “leakage” due to schemes involving changes of use or owners deciding to retain existing building rather than redevelop;
  - Allow for development taking place in the first two years following implementation of this policy, under planning permissions granted in advance without provision for a Crossrail contribution; and
  - Enable a cautious view to be taken of the likely yield of a standard charge of the kind proposed here in 2010 and 2011, during a period of likely recovery from particularly difficult market conditions.

### **Central London Contributions Area**

- 4.16 The £200 million to be raised towards the cost of Crossrail under the funding heads of terms (see paragraph 3.4 above) has been applied to this figure resulting from this calculation to arrive at a standard charge per square metre on increases in office, retail and hotel floorspace (net internal area). In order to simplify calculation of the charge by developers and planning authorities this charge rate based on net internal area has been converted to one based upon gross external area measurements (see paragraph 4.26 below). This is because gross external area (GEA) is more commonly used in the planning and development processes. For the purposes of this conversion it is assumed that,

on average, the net internal area of a development will equal 75 per cent of the GEA. This results in charges for all office, retail and hotel developments (see table 2) involving a net increase of more than 500 square metres GEA in the different areas of London.

- 4.17 Policy 6A.4 makes it clear that when considering a planning obligation Crossrail should 'generally' be given highest priority. However, the Vauxhall Nine Elms Battersea (VNEB) Opportunity Area (OA) presents a special case. It has the potential to accommodate a range of uses appropriate to the Central Activities Zone (including offices), and a quantum of housing and employment, that would both only be possible with strategic-scale transport infrastructure that would substantially increase public transport accessibility and capacity into the area. Policy 3C.12A makes clear that an approach similar to the one outlined in this guidance for Crossrail could be adopted to support other transport infrastructure of regional strategic importance and highlights the proposed Northern Line Extension (NLE) in the VNEB area as an example of where this might be done. With this in mind, the VNEB Opportunity Area has been omitted from the Central London charging area, on the basis that development in this area will be making contributions (probably at a level at least that set out in this guidance) towards other regionally important transport infrastructure which will enable the quantitative and qualitative optimisation of development in ways that will make a significant contribution towards delivery of the objectives of the London Plan. Annex 1 reflects this.
- 4.18 The amendments to Annex 1 also reflect the desire to encourage the regeneration of the Elephant & Castle and Waterloo Opportunity Areas respectively, and the need for strategic scale transport infrastructure to be provided in/around both stations. However, it is expected that contributions will be sought for strategic transport in these areas at a level similar to those set out in this document. The effect of these changes is that the only area attracting the charge south of the river in the Central London Contributions Area will be the London Bridge/ Bankside Opportunity Area.
- 4.19 Two stations, Paddington and Liverpool Street, fall within the Central London Contributions Area but lie close to its boundary and areas within easy walking distance of them (about 1 km) extend outwards from the Contributions Area. Development within such radii, shown as pecked line radii on the Annex 1 plan, would have the same likelihood to require the congestion mitigation that Crossrail would provide as areas within the Central London Contributions Area, so will be subject to the same contributions regime.

#### Isle of Dogs Contributions Area

- 4.20 The circumstances that exist in the designated part of the Isle of Dogs justify a different approach. Growth in this area is particularly dependent upon the provision of additional transport capacity and ensuring transport resilience. Employment is also expected to grow much faster (proportionately) on the Isle of Dogs than in the area covered by the London Plan Central Activities Zone<sup>29</sup>. The acceptability in planning terms of further substantial development on the Isle of Dogs will be particularly dependent upon the additional public transport

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<sup>29</sup> See Colin Buchanan and Partners for Transport for London, Crossrail Section 106 Contributions (December 2008)

capacity provided by Crossrail, in terms of transporting additional employees into the area, and providing both further choice and ensuring greater resilience through provision of some redundancy should one of the existing rail services in the area (the Jubilee Line and the Docklands Light Railway) fail or have to run at reduced capacity. Canary Wharf is the busiest station on the London Underground network served by only one Underground Line, and this level of dependency on an already high volume line is a key constraint on further development in the area, presently and into the future. These impacts are likely to become particularly acute in the period after 2016 as total employment in the area increases above 145,000. By 2026 if Crossrail is not built, the problems of congestion on rail links into the IoD would be substantially higher than those in the CAZ to the extent that there would be limitations on the ability to grant planning consent in ways consistent with national and regional planning policy (and in particular, London Plan Policy 3C.2 on matching development to transport capacity).

- 4.21 In view of this, in accordance with the policy tests in Circular 5/05 (and in particular considering what is needed to bring development here in line with the objectives of sustainable development) and the guidance in PPG 13, a contribution at a higher level than that sought in central London will be sought in respect of all office, retail and hotel development involving a net increase of more than 500 square metres in the part of the Isle of Dogs shown in Annex 2 (see table 2).
- 4.22 As in the Central London Contributions Area, there are further areas within easy walking distance (about 1 km) of the proposed new Canary Wharf station at West India Quay that would have the same likelihood to require the congestion mitigation that Crossrail would provide as areas within the defined Isle of Dogs Contributions Area. Development north of the Poplar DLR lands is, however, likely to be of a very different character and mainly related to supporting the local residential community. It will therefore be subject to the Rest of London Contributions Area regime, referred to below.

#### Rest of London Contributions Area

- 4.23 Paragraphs 2.1 – 2.4 of this guidance describe the Crossrail route through London, and the planning needs it will fulfil across the capital. Outside Central London and the Isle of Dogs there will be developments where the nature of what is proposed, its location and circumstances, make it appropriate under Circular 05/05 and development plan policies in the London Plan (particularly policies 3C.2 and 6A.4) and borough development plan documents to seek a Crossrail contribution. As in Central London and the Isle of Dogs, this is likely to be particularly the case where:
- the impact of a development in terms of additional congestion will be mitigated by the additional public transport capacity and congestion relief Crossrail will bring. There may, however, also be development locations in the “Rest of London” which are at present poorly served by public transport and where Crossrail may be necessary in order to enable development to proceed in line with the objectives of sustainable development. In either of these circumstances, the mitigation provided by Crossrail is most likely to be experienced in the vicinity of Crossrail stations. Account should be taken of

**SPG: use of planning obligations in the funding of Crossrail July 2010**

the fact that rail use is generally likely to be highest within about 1 km of a station (representing about a 12 minute walk).

In these circumstances, the size of contribution sought should reflect local circumstances, the size and impact of development and viability issues (see paragraph 4.2).

The matrix of indicative contributions in the different Contributions Areas is as follows:

Table 2: Indicative Level of Charge per sq.m, by land use and location as at July 2010			
	Central London (See Annex 1)	Isle of Dogs (see Annex 2)	Rest of London (See Annex 3)
	Including approximate 1 km indicative radii outwards around Paddington and Liverpool Street Stations	Including approximate 1 km indicative radius outwards around the proposed Canary Wharf station at West India Quay inclusive of and south of the Poplar DLR lands	Including approximate 1 km indicative radius outwards around the proposed Canary Wharf station at West India Quay north of the Poplar DLR lands as well as such radii around all other stations outside the Central Contributions Areas apart from Woolwich Arsenal.
Office	£137	£186	£30
Retail	£88	£119	£16
Hotels	£60	£82	-

Indicative contribution levels

Where indicative contribution areas overlap the starting point for negotiations would be the higher of any rates that could be applicable

Notes to Table 2

Office is defined as any office use including offices that fall within Class B1 Business of the Town and Country Planning (Use Classes) Order 1987 as amended, or any other order altering, amending or varying that Order. Uses that are analogous to offices which are sui generis, such as embassies, will be treated as offices.

Retail is defined as all uses that fall within Classes A1, A2, A3, A4 and A5 of the Town and Country Planning (Use Classes) Order 1987 as amended, or any other order altering, amending or varying that Order, and related sui generis uses including retail warehouse clubs, car showrooms, laundrettes

Hotel means any hotel use including apart-hotels uses that fall within Class C1 Hotel of the Town and Country Planning (Use Classes) Order 1987 as amended, or any other order altering, amending or varying that Order.

In all cases, contributions should be calculated in respect of developments exceeding 500 sq.m. with a net increase in floor area of the relevant use.

For mixed use developments, contributions will be sought on any increase in floorspace for any of the three uses (subject to 500 sq.m. threshold)

**Initial reductions**

- 4.24 It has been decided that there will be an initial reduction of 20 per cent in the sums set out in Table 2 for a three year period from formal publication of the alterations to 31 March 2013. This initial reduction will apply to developments which receive permission and are commenced during this period. Where consent is given to development in phases, only those phases that commence within the set period will qualify for the reduction, and remaining phases will attract the full charge. Developments which are granted consent during the three year initial period, but which are not commenced within it, will be liable to the full amount. This reduction only applies to developments which would otherwise have paid the full amounts set out in Table 2 above (it will not apply to schemes coming forward before the formal publication of the alterations of the London Plan, from which the full amounts are not currently being sought).

**Viability**

- 4.25 Circular 5/05 is clear that where a standard charge and formula approach is taken, it should not be applied in a blanket form regardless of actual impacts, but that there needs to be a consistent approach to their application. The Mayor will consider carefully any case in which it can be demonstrated that making a contribution under this guidance would have an effect on the economic viability of a development, or would otherwise be unreasonable or disproportionate. In cases where applicants consider the viability of a development could be undermined by application of the standard charge, financial appraisals should be submitted to justify this position, as set out in the 5<sup>th</sup> bullet point in the second paragraph of Policy 3C.12A.

**Measurement of floorspace**

- 4.26 For the purposes of calculating the charge in each case, floorspace should be measured to include the overall dimensions of the building on each floor both

above and below ground, including the thickness of all internal walls, half the thickness of party walls and the full thickness of external walls. If a site covers more than one property, party walls should be measured as internal walls except for those party walls to properties not falling within the site. Gross floorspace should include the following:

- Stairs and lift shafts (for each floor);
- Lobbies, corridor, reception areas;
- Cloakrooms and toilets;
- Storage and roofed plant areas (see below);
- Kitchens and cafeterias etc;
- Operational voids, e.g. for air conditioning ducting (to be measured for each floor); and
- Vaults.

And exclude:

- Voids in atria (ground floor only measured);
- Internal lightwells;
- Screened but unroofed plant area or plant areas and other operational voids which are not reasonably capable of commercial or residential use; and
- Car parking space, loading/servicing bays and areas exclusively reserved for refuse storage.

Double/triple height areas should be measured once (e.g. conference halls, theatres etc).

- 4.27 For applications to amend permissions for a development granted consent before January 2009 where development has commenced, a Crossrail contribution will be sought for any net additional floorspace for the uses covered by this guidance above that originally permitted or, if no such floorspace was consented, proposed floorspace above 500 sq m. For new applications the contribution to be sought should be calculated on all net floorspace above 500 sq.m. In addition, minor material alteration applications should not be treated as new planning applications.

#### **Arrangements for cleared brownfield sites**

- 4.28 On sites which were previously developed and which have been cleared, floorspace of the same use class which was demolished not longer than five years prior to the date of submission of an application should be taken into account in establishing the baseline for calculating the net additional floorspace for the purposes of this guidance.

#### **Arrangements for mixed-use schemes**

- 4.29 Where a mixed-use scheme containing uses attracting Crossrail charges is proposed, the Crossrail charge should relate to the net additional transport impact from the new development. This should be calculated by deducting the theoretical charge that would be paid by the existing uses from the charge applicable to the new development (see example set out in Annex 4).

### **Referable/Non-Referable Applications**

- 4.30 For the avoidance of doubt, the guidance in this SPG on levels of charge and how charges are calculated apply equally to both referable and non-referable applications.

### **Indexation**

- 4.31 The figures quoted in Table 2 above are at March 2010 prices. The indexation will be calculated from April 2011 until the point that the Section 106 payment becomes due, using the Consumer Price Index (CPI). The rate which will apply will be calculated at the point that the Section 106 payment becomes due (see paragraph 4.34 below), not when the planning permission is granted.

### **Reporting, monitoring and review**

- 4.32 Transport for London will publish regular monitoring reports on the construction of Crossrail, and on the collection and application of the sums raised under Policy 3C.12 of the London Plan and this supplementary guidance. The sum collected will also be reported in the London Plan Annual Monitoring Report. This guidance covers the period between the date of publication and 2026 - the end date of the current London Plan. The Mayor intends to keep the position regarding the funding of Crossrail, the appropriate contribution to be made by development, the impact of this policy on wider regional and local policies on planning obligations and progress with implementation of the Community Infrastructure Levy (see section 5) under review, and may publish further guidance in due course covering this and further periods. This approach will enable account to be taken of periods when there is more or less development taking place over the period during which this policy will apply. Arrangements will be made, in consultation with boroughs, developers and other stakeholders, to bring the collection of contributions to an end once the required sum of £300 million has been collected.

### **Collection**

- 4.33 The Mayor will seek to agree payment of this standard charge through planning obligations in respect of applications he determines himself, and will take account of the inclusion of such a provision when considering applications referred to him and deciding whether to direct refusal. For other applications, boroughs should include the Crossrail standard charge in planning obligations they negotiate with developers. In cases where no such provision is made, the Mayor may make representations to ministers asking them to call such cases in for their determination.
- 4.34 Contributions will be payable at the point at which development commences, unless other arrangements for payment are agreed. In particular, where it can be demonstrated that the development would otherwise be unviable or that the size or nature of the development makes it appropriate, payments may be related to occupation of a phase or of the completed development (paragraph 4.24 explains how the initial reduced charge will operate with regard to phased developments).
- 4.35 The Mayor is keen to ensure that inclusion of provision for contributions towards the costs of Crossrail in planning obligations does not cause

unnecessary delays to the planning process. He intends to agree a protocol with boroughs and developers regarding issues like exchange of information about applications, joint approaches to negotiation and collection (covering both applications referable to the Mayor and those that would not) and the arrangements for review set out in the previous paragraph. In particular, he will work with the boroughs, developers and other stakeholders to develop model clauses for inclusion in agreements. The protocol will also provide more detailed advice on payment triggers. Contributions would be used only for the purpose for which they have been collected unless agreed otherwise. This will be included among the model clauses for agreements, with the protocol also containing more detailed advice on the termination of the contributions regime when the requisite level of funding has been collected.

### **Consistency with Government policy tests and viability**

4.36 In developing this guidance, the Mayor has been particularly mindful of the need not to seek contributions at such a level that development will not be financially viable, or that the patterns of development across different parts of London are likely to be distorted. Care has been taken to ensure the indicative amounts set out in Table 2 accord with the tests set out in Circular 5/05 and, in particular, those of proportionality and reasonableness and the likely impacts on development. Independent professional advice has been taken from Jones Lang LaSalle about the likely impact of a policy seeking contributions of the order suggested here. Their advice is set out below:

- Any policy of this kind will affect economic decision-making to some degree. However, a low, predictable and easy-to-calculate standard charge will be more easily accepted by the property industry;
- Leakage due to refurbishment (as distinct from redevelopment) or change of use is likely at the margin. However, a combination of planning policy (reinforcing, as the London Plan does, the role of the CAZ), the historic pull of Central London and basing a standard charge on net floorspace increases should keep this to a minimum;
- Developer acceptability will also be improved by a standard charge only being payable on the implementation of consents;
- A standard charge based on net increases in floorspace will impact particularly on locations with little or no pre-existing development – such as the northern part of the Isle of Dogs. However, given the low values of alternative uses in such areas and the clearly defined commercial locations, this should not be a significant disincentive;
- There will be periods during the currency of this policy when there will be less development, and those where there will be more. It is, for instance, being put forward at a time when there is low occupational demand together with a lack of bank lending capacity and most informed commentators are predicting at least two years for conditions to stabilise. With this in mind, a cautious view should be taken about the yield of any standard charge in 2010 and 2011;
- Taking all these factors into account, a standard charge of up to £15 per square foot (GEA) on net additional floorspace (equivalent across Central London of £7.50 psf on consented space) should be capable of being absorbed into development costs during most of the economic cycle in



**SPG: use of planning obligations in the funding of Crossrail July 2010**

central London, as should the benchmark figure suggested in Table 2 in respect of the Isle of Dogs; and

- In the same way, there is likely to be some impact on planning authorities' ability to use planning obligations for local priorities (both the Corporation of the City of London and Westminster City Council have standard charge-based approaches).

## 5. The Community Infrastructure Levy

5.1 London Plan Policy 6A.5A states that:

"The Mayor will work with Government and other stakeholders to ensure the effective development and implementation of the proposed Community Infrastructure Levy.

The Mayor will work with boroughs and other partners to establish a clear framework for application of the Community Infrastructure Levy to ensure the costs incurred in providing the infrastructure which supports the policies in this plan (including public transport) can be funded wholly or partly by those with an interest in land benefiting from grant of planning permission."

5.2 This section explains what the Community Infrastructure Levy is, and the process that is being followed to develop and implement it. It also explains in more detail the approach that will be taken by the Mayor regarding its application in London.

5.3 The Community Infrastructure Levy which came into force on 6<sup>th</sup> April 2010 is a new charge which local authorities in England and Wales are empowered to charge on most types of new development in their area to be spent on local and sub-regional infrastructure to support development in their area. The Planning Act 2008 contains powers for ministers to implement the CIL by regulation. The Act sets out which authorities will be empowered to raise the CIL ('charging authorities'). These include the Mayor and the London boroughs.

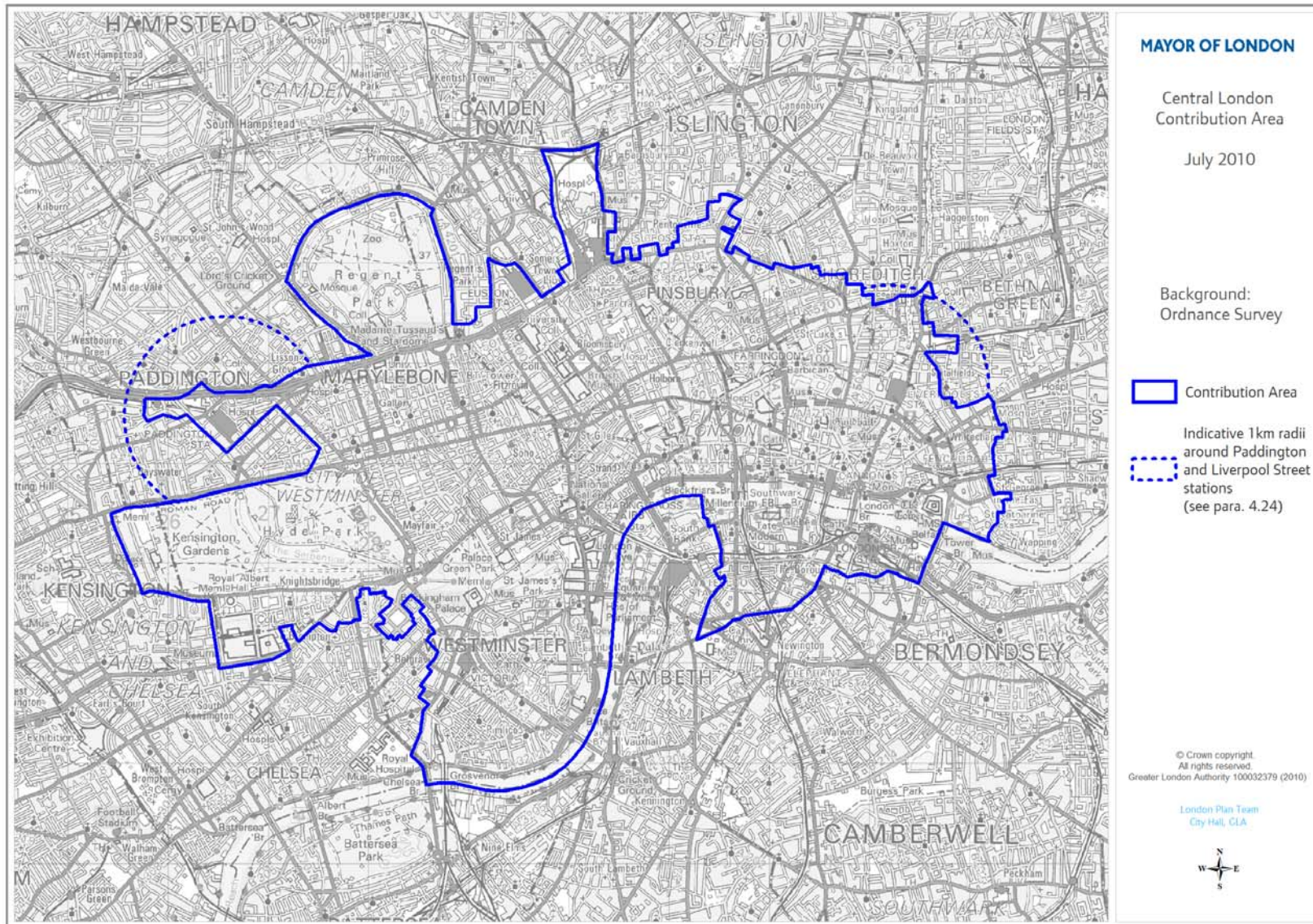
5.4 Under the regulations, the CIL will operate as follows.

- Each charging authority will identify and cost the infrastructure needed to support the development of their area. "Infrastructure" is defined non-exclusively in section 216 of the 2008 Act; "roads and other transport facilities" are explicitly identified as falling within the definition;
- Charging authorities will then prepare a 'preliminary charging schedule' setting out the rate and/or the formula determining how the CIL will be calculated in their area;
- Charging authorities will consult on the preliminary charging schedule. Following this consultation, the authority will prepare a draft schedule, on which there will be a further period of public consultation
- The draft charging schedule will be tested through an examination in public (EiP), at which anyone who has made representations on the draft schedule will be able to appear. The examiner will consider whether the charging authority has had regard to the issues required in the CIL legislation, including the need to have regard to the costs of infrastructure, other expected funding sources and potential impact of the proposed levy on the economic viability of development in the area. The examiner will also consider whether the authority has acted on the basis of appropriate evidence;
- The examiner who has conducted the EiP will produce a report which will recommend that the schedule be approved, rejected or amended. These recommendations will be binding on the authority;
- The amount of CIL to be paid by a development will be calculated at the time planning consent is granted, and will be payable at the time when

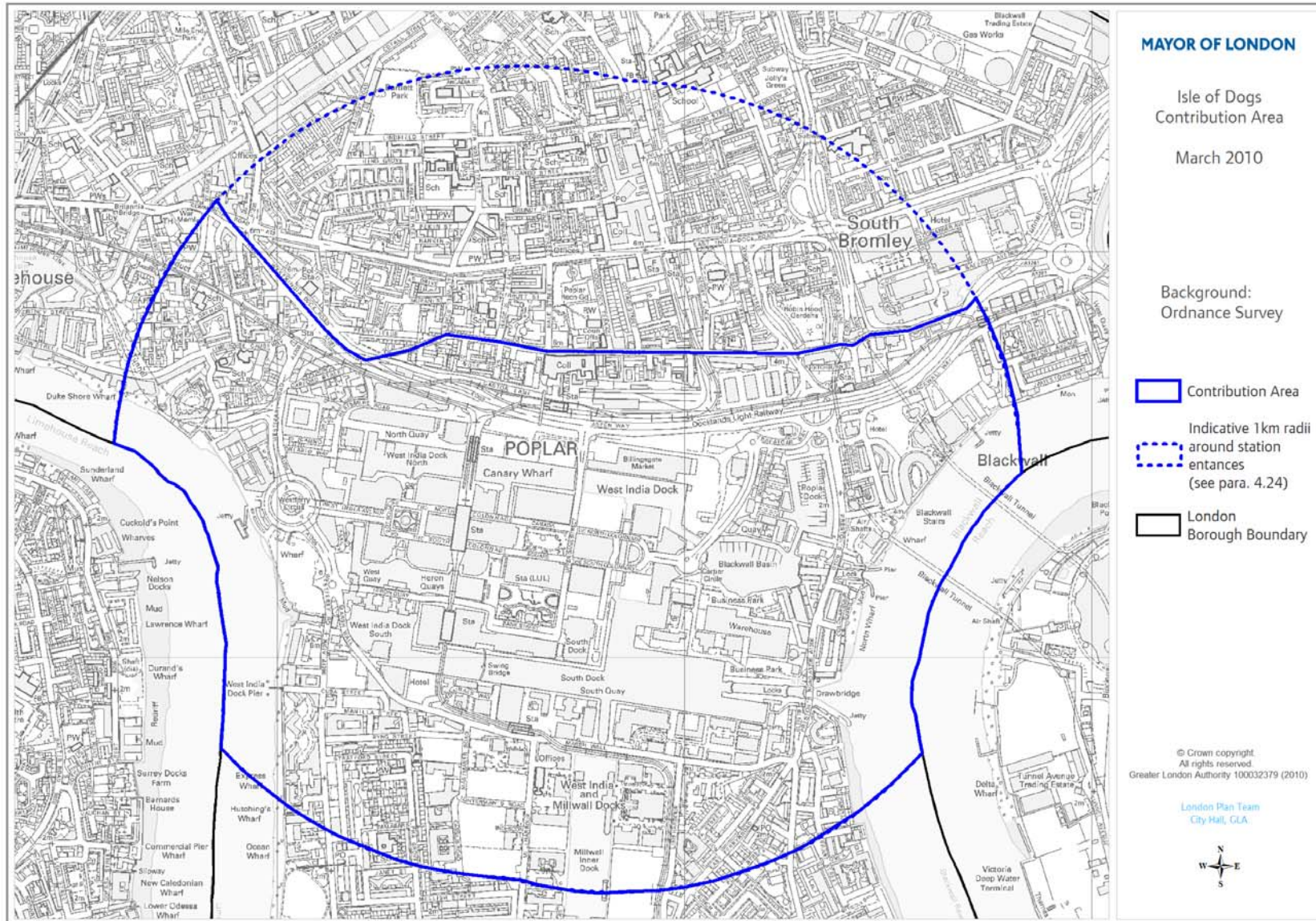
development starts. Failure to pay could result in a legal requirement to stop development.

- 5.5 The Regulations restrict the Mayor to use of the CIL to fund “roads or other transport facilities, including, in particular, for the purposes of, or in connection with, scheduled works within the meaning of Schedule 1 to the Crossrail Act 2008” (regulation 59(2)).
- 5.6 The Regulations also make provision for restricting the use of section 106 after introduction of the CIL. The Government has made clear its view that the CIL will be a better vehicle to address the cumulative impact of developments and fund the infrastructure needed to deal with this. Accordingly, the regulations restrict the use of “tariff” arrangements for the pooling of contributions to arrangements involving fewer than five developments. As far as existing section 106-based tariff arrangements are concerned, the Regulations allow these to run until April 2014, or the date on which a local authority begins to charge a CIL, whichever is the earlier. In any case, authorities will not be able to “double charge” – seek contributions towards the cost of particular infrastructure through both section 106 and the CIL.
- 5.7 The position is different, however, with respect to planning obligations that relate to, or are connected with the funding or provision of scheduled works within the meaning of Schedule 1 to the Crossrail Act 2008 (regulation 123 (4)). The practical effect of this will be that the contributions policy set out in this document will run until the sum referred to in paragraphs 3.4 and 4.16 has been raised. The Mayor has made clear that should he bring forward a CIL, he will take decisions on both the CIL charging schedule (see paragraph 5.4 above) and the level of section 106 contributions for Crossrail in tandem.
- 5.8 As the CIL system is implemented, the Mayor will work with boroughs and other partners to develop an effective and cooperative framework for application of the CIL, particularly to ensure it is applied both to support the policies set out in the London Plan and more local priorities.

Annex 1: Central London Contribution Area



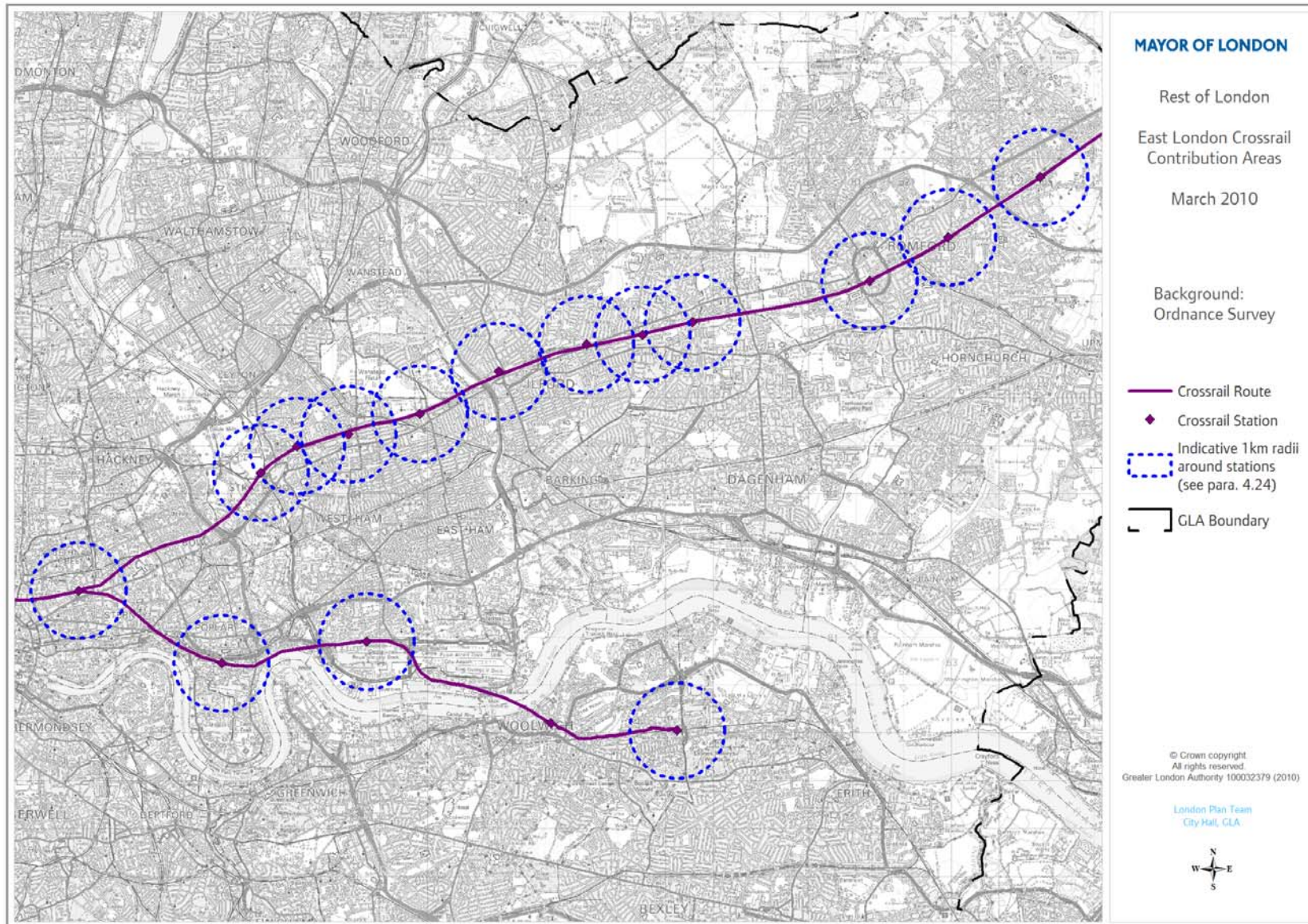
Annex 2: Isle of Dogs Contribution Area



Annex 3: Rest of London Contribution Areas – West London

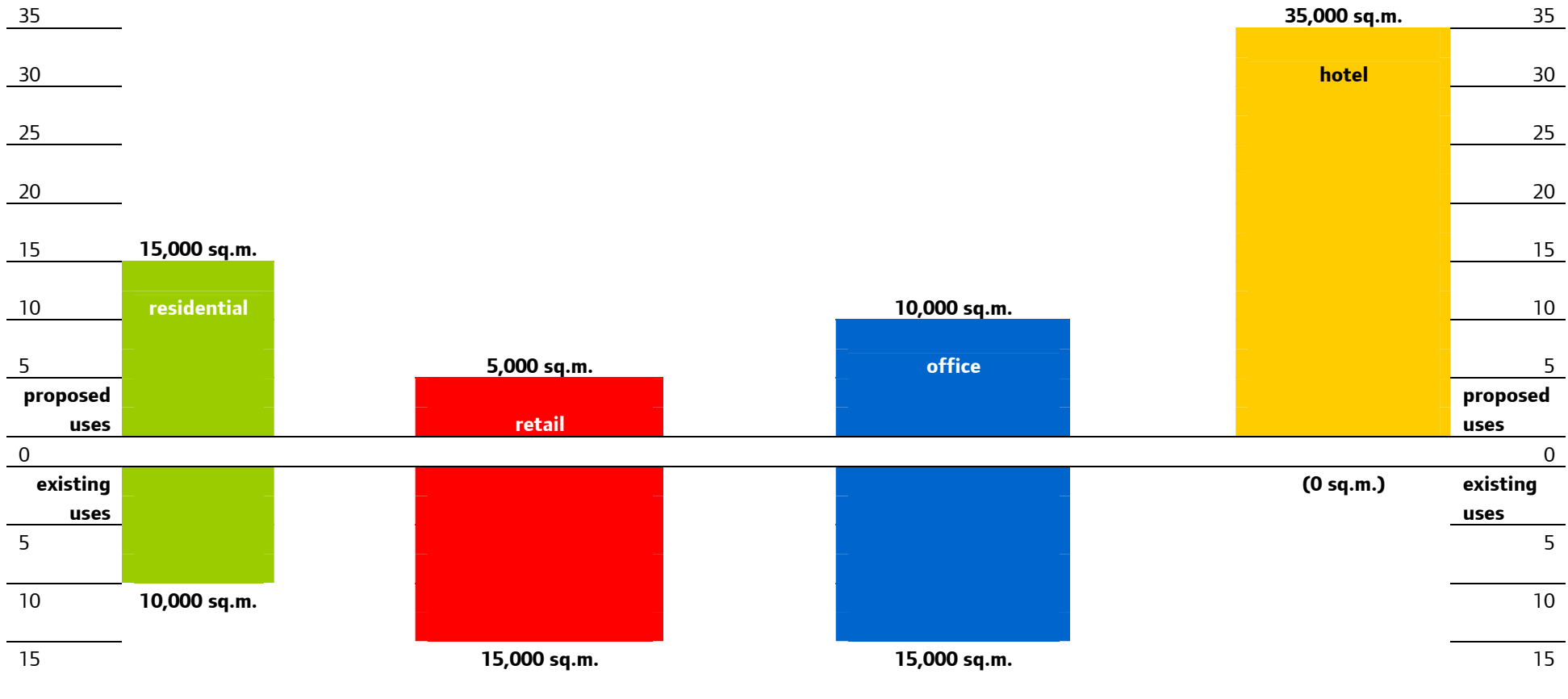


Annex 3: Rest of London Contribution Areas – East London



**SPG: use of planning obligations in the funding of Crossrail July 2010**

**Annex 4:** The proposed approach to mixed use developments containing uses attracting Crossrail charges involves offsetting the impact of the existing uses of the site. The worked example below is for a central London location & involves the replacement of a development (mainly office & retail) with a mixed use development introducing a hotel, with reduced retail & office floorspace. In this diagram, the existing uses are shown below the line and the proposed uses are above the line.



	existing floorspace	theoretical Crossrail charge	proposed floorspace	Crossrail charge	charge variation
residential	10,000 sq.m		15,000 sq.m	NOT A CHARGEABLE USE	
retail	15,000 sq.m	15k x £88 = £1.32m	5,000 sq.m	5k x £88 = £0.44m	(-£0.88m)
office	15,000 sq.m	15k x £137 = £2.055m	10,000 sq.m	10k x £137 = £1.37m	(-£0.685m)
hotel	0		35,000 sq.m	35k x £60 = £2.1m	£2.1m

**£0.535m** Crossrail charge





**GREATER LONDON AUTHORITY**