

## **Lambeth Development Viability Supplementary Planning Document Consultation Statement: October 2017**

### **1. Introduction**

- 1.1. Prior to the adoption of the Development Viability Supplementary Planning Document (SPD), the Council is required, by the Town and Country Planning (Local Planning) (England) Regulations 2012, to produce a consultation statement which sets out who was consulted during the preparation of the SPD, a summary of the main issues raised and how these issues have been taken into account when preparing the final SPD.
- 1.2. A first round of consultation on the Draft Development Viability SPD took place for a 9 week period from 12 December 2016 to 13 February 2017, in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Council's Statement of Community Involvement. A consultation statement was prepared which set out how the draft SPD was consulted on, a summary of the main issues raised and the Council's responses. This was published alongside the Revised Draft Development Viability SPD for a second stage of public consultation over 4 weeks from 5 April 2017 to 5 May 2017.
- 1.3. This final consultation statement has been prepared and sets out for each round of consultation:
  - How the SPD was consulted on and who was invited to respond;
  - A summary of the main issues raised during the consultation and the Council's responses
  - A summary of the changes made to the SPD

### **2. First stage consultation on the Draft Development Viability SPD (12 December 2016-13 February 2017)**

- 2.1. The following methods were used to advertise the consultation:
  - Copies made available on the Council's consultation webpages and the planning policy- supplementary planning documents and other policy guidance webpages
  - Notification of the consultation to those on the planning policy consultation database (including businesses, community groups, amenity societies, residents, developers, landowners and individuals who have asked to be kept informed)
  - Notification of the consultation to neighbouring boroughs and the Greater London Authority
  - Copies of the draft SPD made available at Phoenix House and all of Lambeth libraries
  - A press release on [www.love.lambeth.gov.uk/](http://www.love.lambeth.gov.uk/)
- 2.2. A total of 23 representations were received from the following individuals and organisations:
  - Berkeley Group
  - Deloitte on behalf of Guy's and St Thomas' Hospital
  - DP9 on behalf of ITV Plc
  - Equality Human Rights Commission

- Environment Agency
- Gerald Eve on behalf of Prime Place Developments and Be:Here
- GL Hearn on behalf of CLS Holdings Plc
- Greater London Authority
- Highways England
- Historic England
- Individual (1)
- Kennington, Oval and Vauxhall Forum
- Metropolis
- Metropolitan Police
- Natural England
- Nathaniel Lichfield and Partners on behalf of U+I Group
- Network Rail
- Port of London Authority
- Quod on behalf of Downing Students
- Rapleys on behalf of T Crawley
- Surrey County Council
- Transport for London
- Transport for London- Underground

**2.3.** From the 23 representations received during the consultation, the main issues raised in the 76 separate comments made can be summarised into six topics. These are set out in Table 1. Table 2 sets out all of the comments received and the Council’s response to each comment. Table 3 sets out the changes made in the Revised Draft SPD and the reasons for these changes. The tables were published alongside the Revised Draft SPD during the second stage consultation.

**Table 1: Summary of main issues raised**

<b>Main issue raised</b>
The requirement to submit appraisals at pre-application stage and for s73 applications is too onerous.
The SPD is not in conformity with the National Planning Policy Framework, the National Planning Practice Guidance and the RICS Viability Guidance
Confidential information contained in appraisals should not be published.
Existing Use Value Plus should not be used as the Benchmark Land Value.
A different approach should be taken for student accommodation and healthcare/education facilities.
The Council should amend its approach to review mechanisms to be consistent with the London Plan and the RICS Viability Guidance Note.

**Table 2: Draft Development Viability SPD representations and Council's response**

Ref	Respondent	SPD Section	Comment	Response
LDV001/001	Metropolitan Police Service	Viability Appraisal Methodology	With the advent of Part Q the perceived additional costs of Secured By Design will have reduced considerably in the Residential market. These standards should also be implemented in other development types. Designing out Crime and the implementation of Secured by Design physical protection standards are an investment into the future life of a development. There are considerable ongoing savings from reduced incidents of crime and anti-social behaviour in SBD developments so I would urge the Borough to transmit to all prospective developers the importance of including costing for adequate ongoing security measures into the viability plan.	No change. Comment is noted.
LDV002/001	Natural England	General comment	Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development. Our remit includes protected sites and landscapes, biodiversity, geodiversity, soils, protected species, landscape character, green infrastructure and access to and enjoyment of nature. Whilst we welcome this opportunity to give our views, the topic of the Supplementary Planning Document does not appear to relate to our interests to any significant extent. We therefore do not wish to comment.	No change.
LDV002/002	Natural England	General comment	Should the plan be amended in a way which significantly affects its impact on the natural environment, then, please consult Natural England again. A SPD requires a Strategic Environmental Assessment only in exceptional circumstances as set out in the Planning Practice Guidance here. While SPDs are unlikely to give rise to likely significant effects on European Sites, they should be considered as a plan under the Habitats Regulations in the same way as any other plan or project. If your SPD requires a Strategic Environmental Assessment or Habitats Regulation Assessment, you are required to consult	No change. The Council consulted Natural England about its initial SEA screening assessment and Natural England has confirmed, separately, that it agrees that the draft SPD is unlikely to have significant environmental effects. Only minor amendments are proposed to the revised draft SPD as a result of this consultation so it is anticipated that this position will not

Ref	Respondent	SPD Section	Comment	Response
			us at certain stages as set out in the Planning Practice Guidance.	change. The Council will consult NE about this again in due course.
LDV003/001	Highways England	General comment	Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity. Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN). M4 in this case. Having examined the document, we do not offer any comment to this proposal.	No change.
LDV004/001	Equality and Human Rights Commission	General comment	The Commission does not have the resources to respond to all consultations, but will respond to consultations where it considers they raise issues of strategic importance. Local, parish and town councils and other public authorities, as well as organisations exercising public functions, have obligations under the Public Sector Equality Duty (PSED) in the Equality Act 2010 to consider the effect of their policies and decisions on people sharing particular protected characteristics. The PSED is an on-going legal requirement and must be complied with as part of the planning process. The Commission is the regulator for the PSED and the Planning Inspectorate is also subject to it. In essence, you must consider the potential for planning proposals to have an impact on equality for different groups of people.	No change. Comment is noted. The draft SPD underwent an equalities impact assessment prior to the start of the consultation and the results were made available as an appendix to the Cabinet report in November 2016. Prior to adoption of the SPD, the Council will consider whether an updated EIA is required.
LDV005/001	Surrey County Council	General comment	Thank you for consulting Surrey County Council. We have no comments to make on the draft SPD.	No change.

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LDV006/001	Metropolis	Review mechanisms	<p>SPG must be supplementary to development plan policy and cannot be used to introduce new policy. London Plan policy LP 3.12 deals with negotiating affordable housing. Part A requires that authorities seek the maximum reasonable amount of affordable housing. Part B then states that:</p> <p><i>“Negotiations on sites should take account of their individual circumstances including development viability, the availability of public subsidy, the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation (‘contingent obligations’), and other scheme requirements.”</i></p> <p>The policy refers to re-appraisal in relation to ‘phased development’ and ‘prior to implementation’. The explanatory text at 3.75 adds:</p> <p><i>“In making arrangements for assessing planning obligations, boroughs should consider whether it is appropriate to put in place provisions for re-appraising the viability of schemes prior to implementation. To take account of economic uncertainties, and in respect of schemes presently anticipated to deliver low levels of affordable housing, these provisions may be used to ensure that maximum public benefit is secured over the period of the development.”</i></p> <p>The London Plan policy therefore refers to ‘phased development’ and ‘pre-implementation reviews’ and there is no development plan policy for post implementation review on single phase schemes. Given that the Council’s Local Plan has a requirement under section 21 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and section 24 of the Planning and Compulsory Purchase Act 2004 to be in conformity with the London Plan, Part D of Lambeth’s Local Plan policy H2 (Delivering affordable housing) relates to re-appraising the viability of schemes where the financial appraisal demonstrates that the scheme can only provide affordable housing below the policy target:</p> <p><i>“Provisions for reappraising the viability of schemes may form part of section 106 planning agreements where the financial</i></p>	<p>No change. The draft SPD does not introduce new policy but provides further guidance to the Council’s adopted development plan, particularly Policy H2 and the requirements for review mechanisms. Policy H2 states that ‘provisions for re-appraising the viability of schemes may form part of s106 planning agreements where the financial appraisal demonstrates that the maximum amount of affordable housing a scheme can reasonably support is below the policy target’. This is supported in paragraph 5.14 of the Local Plan. The draft SPD is providing further guidance on when review mechanisms will be used to address changing circumstances and uplift in values to secure any additional affordable housing during the implementation of the planning permission. The review mechanisms set out in the draft SPD are consistent with the Lambeth Local Plan, the London Plan and the Mayor’s draft Affordable Housing and Viability SPG.</p>

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			<p><i>appraisal demonstrates that the maximum amount of affordable housing that a scheme can reasonably support is below the policy target.</i></p> <p>Paragraph 5.14 of the Local Plan goes on to refer to re-appraising viability assessments prior to implementation or for phased developments in line with the London Plan approach: <i>“They may be used to maximise affordable housing output by putting in place provisions for re-appraising the viability of schemes or phases in order to capture any uplift in value due to a delayed planning implementation and / or a phased build-out of a major scheme or other changes affecting financial viability.”</i></p> <p>The NPPG includes the following advice in regard to changes in values :-  <i>“Viability assessment in decision-taking should be based on current costs and values. Planning applications should be considered in today’s circumstances. However, where a scheme requires phased delivery over the medium and longer term, changes in the value of development and changes in costs of delivery may be considered. Forecasts, based on relevant market data, should be agreed between the applicant and local planning authority wherever possible.”</i></p> <p>The first paragraph makes it clear that the approach is to assess viability at the time of the application based on the circumstance at the time and the second refers to phased development. This is echoed in the current Mayor’s SPG at 4.3.3 and 4.3.4. If a new policy for ‘near end development review’ is to be advanced by both the Mayor and the Council, this must be done through changes to the London Plan and Local Plan and subjected to the scrutiny and consultation that applies to new policy. All references to ‘near end development review’ in paragraphs 6.4 –6.7 should therefore be deleted from the SPG as they are not consistent with adopted policy. We would request that the sections underlined below are omitted from the final SPG to ensure consistency with adopted policy:</p>	

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			<p>6.4 <i>In accordance with the Mayor’s Housing SPG and current practice, reviews may be sought on phased and non-phased schemes. Triggers will be agreed having regard to the specifics of the proposed development and this will be determined through the assessment of the application.</i></p> <p>6.5 <i>The council will normally require viability reviews to take place at the following stages:</i></p> <ul style="list-style-type: none"> <li>• <i>On all schemes requiring a review where the council considers there is likely to be a delay in starting on site and/or it is necessary to incentivise delivery, a pre-implementation review will be required.</i></li> </ul> <p><i>Pre-implementation reviews will normally be triggered in the event construction does not commence within 12 months of the grant of planning permission.</i></p> <ul style="list-style-type: none"> <li>• <i>At an advanced stage for all schemes requiring a review. This will ensure that viability is accurately assessed and up-to-date. <u>The trigger for the review will usually be 75% of occupation of market units. An occupation clause is likely to be required which would prevent full occupation of the development until the review is completed and any additional affordable housing is delivered or a commuted sum is paid.</u></i></li> <li>• <i>On phased developments an additional viability review may be required prior to substantial completion of development phases (mid-term review) to secure any uplift on subsequent phases.</i></li> </ul> <p>6.6 <i>Any contribution arising from a review of viability would be capped by relevant policy requirements (i.e. in the case of affordable housing, to the equivalent of 40% (without public subsidy) or 50% (with public subsidy)). Where a viability review demonstrates an improvement in a scheme’s viability, a percentage split of the increase in the scheme’s value between the developer and the council will be agreed on a case by case basis. This will typically be: 20% of the increase in the scheme’s value returned to the developer and 80% to the</i></p>	

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			<i>council, up to the level that would be required for a policy compliant scheme. Additional surplus profits will pass to the developer in their entirety”.</i>	
LDV006/002	Metropolis	Review mechanisms	<p>Given the funding requirements of lenders, we would also suggest that further consideration is given to the form in which additional contributions are made following a review. If for example, properties have been sold off plan prior to the commencement of development, there will be issues arising, in relation to terms of sale, and values, if additional affordable housing is then required within a scheme. The inclusion of affordable housing within a scheme, and especially within the same core, is an influencing factor in the purchase of new property and it could reasonably be expected to result in significant delay to the completion of sale (and therefore occupation) or a case being brought under consumer protection legislation. We would therefore suggest that for all instances other than Reviews prior to commencement of development, that any reference to the further provision of additional affordable housing on site is removed in favour of a financial contribution. Para 6.7 should be amended accordingly by removing the references underlined below:</p> <p><i>6.7 Where reviews take place prior to or <u>at an early stage of development</u> the council’s priority will be for the delivery of additional on-site affordable housing. Where reviews take place at a later stage, the practical implications of delivering additional affordable housing on site may mean that off-site affordable housing or a commuted sum will be sought. Off-site provision must be fully justified and any costs met by the developer (e.g. design, professional / legal fees etc.).</i></p>	No change. A review at an early stage of the development or prior to substantial completion of development phases could in some cases secure the delivery of additional affordable units due to changing circumstances and uplift in values, which can be provided on site in subsequent phases.
LDV007/001	Historic England (Archaeology South London)	General comment	Thank you for the consultation received in respect of draft document Development SPD. Having considered the document I conclude that I have no direct comment regarding Development Viability SPD. It is anticipated that further policy	No change.



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			comment will be provided to you by my colleagues in the Historic Places Team: London, Historic England.	
LDV008/001	Transport for London – London Underground	General comment	We have no comments to make at this stage except that London Underground Infrastructure Protection needs to be consulted as Statutory Consultees on any planning application within London Underground zone of interest as per TOWN AND COUNTRY PLANNING, ENGLAND-The Town and Country Planning (Development Management Procedure) (England) Order 2015 issued on 16 <sup>th</sup> April 2015. Where there are intended works in the Highway we would need to be notified of these so that we can ensure there is no damage to them.	No change.
LDV009/001	Port of London Authority	General comment	The Port of London Authority is the statutory harbour authority for the tidal Thames between Teddington and the Thames Estuary. Its statutory functions include responsibility for conservancy, dredging, maintaining the public navigation and controlling vessel movements and its consent is required for the carrying out of all works and dredging in the river and the provision of moorings. As the body responsible for licensing river works and moorings, the PLA has a special regard to their continued viability for unimpeded use by the PLAs licenses. The PLAs functions also include for promotion of the use of the river as an important transport corridor to London. With the above in mind, the detail within the two documents are not of relevance to the PLA and therefore I have no observations or comments to make.	No change.
LDV010/001	Network Rail	Submission of financial viability appraisals as part of the planning application process	Paragraph 3.2 of this document states that ' <i>Applicants should submit a draft financial viability appraisal at <b>pre-application</b> stage where a proposal is likely to trigger a requirement to provide affordable housing or where viability is likely to a relevant consideration in respect of achieving planning policy compliance</i> '. Paragraph 5.13 adds that ' <i>Any site-specific abnormal costs should be identified at the pre-application</i>	A draft appraisal is necessary at the pre-application stage for proposals which are likely to trigger a requirement for affordable housing to agree the inputs and methodology which will inform the final proposal. Paragraph 3.2 of the draft SPD has been amended to clarify this and to

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			<p><i>stage and supported by robust evidence (including contractor costs)</i>. The need to provide such information at pre-application stage may be premature and unnecessary. Network Rail often seeks pre-application advice on just the principle of development i.e. in very broad terms, when viability has not been considered in any detail. The SPD needs to make it clear that this information should only be submitted when pre-application advice is at a more detailed stage, when matters such as affordable housing, viability and costs are being covered.</p>	<p>state that the level of information required will depend on the scale and nature of the proposed development. It also makes clear that draft appraisals, like all pre-application documents, will not be made available on the Council's website.</p>
LDV011/001	Rapleys LLP on behalf of Terence Crawley Esq	Submission of financial viability appraisals as part of the planning application process	<p>The document seeks to provide additional guidance to developers, the public and other stakeholders, on the approach to assessing viability through the planning process. Paragraph 1.8 states that '<i>in the assessment of individual planning applications, financial appraisals are mostly associated with major schemes which trigger affordable housing requirements</i>'. Paragraph 1.8 does not provide a clear and concise definition for when financial viability assessments are required, as it allows a level of ambiguity where it states that '<i>financial viability appraisals are mostly associated with major schemes</i>'. As such the document fails to set a clear threshold at which a development will be required to demonstrate viability or where obligations will be sought in regards to affordable housing provision. However, the Employment and Skills Obligations SPD also out to consultation is clear that planning obligations will only be sought for developments comprising 10 or more units. National Planning Policy Guidance sets out the specific circumstances where contributions for affordable housing and tariff style planning obligations cannot be sought. It states that '<i>contributions should not be sought from developments of 10-units or less</i>'. The document should be amended to include clear thresholds which reflect National Policy Guidance and confirm that development of 10 units or less should not have to provide affordable housing or demonstrate viability. Notwithstanding this out client or would not object to the</p>	<p>No change. The circumstances in which a financial appraisal is required are clearly set out in Lambeth Local Plan H2. The draft SPD is providing additional guidance on the implementation of this policy and cannot be used to change or add to policy. With regard to affordable housing contributions on sites with 10 or fewer units, whilst the Written Ministerial Statement and PPG are material considerations, they do not replace or override the development plan as the starting point for planning decisions. The statutory duty on Local Planning Authorities is to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. This will therefore be addressed through the determination of individual planning applications, pending a review of the Lambeth Local Plan. It should be noted that the threshold set out in the Employment and Skills SPD is set out in</p>

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			threshold being set consistent with the threshold of 10 or more units set out in the Employment Skills and Planning Obligations SPD. We request that the Council considers this representation in full and that those considerations are reflected in the next stage of the document's preparation.	Policy ED14 and relates to obligations for employment and training only.
LDV012/001	Berkeley Group	General comment	We support the Council's priority to deliver more homes, including affordable homes, and recognise the desire to continue to develop confidence and certainty in the viability review process. Berkeley Group is a significant investor in Lambeth and has enjoyed a long and strong relationship with the Council. We have a number of live developments in Lambeth and have an emerging planning application for the Oval Gas Works site. We are also working with Lambeth to provide offsite affordable homes at the Westbury Estate as part of the wider s106 offer for the development of 22-29 Albert Embankment. Berkeley Group accounts for about 10% of new homes delivered in London, including 10% of the affordable homes. Place making is at the heart of our approach and our developments deliver a mix of uses, homes in different tenures, commercial and community spaces, as well as exceptional public realm and new public spaces. On all of our developments we consult with the community as we shape our proposals and continue to engage as we deliver the developments.	No change. Comment is noted.
LDV012/002	Berkeley Group	Submission of financial viability appraisals as part of the planning application process	The Group supports the desire for greater transparency in the planning process and for viability assessments, and agree that the timely submission of assessments will aid this. Early discussion of all aspects of development is critical to the swift and efficient processing of applications and ultimately the delivery of new homes. On major developments the nature, mix and scale of development is likely to evolve considerably as result of discussions with the planning authority and consultation pre and post application. This will limit the extent to which viability can be discussed at the pre-application stage	A draft appraisal is necessary at the pre-application stage for proposals which are likely to trigger a requirement for affordable housing to agree the inputs and methodology which will inform the final proposal. Paragraph 3.2 of the draft SPD has been amended to clarify this and to state that the level of information required will depend on the scale and nature of the proposed development. It also makes clear

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			<p>as the proposal is likely to be subject to considerable change. We understand the need for an affordable offer at an early stage of the application process to verify whether the affordable housing offer is maximised. Whilst we recognise Lambeth's policy to require draft viabilities at a pre-application stage, given the complexity and evolving nature of viability assessments, we consider that they should be submitted when key aspects of the application have been finalised. Applications for major developments will evolve as a result of continued discussions and feedback from consultation, including statutory consultees. Recognition that the development will evolve post submission and the viability assessment will also need to evolve in response is appropriate.</p>	<p>that draft appraisals, like all pre-application documents, will not be made available on the Council's website.</p>
LDV012/003	Berkeley Group	Submission of financial viability appraisals as part of the planning application process	<p>The draft SPD states that a full viability assessment should be completed for any application under s73 that amends the mix. Rather than completing an assessment for the whole scheme which would add unnecessary strain on officer's time, it is suggested that the assessment should focus on those areas of the development proposed to be amended.</p>	<p>Change. Paragraph 3.8 has been amended to state that for s73 applications, an applicant will be required to submit an updated viability appraisal to assess any further uplift in the provision of planning obligations, unless the proposed development as amended complies fully with planning policy requirements. It also states that the consented scheme will be used as the Benchmark Land Value.</p>
LDV012/004	Berkeley Group	Transparency	<p>We agree that it would be helpful to provide a non-technical summary of the viability assessment explaining key factors and conclusions. This should be at the time the assessment is agreed so that the inputs are settled and conclusions agreed. Earlier publication could complicate matters as the public will not understand why the assessment changes through the course of the application and it could be drain on valuable resources, not least officer's time as members of the public query elements of the original and revised assessment. Requirements for draft viability assessments at the pre-application stage should remain full confidential between</p>	<p>A draft appraisal is necessary at the pre-application stage for proposals which are likely to trigger a requirement for affordable housing to agree the inputs and methodology which will inform the final proposal. Paragraph 3.2 of the draft SPD has been amended to clarify this and to state that the level of information required will depend on the scale and nature of the proposed development. It also makes clear that draft appraisals, like all pre-application</p>

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			<p>Lambeth and their agents, the draft SPD should seek to detail that this is agreed with officers before submission. Draft viability assessments do not often reflect the finalised design and do not necessarily include all inputs, conclusions and positions that will seek agreement from the Council.</p>	<p>documents, will not be made available on the Council's website. For applications, for full transparency, the appraisals and executive summary will be published alongside all other planning documents. Any subsequent revised appraisals and reviews will then be published.</p>
LDV012/005	Berkeley Group	Transparency	<p>Many assessments include information which is commercially sensitive. For example, this could be allowance for acquisition of third party land, rights of light, vacant possession compensation costs or other information that would severely compromise the applicant's commercial position. If there are elements of the information within the assessment which the application considers should not be disclosed on the basis that they are commercially sensitive, we understand the requirement to provide reasoned justification on why any information should be redacted. This reflects recent FOI decisions which recognises that some information is commercially sensitive and there should not be a blanket disclosure.</p>	<p>No change. Chapter 4 of the draft SPD already clearly sets out the Council's approach to transparency and the publication of viability appraisals. Paragraph 4.2 of the draft SPD states that the "Environmental Information Regulations 2004 (EIR) cover access to 'environment information' held by public authorities including local planning authorities. 'Environmental information' for these purposes includes information relating to development viability. Under the EIR there is a presumption in favour of disclosure of environmental information. The EIR recognise that there are certain circumstances ('exceptions') where environmental information may fall not to be disclosed. In most cases, a balancing exercise has to be carried out to decide whether the exception should outweigh the presumption in favour of disclosure." In addition, paragraph 4.4 states that the Council will draw upon the principles of the EIR in deciding whether there is any reason why the submitted viability information should not be published alongside other planning application documents and that it will only depart from</p>

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				its starting point of transparency where there is a convincing case that one or more of the exceptions in the EIR would apply to outweigh the public interest in disclosure of the information.
LDV012/006	Berkeley Group	Viability Appraisal Methodology	<p>We share the borough's frustrations about high prices being bid for sites which disregard planning policies and affordable housing, rewarding the landowner at the expense of the public. However, fundamental to calculating land value is being realistic about the price at which land owners will release land (as exemplified in the NPPF). We agree that this a highly tricky and sensitive exercise which must balance the need to release land for development with the need to deliver public benefits. Land will not be released at existing use value; a reasonable premium will be expected from landowners to justify sale. If there is reasonable prospect of land securing planning permission for an alternative, higher value use, the landowner will expect this to be reflected in the land value. Policy compliant alternative use values should therefore be accepted. The approach to determining the benchmark land value using the existing use value (EUV) plus an appropriately justified site-specific premium, recognising the incentive required to encourage landowners to bring land forward for development is supported. So too is the recognition that the EUV will vary on a case by case basis and support varying policy requirements and any extant planning permissions. The level of any site specific premium above the EUV should be informed by market evidence. This is supported in PPG and offers the most credible way in which to incentivise the landowner to sell. The Group also supports benchmark land value based on Alternative Use Value (AUV) where it is demonstrated the alternative use would fully comply with development plan policies. We also support that where this is relied upon AUV information should be provided to the Council to determine whether the scheme is capable of securing a consent, a</p>	<p>No change. As clearly explained in the draft SPD, Existing Use Value Plus is the Council's preferred approach for calculating a site's benchmark land value. The benefit of this approach is that it clearly identifies the uplift in value arising from the grant of planning permission through a comparison with the value of the site without planning permission. This is consistent with the PPG which states 'a competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of its value for a realistic alternative use that complies with planning policy'. The Council's use of EUV+ is also consistent with the Mayor's draft Affordable Housing and Viability SPG. Chapter 5 of the draft SPD sets out the limited circumstances in which using alternative use value will be accepted. It also sets out that the Council will follow the Mayor's approach in the draft Affordable Housing and Viability SPG when considering market values.</p>

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			viability assessment for the alternative use and assessing its market demand. The Group also welcomes the use of market values to support land values in appropriate situations where either a EUV or AUV approach would generate high enough land value to incentivise a landowner to dispose of a site.	
LDV012/007	Berkeley Group	Viability Appraisal Methodology	The SPD states that affordable housing values should reflect discussions and offers by Registered Providers (RPs). In most cases RPs are not engaged at the application stage as they are usually secured closer to the delivery of the affordable homes. RPs will not be in a position to make offers at such an early stage and speculative stage.	No change. The London Plan recommends that developers engage with Registered Providers as early in the process as possible. This allows affordable housing values used in the appraisals to reflect discussions with RPs. This approach is also encouraged in the Mayor's draft Affordable Housing and Viability SPG.
LDV012/008	Berkeley Group	Viability Appraisal Methodology	The SPD also states that elevated development costs attributable to a very high level of specification will not be acceptable where the associated costs impact on viability. The Berkeley Group prides itself on the quality of our homes and the places we create and believe the costs are justified where the level of specification and quality of elements such as the public realm are also reflected in the sales values. There is also a desire for a clear relationship between professional and marketing fees and development values. It would be more appropriate for the costs to be benchmarked against comparable schemes as part of the review process.	No change. The wording of the draft SPD is clear that development costs should relate to the proposed development specification and be supported by evidence from cost consultants to enable them to be benchmarked against publically accessible information. It also states that these costs should be consistent with comparable sites.
LDV012/009	Berkeley Group	Viability Appraisal Methodology	The planning application process is applicant-neutral and planning permissions run with the land. It is therefore not appropriate to justify profit levels in respect of an applicant's risk profile. We agree that profit levels should be related to the level of risk. Property development is a cyclical and highly risky business. It is very easy, at the top of the market with high values and strong growth to ignore the huge investment it takes to make development happen and the risks that developers take. The return sought by shareholders reflects	No change. The draft SPD already makes clear that profit levels are influenced by a number of factors and will be assessed on a case by case basis. They should be appropriate to current market conditions and reflect the level of risk being taken in the development. Profit levels should be justified through evidence of the development's risk profile and also against

Ref	Respondent	SPD Section	Comment	Response
			the degree of risk that is taken. It is not appropriate to justify profit levels with information from comparable developments. Each development is different and needs to be considered in its context and at the time it is being proposed.	comparable schemes. This approach is consistent with the PPG which states that a rigid approach to profit levels should be avoided and that comparable schemes or data sources should be reflected wherever possible. It is also consistent with the approach in the Mayor's draft Affordable Housing and Viability SPG.
LDV012/010	Berkeley Group	Review Mechanisms	We agree that it is reasonable to include review mechanisms prior to implementation where there is a significant lag between the grant of planning permission and development starting. The SPD suggests that an appropriate time frame is 12 months. This period is unrealistic for large scale regeneration schemes which should reflect the complications of starting on site and completing remediation or enabling works. A more appropriate timescale on such regeneration sites would be 2 years.	Change. Paragraph 6.5 has been amended so that pre-implementation review mechanisms will be required after 24 months, to align the draft SPD with the Mayor's draft Affordable Housing and Viability SPG.
LDV012/011	Berkeley Group	Review Mechanisms	The inclusion of a review linked to reaching a specified milestone, such as completion of the basement works, would be reasonable to incentivise early delivery. A potential review upon occupation of 75% of the market homes would introduce significant uncertainty to the delivery of a scheme and at that late stage there would be little scope for the necessary amendments to amend the affordable housing provision. Any requirements to include a restriction of occupants until the review is completed at that late stage would also cause significant issues for the delivery of new homes. The increased risk and complexity that these proposals represent will be reflected in the cost and availability of finance. Reviews should only be included post implementation (other than where linked to an agreed early milestone) in exceptional circumstances. Typically on long term developments will invest significant sums at risk on site preparation and the provision of early	Change. A review mechanism will be used at 75% of sale, rather than occupation, for all schemes requiring a review. This will allow the achieved sales value to be reflected in the review. This is consistent with the Lambeth Local Plan, London Plan and the Mayor's draft Affordable Housing and Viability SPG. Review mechanisms will be used where an applicant has relied on growth forecasts to assess whether any additional affordable housing can be delivered based on actual figures and to assess whether the modelling was correct. It will not result in any double counting because if the growth modelling was correct, then the scheme has already



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			infrastructure. Any review must take account of cost increases, start at the position that the development is not in deficit and be capped at the outset at the level of affordable housing policy compliance so that the full risk is known to the applicant and their funders. Where there is review mechanism the surplus should be shared equally between the developer and the local authority. Where growth assumptions are included in the assessment we do not think it is reasonable to include a review mechanism as this would effectively be double counting.	delivered as much affordable housing as it can and no more would be sought. The surplus profit split reflects that the primary purpose of a review is to provide policy compliant levels of affordable housing, where viable. The 80% to the Council allows for developers to benefit in the event of higher development values and lower costs but ensures that maximum public benefit is secured over the period of the development.
LDV012/012	Berkeley Group	General comment	There are some circumstances where it may be appropriate for Lambeth to explore off-site affordable housing options to maximise affordable housing delivery. The Berkeley Group has demonstrated this as effective solution on Vauxhall City Farm and the Westbury Estate. Where more affordable homes can be delivered through an offsite solution, the local authority should fully explore these options with developers rather than insisting on on-site delivery. There may also be exceptional circumstances where it could be appropriate for the local authority to secure commuted sum payments if there is a clearly identified Estate Renewal programme which requires funding.	No change. The exceptional circumstances in which off-site affordable housing provision will be considered are set out in Lambeth Local Plan Policy H2 and paragraphs 5.7-5.10. This is not a relevant consideration for the SPD.
LDV013/001	Transport for London	General comment	TfL has no representations to make on the SPD.	No change.
LDV014/001	Quod on behalf of Downing Students	Policy context	Paragraph 2.7: The respondent supports a consistent approach to viability assessments, it is however submitted that reference to 'The London Borough Viability Protocol' should be removed as this documents holds no statutory planning status and has not been formally consulted on.	No change. The London Boroughs Viability Protocol is non-statutory guidance and its status is already made clear in the draft SPD. It was consulted on in early 2016 before being published in November 2016. It is also referred to in the Mayor's draft Affordable Housing and Viability SPG.

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LDV014/002	Quod on behalf of Downing Students	Submission of financial viability appraisals as part of the planning application process	Add <i>'if possible'</i> to the start of paragraph 3.2: It is not always possible to prepare a viability assessment at the pre-application stage due to time constraints and resource required in the preparation of the supporting evidence (as required in accordance with Section 5 of the Draft SPD) following design a fix. This requirement could result in a delay to the planning process and the delivery of much needed residential accommodation.	A draft appraisal is necessary at the pre-application stage for proposals which are likely to trigger a requirement for affordable housing to agree the inputs and methodology which will inform the final proposal. Paragraph 3.2 of the draft SPD has been amended to clarify this and to state that the level of information required will depend on the scale and nature of the proposed development. It also makes clear that draft appraisals, like all pre-application documents, will not be made available on the Council's website.
LDV014/003	Quod on behalf of Downing Students	Submission of financial viability appraisals as part of the planning application process	Add <i>'unless otherwise agreed with the Council to the end of paragraph 3.3'</i> : Viability assessments sometimes contain commercially sensitive information (i.e. compensation budgets) which could prejudice the commercial position of a developer. This information cannot therefore be made publically available. In the case of Elephant and Castle, the First Tier Tribunal General Regulatory Chamber (Information Rights) recognised there needs to be a balance between transparency and commercial confidentiality and found that the public interest favoured withholding some information (9 <sup>th</sup> May 2014). The emerging London Plan Affordable Housing and Viability SPG includes provisions for commercially sensitive information to be withheld where agreed with the GLA ahead of submission (for example where the land acquisition is being negotiated).	No change. Chapter 4 of the draft SPD already clearly sets out the Council's approach to transparency and the publication of viability appraisals. This is consistent with the PPG which encourages transparency of evidence wherever possible and also the Mayor's draft Affordable Housing and Viability SPG. The draft SPD clearly sets out how it will consider redacting parts of appraisals and that these requests should be made during the pre-application process.
LDV014/004	Quod on behalf of Downing Students	Submission of financial viability appraisals as part of the planning application process	Delete <i>'where student proposals are required to provide an element of affordable student accommodation'</i> from paragraph 3.4: In the absence of a local development plan policy which sets a viable and deliverable target for Affordable Student Accommodation (reflecting local planning requirements including CIL) the Council should not require student schemes	No change. Lambeth Local Plan Policy H7 sets out the requirement for student accommodation by stating that student housing will be secured by planning obligation or condition relating to the use of land or its occupation by members of

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			<p>to provide any affordable student accommodation. As presently worded, the London Plan requirement for the 'maximum viable' level of student accommodation does not provide an appropriate policy framework in which student developers can purchase land. For example it is not clear if student developers should prepare bids for land on the basis of, for instance, 5% affordable student accommodation or 50% affordable student accommodation. On this basis, it is considered that London Plan Policy 3.8 cannot be applied to individual sites and therefore only provides a framework for preparation of local policy.</p>	<p>specified educational institutions. Where the accommodation is not secured for students, the development will be subject to the requirements of policy H2 in respect of affordable housing provision. In addition, paragraph 3.53B of the London Plan states where there is not an undertaking with a specified academic institution, providers should, subject to viability, deliver an element of student accommodation that is affordable for students in the context of average student incomes and rents for broadly comparable accommodation provided by London universities. The purpose of the SPD is not to change adopted planning policy but to provide further guidance on how these policies will be applied.</p>
LDV014/005	Quod on behalf of Downing Students	Submission of financial viability appraisals as part of the planning application process	<p>Amend 'will be required' to 'may be required on lines 4 &amp; 5 of paragraph 3.8. Add 'the revised assessment should focus on the impact of the proposed change only to paragraph 3.8: There should be no one size fits all approach to s73 applications. In some circumstances a minor amendment to the unit mix will undoubtedly have no impact on the conclusions of the original viability assessment (particularly in large schemes and/or where the affordable housing offer represented a significant overprovision). Flexibility should be included within the SPD for the Council to use their discretion where it is not considered necessary for a revised assessment to be prepared (potentially causing delay). The SPD should also clarify that, where a revised assessment is required, this should focus on the impact of the change only. This is consistent with DCLG Guidance and S73 of the Act.</p>	<p>Change. Paragraph 3.8 has been amended to state that for s73 applications, an applicant will be required to submit an updated viability appraisal to assess any further uplift in the provision of planning obligations, unless the proposed development as amended complies fully with planning policy requirements. It also states that the consented scheme will be used as the Benchmark Land Value.</p>

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LDV014/006	Quod on behalf of Downing Students	Transparency	Amend 'require' to 'encourage' in the first line of paragraph 5.2: SPDs must be prepared in accordance with the development plan and the SPD cannot be used to introduce new policy requirements which are inconsistent with national policy. The NPPG is clear that the most appropriate way to assess land or site value will vary from case to case. The approach also conflicts with paragraph 4.1.4/5/6 of the recently adopted Housing SPG, page 11 of the GLA's Development Appraisal Toolkit Guidance Notes, pp28-29 of the LHDG's viability testing local plans and p12 of the RICS Financial Viability in Planning Guidance Note- all of which advocate several approaches to land value. None rely solely on Existing Use Value (EUV).	No change. As clearly explained in the draft SPD, Existing Use Value Plus is the Council's preferred approach for calculating a site's benchmark land value. The benefit of this approach is that it clearly identifies the uplift in value arising from the grant of planning permission through a comparison with the value of the site without planning permission. This is consistent with the PPG which states 'a competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of its value for a realistic alternative use that complies with planning policy'. The Council's use of EUV+ is also consistent with the Mayor's draft Affordable Housing and Viability SPG. Chapter 5 of the draft SPD sets out the limited circumstances in which using alternative use value will be accepted.
LDV014/007	Quod on behalf of Downing Students	Viability appraisal methodology	Add 'the site's alternative use value' to paragraph 5.5. Delete 'circumstances of the site and its owner' from paragraph 5.5: The NPPG states that 'a competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for the development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of the land or its value for a realistic alternative use that complies with planning policy. In many cases the land owners and applicant are the same entity. This	No change. When calculating an appropriate premium, it is necessary to have regard to the circumstances of the site and its owner. For example, where an existing permission for a site exists, this will need to be taken into account when calculating the premium. This is consistent with the Mayor's draft Affordable Housing and Viability SPG. It should be noted that

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			should not however be factored into the premium calculation. The RICS GN states in box 10 that 'the nature of the applicant should normally be disregarded as should benefits or disbenefits that are unique to the applicant. The aim should be to reflect industry benchmarks having regard to the particular circumstances in both development management and plan making viability testing'.	the RICS Guidance Note does not have the status of planning policy or guidance.
LDV014/008	Quod on behalf of Downing Students	Viability appraisal methodology	Delete 'and it can be demonstrated that use could be implemented on the site in question' from paragraph 5.6: A further requirement to demonstrate the use could be implemented is onerous, inconsistent with national policy and is not a requirement for planning applications consistent with the Act and Development Management regulations. This should be deleted from the draft SPD.	No change. The PPG states that when using AUV, it should be a realistic alternative use that complies with planning policy. To be realistic, a proposal must be deliverable and so if it cannot be demonstrated that a scheme can be implemented on the site in question, then it cannot be considered an appropriate or realistic alternative use.
LDV014/009	Quod on behalf of Downing Students	Viability appraisal methodology	Amend 'publically accessible' to 'appropriate market' in paragraph 5.10: Build cost trend information which informs tender price estimates prepared by a suitably qualified Quantity Surveyor is commonly commercially sensitive and is not therefore publically accessible. There is limited publicly available information on build costs. The BCIS database has a relatively small sample base and is not therefore an appropriate replacement for an elemental cost estimate base site specific circumstances.	No change. For transparency, build costs should be benchmarked against publically accessible information and supported by evidence from cost consultants. This is consistent with the approach in the Mayor's draft Affordable Housing and Viability SPG.
LDV014/010	Quod on behalf of Downing Students	Viability appraisal methodology	Delete paragraph 5.18: It is not always appropriate to require a review mechanism where a scheme is overproviding affordable housing (i.e. where the offer is based on a growth model approach which entails greater development risk). A review in this scenario risks the double counting of viability.	No change. Review mechanisms will be used where an applicant has relied on growth forecasts to assess whether any additional affordable housing can be delivered based on actual figures and to assess whether the modelling was correct. It will not result in any double counting because if the growth modelling was

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				correct, then the scheme has already delivered as much affordable housing as it can and no more would be sought.
LDV014/011	Quod on behalf of Downing Students	Viability appraisal methodology	Add 'and student accommodation' after 'long term private rent' in paragraph 5.22. The SPD should recognise that the viability of student schemes, similarly to long term private rent, differs significantly from build for sale housing and therefore requires a more flexible approach to affordable housing and other planning obligations to ensure these schemes remain viable and deliverable.	Paragraph 5.22 has been removed and replaced by a statement that the Council will follow the approach set out in the draft Affordable Housing and Viability SPG.
LDV014/012	Quod on behalf of Downing Students	Review mechanisms	Add 'where the scheme is to be built out over a long period of time' to the end of first sentence of paragraph 6.4: The adopted Housing SPG makes clear that review mechanisms are appropriate when 'a large scheme is built out in phases and/or is built out over a long period of time'. It also states 'for schemes with a shorter development term consideration should be given to using s106 clauses to trigger a review of viability if a scheme is not substantially complete by a specified date.' The NPPG states that 'where a scheme requires phased delivery over the medium and longer term, changes in the value of development and changes in costs of delivery may be considered'.	No change. The draft SPD does not introduce new policy but provides further guidance to the Council's adopted development plan, particularly Policy H2 and the requirements for review mechanisms. Policy H2 states that 'provisions for re-appraising the viability of schemes may form part of s106 planning agreements where the financial appraisal demonstrates that the maximum amount of affordable housing a scheme can reasonably support is below the policy target'. This is supported in paragraph 5.14 of the Local Plan. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be implemented to address changing circumstances and uplift in values to secure any additional affordable housing throughout the implementation of the planning permission. The review mechanisms set out in the draft SPD are consistent with the Lambeth Local Plan, the London Plan and the

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				Mayor's draft Affordable Housing and Viability SPG.
LDV014/013	Quod on behalf of Downing Students	Review mechanisms	Add 'in circumstances it may not be appropriate to require a review' to the end of para 6.4. It is not always appropriate to require a review mechanism where a scheme is overproviding affordable housing (i.e. where the offer is based on a growth model approach which entails greater development risk and could result in the double counting of viability). It is also not appropriate for student housing schemes to include a review mechanism because the investment value already factors in long term rental growth.	No change. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be implemented to address changing circumstances and uplift in values to secure any additional affordable housing throughout the implementation of the planning permission. Where a growth model approach has been used, the review will not result in any double counting because if the growth modelling was correct, then the scheme has already delivered as much affordable housing as it can and no more would be sought. Student accommodation schemes would only be subject to a review mechanism where they include an element of affordable non-student housing, because the student accommodation element has not been secured for students (under Local Plan policy H7).
LDV014/015	Quod on behalf of Downing Students	Review mechanisms	Paragraph 6.6: Amend '20% of the increase in the scheme's value returned to the developer and 80% to the Council' to 'share equally 50/50 between the Council and the developer. The proposed 80/20 split is arbitrary and has not been tested to ensure it would not frustrate overall housing delivery. It also does not reflect the terms of reviews agreed by the Council to date. Any additional contribution identified by a review should be shared equally with the authority in order to provide sufficient incentive for the developer to maximise performance of the scheme.	No change. The surplus split reflects that the primary purpose of a review is to provide policy compliant levels of affordable housing, where viable. The 80% to the local authority allows for developers to benefit in the event of higher development values and lower costs but ensures that the maximum public benefit is secured over the period of the development.

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LDV015/001	Deloitte Real Estate on behalf of Guy's and St Thomas' Charity and King's College London	Submission of financial viability appraisals as part of the planning application process	We welcome the Council's decision to prepare a Development Viability SPD as a means of bringing consistency and transparency to the approach to viability for new development within the Borough. Paragraph 3.5 states that all financial viability appraisals should be accompanied by a fully working Argus Developer software model that can be tested. Argus Developer software is licensed software for individual use. Our clients therefore consider any requirement to submit a working model to be onerous. The requirement instead should be for financial viability appraisals to be accompanied by a 'protected' residual valuation, the relevant inputs from which the Council can input into its own model.	Change. Paragraph 3.5 has been amended to state that the Council will accept alternative models to Argus Developer software provided that they explicitly show the calculations and can be fully interrogated and the inputs varied by the Council.
LDV015/002	Deloitte Real Estate on behalf of Guy's and St Thomas' Charity and King's College London	Viability appraisal methodology	The benchmark land value approach is referenced throughout the SPD. Paragraphs 5.2 and 5.3 specifically state that 'in the majority of circumstances the council will require that the benchmark land value is derived from existing use value plus an appropriately justified site-specific premium as an incentive to encourage the landowner to bring forward for development. This is supported by guidance provided by the GLA. The principle of this approach is that a landowner should receive at least the value of land in its 'pre-permission' use which would normally be lost when bringing forward land for development. A premium is added to provide the landowner with an additional incentive to release the site'. Whilst supportive of a viability test which objectively considers the contribution of a development site can make to important policy aspirations, such as affordable housing, our clients consider the benchmark land value approach to be particularly unclear and onerous. As a general point, it is incredibly difficult to value educational and health facilities as their value is derived from their specific operational uses rather than their potential developable value. On this basis, the benchmark land value approach is not an accurate one. In addition, the principle set out in paragraph 5.3 takes little account of a landowner's legitimate expectation to receive full value for its land which reflects the consented use,	No change. The Existing Use Value can be established for any use. The draft SPD also sets out the circumstances in which Alternative Use Value will be accepted. The draft SPD sets out the premium will be determined on a case by case basis, having regard to the circumstances of the site and owner, policy requirements and extant planning permissions. This consistent with the Mayor's draft Affordable Housing and Viability SPG.



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			rather than the existing use of the property. No guidance is given as to what the 'additional premium' should be as an incentive to release a site. For the Charity, for example, who hold land at Royal Street as an investment for the benefit of its beneficiaries, it would expect to bring forward a planning application and receive full value for the land reflecting the consented scheme. This full value can then be reinvested for the benefit of health care in the borough. The approach in paragraph 5.3 assumes that in calculating viability the developer's profit is protected at expense of the landowner which, if applied in practice to the acquisition of land, presents little incentive for the landowner to develop. An approach which adopts the legitimate end value of the land as an integral part of the site appraisal, with a viability test which considers the impact of all development costs (including the land) on the profit margin of the developer is, in our client's view, a more equitable approach.	
LDV015/003	Deloitte Real Estate on behalf of Guy's and St Thomas' Charity and King's College London	Viability appraisal methodology	The draft SPD currently requires any site-specific abnormal costs to be identified at the pre-application stage and supported by robust evidence (including contractor costs) (paragraph 5.13). Our clients request that this is revised so that it is required 'at the earliest stage possible' rather than pre-application stage. In most instances, the pre-application stage is far too early to identify all costs, including contractor costs, as the pre-application stage is often used to establish the principle of development, and a fully team of consultants is not usually appointed until there is some certainty over the development proposals.	A draft appraisal is necessary at the pre-application stage for proposals which are likely to trigger a requirement for affordable housing to agree the inputs and methodology which will inform the final proposal. Paragraph 3.2 of the draft SPD has been amended to clarify this and to state that the level of information required will depend on the scale and nature of the proposed development. It also makes clear that draft appraisals, like all pre-application documents, will not be made available on the Council's website.
LDV015/004	Deloitte Real Estate on behalf of Guy's and St Thomas' Charity	Viability appraisal methodology	Paragraph 5.19 allows for all likely s106 planning applications and applicable CIL charges to be included as a development cost. On this basis, our clients request that development costs also take account of funding other assets for wider public	No change. In certain circumstances, it may be possible for land and/or infrastructure to be provided in kind, instead of money, to satisfy a charge

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	and King's College London		benefit, including those associated with new or replacement health and education provision.	arising from CIL. In such a case, this would be taken into account in the assessment of development viability.
LDV015/005	Deloitte Real Estate on behalf of Guy's and St Thomas' Charity and King's College London	Review mechanisms	The draft SPD allows the provisions for re-appraising the viability of schemes and proposes that review mechanisms are in place to determine whether a development is capable of providing additional affordable housing (paragraph 6.3). As a starting point, our clients do not consider review mechanisms to be appropriate for large scale, long term master plan developments, which are delivered over a number of phases. This is a potential option for long term strategy for the Guy's and St Thomas' Westminster Bridge Campus. Our clients request that the SPD is updated to clarify that any reappraisal of schemes accounts for circumstances when schemes are proven to be less viable. The draft SPD should set out how this would be dealt with, taking account that in such circumstances no development might be possible. Our clients are not clear how the review mechanisms would work in practice and requests clarification on this matter. For example, how will the review take account of an increase in bank borrowing costs, construction inflation or overage provisions which a landowner will legitimately have included in any contractual arrangements with their development partners.	No change. The draft SPD does not introduce new policy but provides further guidance to the Council's adopted development plan, particularly Policy H2 and the requirements for review mechanisms. Policy H2 states that 'provisions for re-appraising the viability of schemes may form part of s106 planning agreements where the financial appraisal demonstrates that the maximum amount of affordable housing a scheme can reasonably support is below the policy target'. This is supported in paragraph 5.14 of the Local Plan. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be implemented to address changing circumstances and uplift in values to secure any additional affordable housing throughout the implementation of the planning permission. The review mechanisms set out in the draft SPD are consistent with the Lambeth Local Plan, the London Plan and the Mayor's draft Affordable Housing and Viability SPG. Review mechanisms will not be used to reduce the amount of affordable housing.
LDV015/006	Deloitte Real Estate on behalf of Guy's and St Thomas' Charity	Review mechanisms	The draft SPD proposes a pre-implementation review, which will be placed on all schemes where the Council considers there to be a likely delay in starting on site/or it is necessary to incentivise delivery. It states that 'pre-implementation reviews will normally be triggered in the event construction does not	Change. Paragraph 6.5 has been amended so that pre-implementation review mechanisms will be required after 24 months, to align the draft SPD with the Mayor's draft Affordable Housing and

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	and King's College London		<p>commence within 12 months of the grant of planning permission'. It is not clear how the Council will determine the schemes that are considered likely to be subject to a delayed start of what criteria will be applied. Our clients request clarification over what criteria might be applied to determine whether a scheme will be subject to a pre-implementation review. The requirement to commence construction with 12 months in particularly onerous. There is no requirement in planning law to commence development within one year and there may be entirely legitimate reasons for a landowner not to bring forward a consented scheme until later in the life of a planning permission. The Mayor's draft SPG states that an early review will be required 'where an agreed level of progress on implementing the permission (this will be agreed by applicant and LPA, and the Mayor where relevant, on a site-by-site basis) is not made within two years of the permission being granted'. Our clients consider this approach to be more appropriate should a pre-implementation review be imposed. However, given the complexity of funding hospital-related development, our client seek confirmation that in the event of a site (such as Land at Royal Street) being brought forward as enabling development for wider public benefit, then this will be a legitimate reason for not imposing the early review.</p>	<p>Viability SPG. However, where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be implemented to address changing circumstances and uplift in values to secure any additional affordable housing throughout the implementation of the planning permission. The review mechanisms set out the in the draft SPD are consistent with the Lambeth Local Plan, the London Plan and the Mayor's draft Affordable Housing and Viability SPG.</p>
LDV015/007	Deloitte Real Estate on behalf of Guy's and St Thomas' Charity and King's College London	Review mechanisms	<p>For schemes that require a review, it is proposed that there is an advanced stage review which will be triggered by the occupation of 75% of the market units. The draft SPD also states that 'an occupation clause is likely to be required which would prevent full occupation of the development until the review is completed and any additional affordable housing is delivered or a commuted sum is paid'. As with the pre-implementation review our clients consider this to be a particularly onerous requirement which has the potential to delay progress of the development whilst a review is being carried out.</p>	<p>Change. A review mechanism will be used at 75% of sale, rather than occupation, for all schemes requiring a review. This will allow the achieved sales value to be reflected in the review. This is consistent with the Lambeth Local Plan, London Plan and the Mayor's draft Affordable Housing and Viability SPG. The review will be triggered at 75% of sales and an occupation clause may be used to prevent occupation until the review has taken place. This offers developers sufficiently</p>

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				flexibility and does not delay progress of the development as developers are able to continue with the sale of units whilst the review is taking place. The SPD is clear on when review mechanisms will be used on proposals not providing policy compliant levels of affordable housing to give certainty to developers and to reduce risk of delays to a development.
LDV015/008	Deloitte Real Estate on behalf of Guy's and St Thomas' Charity and King's College London	Review mechanisms	The draft SPD states that 'where a viability review demonstrates an improvement in a scheme's viability, a % split of the increase in the scheme's value between the developer and the council will be agreed on a case by case basis. This will be typically 20% of the increase of the scheme's value returned to the developer and 80% to the Council', up to the level that would be required for a policy compliant scheme'. Our clients object to this approach which ignores the landowner's legitimate right to share in any improvement in viability. Our clients believe this provision to be onerous and extremely difficult to implement. It therefore requests that further information from the Council and in any event requests that a clause be inserted stating that this will be reviewed and agreed on a case by case basis.	No change. The surplus split reflects that the primary purpose of a review is to provide policy compliant levels of affordable housing, where viable. The 20% to the developer allows for developers to benefit in the event of higher development values and lower costs but ensures that the maximum public benefit is secured over the period of the development.
LDV015/009	Deloitte Real Estate on behalf of Guy's and St Thomas' Charity and King's College London	Viability appraisal methodology	Our clients request that the approach to benchmark land value, development costs and review mechanisms is explained further and reviewed to take account of the comments set out in these representations. In particular, our clients request that the draft SPD is updated to explain how the viability approach should be adjusted for landowners and developers delivering facilities for public benefit (such as the Charity whose development might be driven by the need to fund improvements to local health provision).	No change. The draft SPD sets out its approach on benchmark land values, development costs and review mechanisms, which is also consistent with the Mayor's draft Affordable Housing and Viability SPG. All proposals, which trigger the affordable housing requirements or do not meet the requirements of other policy requirements due to viability, will be required to submit a viability appraisal to justify why the required level of affordable housing cannot be provided. Delivery of

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				facilities for public benefit might be a material consideration in the determination of the planning application but would not affect the methodology for viability appraisals.
LDV016/001	Gerald Eve on behalf of Prime Place and Be: Here	Transparency	<p>The aspirations of the SPD are welcome in principle although there are some concerns over the practical implementation of the guidance set out in the document. The Council should note that guidance on how financial viability should be assessed is already provided by central Government in the form of Planning Practice Guidance. This is the primary guidance on assessment viability and the SPD should not differ from this. Detailed professional guidance on assessing viability has also been provided in the RICS Guidance Note “Financial Viability in Planning” published in 2012. The SPD raises a number of procedural issues that Gerald Eve is concerned with, namely the introduction of a requirement for draft financial viability appraisals to be submitted at pre-application stage and as well as the extent to which it appears that Lambeth is proposing to disclose commercially sensitive confidential information as defined by the Environmental Information Regulations (EIR) 2004. GE considers that commercially sensitive information should remain out of public domain but should still be made available for consultants and officers to review as part of the viability assessment process.</p>	<p>No change. Draft appraisals at pre-application are necessary to agree inputs and the methodology which will inform the final appraisal. Chapter 4 sets out the Council’s approach to transparency and the publication of viability appraisals. Paragraph 4.2 of the draft SPD states that the “Environmental Information Regulations 2004 (EIR) cover access to ‘environment information’ held by public authorities including local planning authorities. ‘Environmental information’ for these purposes includes information relating to development viability. Under the EIR there is a presumption in favour of disclosure of environmental information. The EIR recognise that there are certain circumstances (‘exceptions’) where environmental information may fall not to be disclosed. In most cases, a balancing exercise has to be carried out to decide whether the exception should outweigh the presumption in favour of disclosure.” In addition, paragraph 4.4 states that the Council will draw upon the principles of the EIR in deciding whether there is any reason why the submitted viability information should not be published alongside other planning application documents and that it will only depart from</p>

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				its starting point of transparency where there is a convincing case that one or more of the exceptions in the EIR would apply to outweigh the public interest in disclosure of the information.
LDV016/002	Gerald Eve on behalf of Prime Place and Be: Here	Viability appraisal methodology	Regarding the assessment of Benchmark Land Value, the SPD sets out a strict preference for Existing Use Value plus as the default methodology. EUV+ ignores the market, is inconsistent with PPG and is in conflict with the NPPF which sets out a requirement for competitive returns to willing landowners and willing developers to enable development to be deliverable. GE considers an over-reliance on EUV+ across all sites in the Borough is likely to prevent some sites being delivered, particularly those sites with low EUVs.	No change. As clearly explained in the draft SPD, Existing Use Value Plus is the Council's preferred approach for calculating a site's benchmark land value. The benefit of this approach is that it clearly identifies the uplift in value arising from the grant of planning permission through a comparison with the value of the site without planning permission. This is consistent with the PPG which states 'a competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of its value for a realistic alternative use that complies with planning policy'. The Council's use of EUV+ is also consistent with the Mayor's draft Affordable Housing and Viability SPG. Chapter 5 of the draft SPD sets out the limited circumstances in which using alternative use value will be accepted.
LDV016/003	Gerald Eve on behalf of Prime Place and Be: Here	Viability appraisal methodology	The SPD should state there is no absolute requirement for planning permission to be secured in order for an alternative use value to be adopted as the Benchmark Land Value.	No change. The PPG states that when using AUV, it should be a realistic alternative use that complies with planning policy. To be realistic, a proposal must be

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				<p>deliverable and planning permission is the method to assess whether an AUV scheme complies with planning policy and can be implemented on the site. If it cannot be demonstrated that a scheme can be implemented on the site in question, then it cannot be considered an appropriate or realistic alternative use.</p>
LDV016/004	Gerald Eve on behalf of Prime Place and Be: Here	Review mechanisms	<p>The SPD includes provisions for affordable housing review mechanisms to be used more widely and in circumstances with GE feels may not necessarily be appropriate by virtue of scheme size. As set out in the RICS Guidance Note, review mechanisms should be reserved for use on large, phased schemes, not across the board. There is a general consensus in the development finance sector that review mechanisms generally tend to increase down-side risk. Reviews can act as a barrier to bank lending on certain sites, which can in turn, prevent sites from coming forwards for development.</p>	<p>No change. The draft SPD does not introduce new policy but provides further guidance to the Council's adopted development plan, particularly Policy H2 and the requirements for review mechanisms. Policy H2 states that 'provisions for re-appraising the viability of schemes may form part of s106 planning agreements where the financial appraisal demonstrates that the maximum amount of affordable housing a scheme can reasonably support is below the policy target'. This is supported in paragraph 5.14 of the Local Plan. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be implemented to address changing circumstances and uplift in values to secure any additional affordable housing throughout the implementation of the planning permission. The review mechanisms set out the in the draft SPD are consistent with the Lambeth Local Plan, the London Plan and the Mayor's draft Affordable Housing and Viability SPG. . It should be noted that the RICS Guidance Note does not have the</p>

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				status of planning policy or guidance. The SPD is clear on when review mechanisms will be used on proposals not providing policy complaint levels of affordable housing to give certainty to developers and to reduce risk of delays to a development.
LDV016/005	Gerald Eve on behalf of Prime Place and Be: Here	Viability appraisal methodology	The SPD correctly acknowledges that the economics of Build to Rent schemes differ from those of a traditional capital sale housing model. A flexible approach towards planning obligations for build to rent schemes is therefore welcomed. GE considers the SPD should further promote the Build to Rent sector by making reference to policy stimuli set out in the Mayor's Draft Affordable Housing Viability SPG and the Government's White Paper. Both of these documents aim to encourage institutional investment in the private rented sector thereby diversifying the housing market.	No change. As there is currently no Lambeth Local Plan policy for Build to Rent schemes, no specific guidance can be provided in the draft SPD. The Council considers that the draft Affordable Housing and Viability SPG provides sufficient guidance on viability appraisals for these schemes.
LDV016/006	Gerald Eve on behalf of Prime Place and Be: Here	Viability Appraisal methodology	The introduction of the draft SPD posits that there is considerable variation in how viability matters are dealt with in the planning process and there are a range of methodologies and guidance relating to viability national which has led to diversity in approach and no clear view on what constitutes best practice. It also states that there is growing recognition of the need for greater consistency in the approach to viability, a need to ensure that viability appraisals are formed of inputs that are supported by robust evidence and greater transparency in the viability process. Whilst Lambeth's aspirations in respect of transparency and accountability are understood, it should be noted that guidance provided in PPG already clearly explains how viability should be addressed. This is the primary guidance on assessing viability and the SPD should not seek to differ from this. As a general comment we consider it would be helpful for practitioners if the SPD referenced PPG more extensively. Generally Lambeth should adopt the approach to viability set out in PPG. A further key	No change. In the view of the Council, the guidance in the PPG is helpful but is not sufficient to achieve a transparent and consistent approach during the development management process. It is common practice for local planning authorities to bring forward SPDs setting out their specific expectations on viability appraisals, within the parameters of the PPG and their adopted development plan. The Council's approach is also consistent with the Mayor's recently published draft Affordable Housing and Viability SPG. It is not necessary for the draft SPD to include specific references to the PPG, beyond those already included. It should be noted that the RICS Guidance Note does not



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			point is that detailed professional guidance on assessing viability has been provided in the RICS Guidance Note which has sought to standardise the approach to viability assessments. It is also wholly consistent with PPG and the NPPF and has been endorsed by LPAs, the Planning Inspectorate, Secretary of State and the judiciary. The SPD will be a material consideration alongside any other appropriate guidance. Any variation from PPG and the RICS Guidance Note is therefore likely to result in reduced clarity for applicants. This could result in increased delays in determining applications and would thus be inconsistent with NPPF. The draft SPD cannot be described as fully complying with PPG as key parts of the document differ fundamentally to the principles and guidance contained in the NPPF and PPG and it therefore provides a completely different approach to viability testing.	have the status of planning policy or guidance.
LDV016/007	Gerald Eve on behalf of Prime Place and Be: Here	Submission of financial viability appraisals as part of the planning application process	GE considers that the submission of draft financial viability appraisals at the pre-application stage in many instances is likely to be unfeasible and is an unrealistic expectation. Should the submission of draft viability appraisals occur at pre-application for any reason, GE would expect such material to remain confidential and strictly out of the public domain.	A draft appraisal is necessary at the pre-application stage for proposals which are likely to trigger a requirement for affordable housing to agree the inputs and methodology which will inform the final proposal. Paragraph 3.2 of the draft SPD has been amended to clarify this and to state that the level of information required will depend on the scale and nature of the proposed development. It also makes clear that draft appraisals, like all pre-application documents, will not be made available on the Council's website.
LDV016/008	Gerald Eve on behalf of Prime Place and Be: Here	Transparency	GE welcomes the principal of increasing levels of transparency. However, GE considers that there should be a clear statement of understanding that commercially sensitive information as out in the EIR 2004 should remain confidential. This section of the SPG is relatively pro-disclosure and GE is concerned that Lambeth is effectively proposing to publish all	No change. Chapter 4 of the draft SPD already clearly sets out the Council's approach to transparency and the publication of viability appraisals. Paragraph 4.2 of the draft SPD states that the "Environmental Information

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			<p>viability information except in exceptional circumstances. GE would welcome a clear explanation of Regulation 12 of the EIR, rather than interpretation that leads the reader to believe disclosure should be the norm in all circumstances. It would be helpful to note that the Information Commissioners Office and the Information Tribunal have both consistently determined that information regarding commercial rents should be considered commercially sensitive as it would unacceptably prejudice the commercial interests of applicants. Full disclosure of genuinely sensitive information which can affect the commercial interests of the applicant should be excluded. Such information should clearly be set out at the planning application stage, or prior, in a detailed schedule of confidential information, for the avoidance of doubt and to ensure that this is not accidentally disclosed. The SPD should recognise the adverse effect that incorrect disclosure could have on applicants. It is considered both feasible and accepted practice that viability submissions can be reviewed by Officers and reported in such a way to enable planning decisions to be taken whilst not jeopardising an applicant's commercial interests. The SPD proposed to disclose viability material to elected members and third party organisations. In the event of such requests, Lambeth should notify the applicant of such a request and if the disclosure is agreed to by the applicant then the process can be managed accordingly. There should be no general assumption of sharing commercially sensitive viability information without express permission from applicants.</p>	<p>Regulations 2004 (EIR) cover access to 'environment information' held by public authorities including local planning authorities. 'Environmental information' for these purposes includes information relating to development viability. Under the EIR there is a presumption in favour of disclosure of environmental information. The EIR recognise that there are certain circumstances ('exceptions') where environmental information may fall not to be disclosed. In most cases, a balancing exercise has to be carried out to decide whether the exception should outweigh the presumption in favour of disclosure." In addition, paragraph 4.4 states that the Council will draw upon the principles of the EIR in deciding whether there is any reason why the submitted viability information should not be published alongside other planning application documents and that it will only depart from its starting point of transparency where there is a convincing case that one or more of the exceptions in the EIR would apply to outweigh the public interest in disclosure of the information. Permission will not be sought to disclose information to a third parties as this will be published alongside the application documents.</p>
LDV016/009	Gerald Eve on behalf of Prime Place and Be: Here	Viability appraisal methodology	<p>Benchmark Land Value: GE would welcome confirmation of the circumstances Lambeth considers alternative approaches to benchmark land value are acceptable. GE would expect these to include sites that have a particularly low existing use value. Especially in comparison with alternative nearby sites</p>	<p>No change. Chapter 5 sets out the circumstances in which Alternative Use Value may be accepted. However, No change. As clearly explained in the draft SPD, Existing Use Value Plus is the</p>

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			<p>with potential for development of a similar nature. The SPD should quote PPG in this section which is clear that the assessment of site value will vary from case to case. Lambeth should note that utilising EUV+ for the purposes of benchmark land value can often inaccurately value land as it is not based on market evidence. The approach favoured by Lambeth and the Mayor ignores the market, is inconsistent with PPG and is in conflict with the NPPF which sets out a requirement for competitive returns to willing landowners and willing developers to enable development to be deliverable. An over-reliance on EUV+ across all sites in the borough is therefore likely to prevent some sites being delivered, particularly those sites with low EUVs. A further, established criticism of EUV+ is that there is no consensus on how practitioners are to arrive at an appropriate premium. Such premiums are purely arbitrary and cannot be market tested. The correct basis for the assessment of site value that is accordance with the NPPF and PPG is as set out in RICS Guidance Note which is site value should equate to the market value.</p>	<p>Council's preferred approach for calculating a site's benchmark land value. The benefit of this approach is that it clearly identifies the uplift in value arising from the grant of planning permission through a comparison with the value of the site without planning permission. This is consistent with the PPG which states 'a competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of its value for a realistic alternative use that complies with planning policy'. The Council's use of EUV+ is also consistent with the Mayor's draft Affordable Housing and Viability SPG. Chapter 5 of the draft SPD sets out the limited circumstances in which using alternative use value will be accepted. The draft SPD also sets out how the benchmark land value will be fully justified using comparable evidence provided that it is comparable to the application site and relate to sites and buildings of a similar condition and quality. EUV+ is consistent with the NPPF and PPG by providing a competitive return to willing landowners and developers. The Council does not accept the use of market value as the benchmark land value as this often does not take account of planning policy requirements for the delivery of affordable</p>

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				housing and may lead to inflated land values. . It should be noted that the RICS Guidance Note does not have the status of planning policy or guidance.
LDV016/010	Gerald Eve on behalf of Prime Place and Be: Here	Viability appraisal methodology	GE agrees that an alternative use value should be feasible and implementable. GE agrees that it is reasonable to require applicants to demonstrate market demand for AUVs, however, we question the need for a viability assessment. The SPD should state that there is no absolute requirement for planning permission to be secured in order for an AUV to be adopted as the basis for Site Value. The correct test is whether prospects of securing planning permission are realistic and the scheme is feasible as recognised by PPG.	No change. The PPG states that when using AUV, it should be a realistic alternative use that complies with planning policy. To be realistic, a proposal must be deliverable and planning permission is the method to assess whether an AUV scheme complies with planning policy and can be implemented on the site. If it cannot be demonstrated that a scheme can be implemented on the site in question, then it cannot be considered an appropriate or realistic alternative use.
LDV016/011	Gerald Eve on behalf of Prime Place and Be: Here	Viability appraisal methodology	GE notes that the drafted SPD does not preclude the usage of purchase price as site value for viability purposes. This is correct and in accordance with PPG, which also does the same. GE notes that in accordance with PPG, where transacted bids are significantly above the market norm, they should not be used as part of this exercise. This should apply to the usage of purchase price in addition to the selection of comparable evidence.	Paragraph 5.7 has been amended to state that when considering a market value approach the Council will follow the guidance set out in the draft Affordable Housing and Viability SPG.
LDV016/012	Gerald Eve on behalf of Prime Place and Be: Here	Review mechanisms	GE considers that the necessity of viability reviews, if any, should be considered on a scheme by scheme basis in order to determine whether such a mechanism is appropriate having regard to the NPPF, PPG and London Plan. There will be many cases where schemes are not of a sufficient size or construction duration to necessitate a viability review and if applied could have a detrimental effect on delivery. Larger schemes may have been appraised using growth models in order to determine the maximum reasonable level of affordable housing and other planning obligations where again it would be	No change. The draft SPD does not introduce new policy but provides further guidance to the Council's adopted development plan, particularly Policy H2 and the requirements for review mechanisms. Policy H2 states that 'provisions for re-appraising the viability of schemes may form part of s106 planning agreements where the financial appraisal demonstrates that the maximum amount of

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			<p>inappropriate to require the addition of a review mechanism, assuming the scheme proceeds in a timely manner having regard to the particular circumstances. Where it is agreed between Lambeth and the applicant that a review mechanism is appropriate, such a review should only be undertaken prior to implementation of the scheme or particular phase in order to be in accordance with the PPG, London Plan and RICS Guidance Note. The Planning Inspectorate has been clear in appeal cases that where a scheme is single phased, a post-implementation review is inappropriate and not in accordance with the NPPF or the PPG (Langley Road Appeal Decision and Wellington Road Appeal Decision). Where an s106 agreement has a post-implementation review mechanism, GE notes that it is the norm for lenders/funders to look at the downside risk of a full payment having to be made. In other words, lenders usually ascribe to unknown factors, a worst case position. This will, all other things being equal, affect finance and funding costs and impact negatively on viability. GE supports the usage of carefully and equitably drafted review mechanisms that strike the correct balance between risk and reward for all parties. GE notes that if used incorrectly, or on a blanket basis across all types of development site, there is likely to be a commensurate increase in development risk and uncertainty. This could lead to a reduction in sites coming forward for redevelopment and a climate where it is increasingly difficult to obtain bank finance.</p>	<p>affordable housing a scheme can reasonably support is below the policy target'. This is supported in paragraph 5.14 of the Local Plan. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be implemented to address changing circumstances and uplift in values to secure any additional affordable housing throughout the implementation of the planning permission. The review mechanisms set out in the draft SPD are consistent with the Lambeth Local Plan, the London Plan and the Mayor's draft Affordable Housing and Viability SPG. . It should be noted that the RICS Guidance Note does not have the status of planning policy or guidance. The SPD is clear on when review mechanisms will be used on proposals not providing policy compliant levels of affordable housing to give certainty to developers and to reduce risk of delays to a development. Where a growth model approach has been used, the purpose of the review mechanism is to assess whether the growth modelling was correct. It will not result in any double counting because if it was correct, then the scheme has already delivered as much affordable housing as it can and no more would be sought.</p>
LDV016/013	Gerald Eve on behalf of Prime	Review mechanisms	<p>GE considers the advanced stage review set out in the SPD to be unduly prescriptive and restrictive and fails to deal with the fact that the timing for delivery/occupation of the market</p>	<p>Change. A review mechanism will be used at 75% of sale, rather than occupation, for all schemes requiring a review. This will</p>

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	Place and Be: Here		housing will be dependent upon the market. GE considers that an appropriate trigger would be a period of time rather than a percentage of occupation. The viability review mechanism set out in the SPD at paragraph 6.6 is effectively a form of overage provision. Notwithstanding GE's concerns regarding the principle of overage-style review mechanisms that can serve to increase development risk, the proposed 20%/80% surplus split in favour of the Council is considered overly punitive for developers. Such a mechanism could act as a disincentive to develop in the borough and is likely to comprise a barrier to obtaining finance. GE considers that a formulaic approach to pre-implementation to reviews may be appropriate in some situations but not in others. The type of review mechanism should be considered on a case by case basis. Post-implementation reviews are in most cases inappropriate, as set out in the RICS GN.	allow the achieved sales value to be reflected in the review. This is consistent with the Lambeth Local Plan, London Plan and the Mayor's draft Affordable Housing and Viability SPG. The surplus profit split reflects that the primary purpose of a review is to provide policy compliant levels of affordable housing, where viable. The 20% of surplus profit to the developers allows for developers to benefit in the event of higher development values and lower costs but ensures that maximum public benefit is secured over the period of the development. It should be noted that the RICS Guidance Note does not have the status of planning policy or guidance.
LDV017/ 001	Environment Agency	General comment	Thank you for consulting the Environment Agency on the above. We do not comment on comparative assessment of land, its availability or suitability for a particular form of development, or the sustainability justifications of development and other material planning considerations as these are beyond the scope of the Environment Agency role, save where a particular land use is prohibited within Flood zone 2 or 3, or is the subject of the application of the Exception Test. Our primary purpose is to promote sustainable development and protect and enhance the environment. We encourage growth that can be supported by the necessary environmental infrastructure, for instance water resources and flood risk management provided in a co-ordinated and timely manner to meet the physical and social needs of both new development and existing communities. Early investment and careful planning may be required to ensure expanded or improved infrastructure will have the capacity to cope with additional demands. Our partnership funding seeks to enable more flood defence capital projects to go ahead, give communities more	No change. Comment is noted.

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			responsibility and choice about what is done to protect them from flooding and help to make FCRM projects financially viable. It is our intention to use proposals for Community Infrastructure Levy charging schedules to secure funding for FCRM schemes that are unlikely to be wholly funded through central or local government funds.	
LDV018/001	DP9 on behalf of ITV plc	Transparency	<p>It is recognised that there is a need to strike the right balance in planning decision taking. Developers / applicants often require confidentiality at the pre-application stage in respect of emerging proposals that may not be in the public domain as well as at the application stage, typically in respect of scheme / development viability information. This confidentiality often needs to be balanced against the needs to inform and consult with local neighbours who might be affected by development proposals. Councils and the communities likely affected by development / scheme proposals need to understand the issues of viability and how these impact on the ability of a scheme to deliver on specific planning objectives e.g. affordable housing, provision of employment opportunities etc. The process of communicating the information to local groups / residents / neighbours takes place through the pre-application process entered into by the developer /applicant. That process continues through the application stage up to a report being prepared and tabled with the planning committee. Members of the planning committee will be privy to the relevant (and often confidential) background information that has determined what a scheme is able to provide by way of planning obligation etc. Elected members are in place to represent the borough population and to serve on decision making committees. Section 4 of the SPD discusses transparency. The current approach is that the scheme viability information submitted to support planning applications is done so on a confidential basis owing to commercial sensitivities of the information. This should not alter. Officers and lead members, and those of the planning committee, will be advised on the specifics of a case</p>	<p>No change. The PPG states that for viability, transparency of evidence is encouraged wherever possible, which is a presumption in favour of the publication of viability appraisals and information. In line with this approach, Chapter 4 of the draft SPD already clearly sets out the Council's approach to transparency and the publication of viability appraisals. Paragraph 4.2 of the draft SPD states that the "Environmental Information Regulations 2004 (EIR) cover access to 'environment information' held by public authorities including local planning authorities. 'Environmental information' for these purposes includes information relating to development viability. Under the EIR there is a presumption in favour of disclosure of environmental information. The EIR recognise that there are certain circumstances ('exceptions') where environmental information may fall not to be disclosed. In most cases, a balancing exercise has to be carried out to decide whether the exception should outweigh the presumption in favour of disclosure." In addition, paragraph 4.4 states that the Council will draw upon the principles of the EIR in deciding whether there is any</p>

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			<p>and can, if they request, view the viability material. The SPD justifies the approach to transparency on the basis of the advice in the PPG. Can the reference be clarified as paragraph 17PPG refers to costs and values in decision-taking, not transparency. It is noted that the SPD quotes the PPG as saying that 'transparency of viability evidence is encouraged wherever possible'. It is relevant to highlight the words 'encouraged wherever possible' as this is different to the current approach of the SPD which sets out that exceptional circumstance case should be made for withholding from publication any part of the viability assessment.</p>	<p>reason why the submitted viability information should not be published alongside other planning application documents and that it will only depart from its starting point of transparency where there is a convincing case that one or more of the exceptions in the EIR would apply to outweigh the public interest in disclosure of the information. Reference to paragraph 17 of the PPG has been amended to paragraph 004.</p>
LDV018/002	DP9 on behalf of ITV plc	Viability appraisal methodology	<p>It is important that Section 5 is flexible in its application and that applicants are able to justify particular approaches to the inputs in viability assessments.</p>	<p>No change. As clearly explained in the draft SPD, Existing Use Value Plus is the Council's preferred approach for calculating a site's benchmark land value. The benefit of this approach is that it clearly identifies the uplift in value arising from the grant of planning permission through a comparison with the value of the site without planning permission. This is consistent with the PPG which states 'a competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of its value for a realistic alternative use that complies with planning policy'. Chapter 5 is sufficiently flexible by setting out the circumstances in which AUV as an alternative approach will be considered.</p>



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LDV018/003	DP9 on behalf of ITV plc	Review mechanisms	The planning guidance recognises that review mechanisms might be appropriate for large multi-phased schemes and / or in periods of economic uncertainty. The SPD should acknowledge that review mechanisms are not mandatory and that each case will be assessed on its own merits having regard to scheme and site circumstances and bearing in mind the relevant planning guidance and advice.	The draft SPD does not introduce new policy but provides further guidance to the Council's adopted development plan, particularly Policy H2 and the requirements for review mechanisms. Policy H2 states that 'provisions for re-appraising the viability of schemes may form part of s106 planning agreements where the financial appraisal demonstrates that the maximum amount of affordable housing a scheme can reasonably support is below the policy target'. This is supported in paragraph 5.14 of the Local Plan. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be implemented to address changing circumstances and uplift in values to secure any additional affordable housing throughout the implementation of the planning permission. The review mechanisms set out in the draft SPD are consistent with the Lambeth Local Plan, the London Plan and the Mayor's draft Affordable Housing and Viability SPG.
LDV019/001	Kennington, Oval and Vauxhall Forum	Transparency	In viability studies used to vindicate a lower than headline planning policy offer of affordable housing, developers have a commercial interest in estimating value of sales conservatively, build costs pessimistically and pushing up benchmark land values to the greatest extent planning guidance will allow them, to maximise their profits. Whenever such viability studies are made public, all sorts of arguable assumptions are exposed and the community harbours strong suspicions that if viability studies were routinely published with the planning application, the interested public could identify questionable assumptions	No change. Draft appraisals at pre-application are necessary to agree inputs and the methodology which will inform the final appraisal. Chapter 4 sets out the Council's approach to transparency and the publication of viability appraisals. Paragraph 4.2 of the draft SPD states that the "Environmental Information Regulations 2004 (EIR) cover access to 'environment information' held by public

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			<p>at an early stage and there would be a deal more affordable housing provided. The Information Tribunal has now ruled in two landmark cases that such studies should be published, citing the Environmental Information Regulations. The SPD provides for more openness about viability assessments, while still allowing developers to plead confidentiality 'exceptionally'. In our experience, developers are highly attached to confidentiality in such matters and if Lambeth Council once allows itself to accept without demur a viability study on confidential terms, the developer can easily thwart attempts to make the information public. To provide meaningful information about affordable housing proposals and associated viability studies and appraisals and to prevent wasteful diversion of Lambeth planners from more productive tasks, we urge the SPD provide all viability studies and appraisals for developments in the Lambeth area are to be received by Lambeth only on the terms that they will be published complete as part of the planning application, without exception.</p>	<p>authorities including local planning authorities. 'Environmental information' for these purposes includes information relating to development viability. Under the EIR there is a presumption in favour of disclosure of environmental information. The EIR recognise that there are certain circumstances ('exceptions') where environmental information may fall not to be disclosed. In most cases, a balancing exercise has to be carried out to decide whether the exception should outweigh the presumption in favour of disclosure." In addition, paragraph 4.4 states that the Council will draw upon the principles of the EIR in deciding whether there is any reason why the submitted viability information should not be published alongside other planning application documents and that it will only depart from its starting point of transparency where there is a convincing case that one or more of the exceptions in the EIR would apply to outweigh the public interest in disclosure of the information.</p>
LDV020/001	GL Hearn on behalf of CLS Holdings plc	Submission of financial viability appraisals as part of the planning application process	<p>We note it is now a requirement, by virtue of the recently revised Local Applications Requirements document (July 2016), that financial viability assessments in relation to affordable housing should be submitted without redaction and that these documents may be made publicly available alongside other application documents. Applicants are also required to submit a draft financial viability appraisal at pre-application stage where a proposal is likely to trigger a requirement to provide affordable housing or where viability is</p>	<p>Change. Paragraph 3.8 has been amended to state that for s73 applications, an applicant will be required to submit an updated viability appraisal to assess any further uplift in the provision of planning obligations, unless the proposed development as amended complies fully with planning policy requirements. It also</p>

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			<p>likely to be a relevant consideration in respect of achieving planning policy compliance. CLS Holdings plc has concerns about the requirement set out in the draft SPD in relation to s73 applications. The draft SPD advises that, where an application made under section 73 to vary or remove conditions associated with a planning permission has the effect of increasing the number of residential units and/or varying the tenure mix, an updated viability appraisal will be required to be submitted and also suggests this may be a requirement in any other case where the council considers it is warranted. The draft SPD provides some guidance on the tests to be applied, including compliance with policy, however CLS Holdings plc is concerned that applications for small increases in residential units and/or tenure mix changes may not warrant the submission of a fully updated viability appraisal and further flexibility should be included in the document to enable changes to be brought forward which may not warrant a fully updated viability assessment. Further the draft SPD suggests a further viability appraisal may be required in any other case. This is open to wide interpretation by the Council and CLS Holdings plc is concerned that such an onerous requirement could be applied even when there is no justified basis for requiring such an updated viability appraisal, thus creating a further hurdle for applicants who may be seeking to bring forward otherwise acceptable further amendments to an approved scheme, to aid early delivery. Further there is no policy justification to require updated viability appraisals where section 73 applications relate to developments with no residential element. As a major investor in Vauxhall, CLS Holdings plc is concerned that these onerous requirements in relation to s73 applications may have the effect of delaying early delivery and significantly adding to the costs and timescales for securing the necessary consents to enable development to go ahead. CLS Holdings plc thus urges the Council to review the requirements in relation to s73 applications to make sure the guidance is policy compliant,</p>	<p>states that the consented scheme will be used as the Benchmark Land Value.</p>

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			clear and at the same time flexible to reduce onerous burdens on applicants in the bringing forward of development within Lambeth.	
LDV020/001	Nathaniel Lichfield & Partners on behalf of U+I Group plc	Submission of financial viability appraisals as part of the planning application process	Paragraph 3.9 identifies that financial viability appraisals will be reviewed by the Council or may be referred to appointed assessors for independent assessment. Whilst we assume that the merits and scope of any independent reviews will be considered on a case by case basis, we welcome clarification that the assessor's role would include a review of likely build costs. Rather than referring to costs indices, this would reduce delays in determination and ensure that viability matters are considered comprehensively.	No change. For transparency, build costs should be benchmarked against publically accessible information. Paragraph 5.10 of the draft SPD states that the Council may appoint a cost consultant to review build costs. The applicant will be required to pay the consultant's fee. This is consistent with the approach in the Mayor's draft Affordable Housing and Viability SPG.
LDV021/002	Nathaniel Lichfield & Partners on behalf of U+I Group plc	Transparency	The emerging SPD is informed by the Mayor's Draft Affordable Housing and Viability SPG and seeks to establish an approach that is consistent with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The SPD identifies that the 'starting point' is that viability appraisals should be submitted without redaction and where redaction is requested, the SPD requires that a convincing case is put forward. The GLA's SPG similarly acknowledges that there may be legitimate reasons for keeping limited elements of viability information confidential in 'very exceptional circumstances'. Underpinning the SPD, the EIR 2004 states that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect 'the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest'. In the case of many large scale development projects, there may be a number of matters that could constitute commercially sensitive information. Further, in the instance of rights of light, insurance policies may be adversely affected or made void if, through financial viability appraisal disclosure, claims are seen to be 'invited'. The need for viability assessments to be addressed on the basis on an	No change. The PPG states that for viability, transparency of evidence is encouraged wherever possible. Chapter 4 of the draft SPD already clearly sets out the Council's approach to transparency and the publication of viability appraisals. Paragraph 4.2 of the draft SPD states that the "Environmental Information Regulations 2004 (EIR) cover access to 'environment information' held by public authorities including local planning authorities. 'Environmental information' for these purposes includes information relating to development viability. Under the EIR there is a presumption in favour of disclosure of environmental information. The EIR recognise that there are certain circumstances ('exceptions') where environmental information may fall not to be disclosed. In most cases, a balancing exercise has to be carried out to decide whether the exception should outweigh the

Ref	Respondent	SPD Section	Comment	Response
			<p>increasingly strict benchmark basis reduces the need for, or relevance of, such public disclosure. To ensure such information is not disclosed, we request the final SPD includes clarification that intention to publish such information in any case should be discussed and agreed as part of any pre-application process. Notwithstanding the general EIR, this approach would provide more certainty that commercially sensitive information need not be made publically available. Paragraph 4.5 refers to cases where the 'council may decide not to accept the applicant's request that information should not be disclosed to the public. The final SPG should therefore confirm that, in such instances, the Council should provide a robust written response justifying why the information should be made public.</p>	<p>presumption in favour of disclosure." In addition, paragraph 4.4 states that the Council will draw upon the principles of the EIR in deciding whether there is any reason why the submitted viability information should not be published alongside other planning application documents and that it will only depart from its starting point of transparency where there is a convincing case that one or more of the exceptions in the EIR would apply to outweigh the public interest in disclosure of the information.</p>
LDV021/003	Nathaniel Lichfield & Partners on behalf of U+I Group plc	Review mechanisms	<p>In instances where a viability review demonstrates an improvement in a scheme's viability, paragraph 6.6 refers to 20% of the increase in the scheme's value being returned to the developer and 80% to the council, up to the level that would be required for a policy compliant scheme. This percentage split is unreasonable and conflicts with the Mayor's Affordable Housing and Viability SPG. If a typical split is mentioned, this should be 50:50, up to the level that would be required for a policy compliant scheme.</p>	<p>No change. The surplus split reflects that the primary purpose of a review is to provide policy compliant levels of affordable housing, where viable. The 80% to the local authority allows for developers to benefit in the event of higher development values and lower costs but ensures that the maximum public benefit is secured over the period of the development.</p>
LDV022/001	Greater London Authority on behalf of Mayor of London	General comment	<p>As you are aware all local development documents including supplementary planning documents have to be in general conformity with the London Plan under section 24 (1)(b) of the Planning and Compulsory Purchase Act 2004. The SPD was published shortly before the Mayor's own draft Affordable Housing and Viability SPG, the aim of which is to increase the amount of affordable housing delivered through the planning system, help embed the requirements for affordable housing into land values and make the viability process more consistent and transparent, as well as speeding up the planning process for those schemes which are delivering more affordable homes. In the SPG, the Mayor strongly encourages local</p>	<p>Noted. The draft SPD has been amended to include cross-references to the Mayor's Affordable Housing and Viability SPG and in particular to take account of the threshold approach to viability and differentiation between 'Route A' and 'Route B' schemes.</p>

Ref	Respondent	SPD Section	Comment	Response
			<p>planning authorities to follow the approach set out in the document, including applying the 'threshold approach' to viability. The Mayor intends to publish the final SPG in summer 2017. Guidance within Lambeth's draft SPD regarding transparency of process and viability methodology is consistent with the Mayor's aims and is supported. However, given the similarity between the aims of the SPG and the SPD and the importance of consistency in the approach to viability, Lambeth are encouraged to apply the approach set out in the final SPG to their decision making process. If Lambeth feels a local SPD is required, it is recommended that the borough works closely with the GLA while both documents are being finalised to ensure consistency of method and approach.</p>	
LDV023/001	Individual	Transparency	<p>The introduction by the Council of a policy on development viability is welcome, albeit that it is long overdue and a case of shutting the stable door in relation to a large number of schemes that have come on stream. I have a number of concerns with the document as it stands as it does not appear to be sufficiently robust. It should be made crystal clear that viability appraisals and the Council's review of such appraisals should be disclosed and not in any circumstance remain confidential except in the most exceptional circumstances. More reference could be made to recent Information Tribunal decisions to support this, for example in the case involving Lambeth itself <i>Jeremy Clyne v The Information Commissioner and London Borough of Lambeth</i> where the Tribunal rejection the contention that disclosure would prejudice the developer to any great extent that would justify the withholding of the information when taking into account the public interest. Reference to Information Tribunal findings in addition to the EIR could be added in paragraph 4.4. The wording in paragraph 4.5 of the draft SPD 'the Council may decide not to accept the applicant's request that information should not be disclosed to the public' does not given any confidence that the Council will take a tough line as it indicates a clear readiness</p>	<p>No change. The draft SPD makes clear that the Council's starting point is that all information submitted as part of the viability appraisal is to be made public and that the redaction of information will be only allowed in exceptional circumstances. This is supported in paragraph 4.5 which enables the Council to reject a request for information to remain out of the public domain. The draft SPD already refers to the requirement of the EIR. The Council considers there is no need to make reference to specific Tribunal cases in the draft SPD.</p>

Ref	Respondent	SPD Section	Comment	Response
			by the Council to accept requests for non-disclosure. This is very worrying, given my own experience involving the Megabowl Development where the Council justified the non-disclosure of the viability appraisal and review on a clearly wrong assessment of the importance of confidentiality and the public interest and an incorrect acceptance of the developer's claims that disclosure of the requested information would be commercially damaging. If the Council is to persist with this stance then any SPD supposedly committing to transparency is of little worth.	
LDV023/002	Individual	Viability appraisal methodology	As regards the vital starting-point benchmark land value it is vital that this should be based on the value of the land subject to the full requirements of policy on affordable housing (i.e. 40% affordable or whatever is the current requirement) and all other s106 and other such obligations. If a developer has paid too much for a site in the first place by not taking into account those requirements then the consequences of that decision should be borne by the developer and not by the public interest.	Change. The requirement for land values to take account of development plan policies, planning obligations and CIL payments have been added to paragraphs 5.4 and 5.6.
LDV023/003	Individual	Review mechanisms	With regard to section 6 and review mechanisms experience shows that such reviews should be conducted in all cases. The policy that reviews should not be conducted where implementation begins within 12 months is flawed as it would not deal with the situation where, for example, a development begins with some minimal excavation, thus constituting 'implementation' and is then left for possibly years before completion is effected. That would represent an obvious way for a developer to avoid its proper affordable housing and other policy obligations. Even where development begins promptly and progresses rapidly the concern is still valid that in a rapidly changing market the sales value of completed homes can escalate rapidly thereby producing windfall profits which ought to be used to fund affordable housing and other obligations. If the council is locked into an assessment based on valuation	No change. The draft SPD sets out the requirements for review mechanisms at pre-implementation stage, at an advanced stage and for phased developments, a mid-term review. This will ensure that changes in values and costs can be captured and assessed throughout the development period to secure any additional affordable housing the development can deliver.

Ref	Respondent	SPD Section	Comment	Response
			that does not reflect these increases then the public interest loses out.	
LDV023/004	Individual	General comment	<p>Most seriously the council, even with the help of consultants, does not have the expertise, resources and/or will to challenge and question comprehensively and consistently the detailed data presented in a viability assessment, it certainly does not have the ability to forecast sales prices. This was evident in the Megabowl case where even when the Council was advised by its own consultant that the developer appeared to have inflated build costs no further outside advice was sought as suggested. The figures presented in a viability appraisal are nothing more than estimates and often very much ball-park based on previous experience. The reality can vary widely from this. The Council should obviously seek as far as possible an accurate viability appraisal in order to ensure the maximum on-site provision of affordable housing but in addition, if a post-completion review mechanism, taking account of actual sales and rental prices and construction and other costs, is made the norm the Council would be in a better position to ensure that developers do not escape their obligations and to ensure that the public interest is protected.</p>	<p>No change. The purpose of the draft SPD is to set out the Council's approach to viability appraisals to ensure a consistent and transparent approach is taken to ensure the maximum amount of affordable housing is delivered where it is required to be provided. This includes setting out the expected approach on key appraisal inputs such as build costs. It also clearly sets out the expected approach on review mechanisms.</p>



**Table 3 Summary of changes made in the Revised Draft Development Viability SPD**

Chapter/ Paragraph	Proposed change	Reason for change
2.6	Updated to remove “The GLA intends publishing further guidance on viability for consultation in Autumn 2016”.	The Mayor published the draft Affordable Housing and Viability SPG in November 2016.
2.7	New paragraph to summarise the Mayor’s draft Affordable Housing and Viability SPG.	The Mayor’s Draft Affordable Housing and Viability SPG introduces the 35% threshold approach and once published in final form will supersede Part 5 of the Mayor’s Housing SPG 2016.
2.8	Updated to reference that the London Borough Viability Group’s Development Viability Protocol has been published.	The Development Viability Protocol was published in November 2016.
3.2	Amended to clarify that the purpose of submitting a draft appraisal is to scope out the viability appraisal and to agree the inputs and methodology to inform the final appraisal. It also clarifies that the level of information required at pre-application stage will depend on the scale and nature of the proposed development and that any draft appraisal will not be made available on the Council’s webpages.	A number of representations were submitted objecting to the requirement to submit a draft appraisal as many aspects of a scheme are not fixed during the pre-application process. If they are required, it was asked that they are not made public.
3.3	Amended to take account of the London Affordable Housing and Viability SPG viability threshold approach. Specifies that proposals that do not meet the 35% threshold or are not policy compliant will be required to submit a viability appraisal in accordance with the principles of the SPD. Those which do meet the 35% affordable housing without public subsidy, provide the required tenure split and meet all of the other policy requirements will not be required to submit a viability appraisal, in accordance with the London Affordable Housing and Viability SPG.	The draft Affordable Housing and Viability SPG has introduced a threshold approach to viability. In the Council’s response to the Draft SPG consultation, it was agreed to accept the threshold approach for schemes that meet the relevant criteria and so the Draft SPD has been amended to align with the SPG.
3.5	Amended so that the Council will accept alternative models to Argus Developer software.	Although the Draft SPD states that this is the preferred software, the Council will accept other models provided that they can be fully interrogated.

Chapter/ Paragraph	Proposed change	Reason for change
3.8	Amended to remove requirement for viability appraisals for s73 applications to assess the whole scheme and to make clear that the consented scheme will become the benchmark land value.	For s73 applications, requiring a viability appraisal to assess the whole scheme is the same as requiring an appraisal to assess the proposed amendments. The consented scheme becomes the Benchmark Land Value and if the appraisal for the s73 application covers then whole scheme then the bulk of the proposal is 'cancelled out' by the consented scheme.
4.1	Updated to reflect position on transparency set out in the London Affordable Housing and Viability SPG.	Once adopted, the Affordable Housing and Viability SPG will replace the relevant sections of the existing London Plan Housing SPG
4.4	Amended to state that any requests for viability appraisals not to be made public should be made prior to the submission of a planning application.	Alignment with the draft Affordable Housing and Viability SPG.
5.4	Amended to make clear that the land value should reflect development plan policies, planning obligations and CIL payments.	The SPD is now more explicit about the requirement for land values to reflect planning policy requirements, as set out in the Planning Practice Guidance.
5.6	Amended to state that the Council will generally only accept the use of Alternative Use Value where there is an existing implementable permission for the use. Also to make clear that the land value should reflect development plan policies, planning obligations and CIL payments.	Alignment with the wording of the draft Affordable Housing and Viability SPG. The SPD is also now more explicit about the requirement for land values to accept planning policy requirements, as set out in the Planning Practice Guidance.
5.7	Paragraph amended to set out that the Council will follow the approach to market values set out in the draft Affordable Housing and Viability SPG.	Alignment with the draft Affordable Housing and Viability SPG.
5.9	Updated to reflect the position on engagement with Registered Providers during pre-application process.	Alignment with the draft Affordable Housing and Viability SPG.
5.21	IRR will generally only be accepted on schemes providing more than 1000 units.	Alignment with the draft Affordable Housing and Viability SPG.
5.22	Majority of paragraph removed to set out that for PRS/Build to Rent schemes, the Council will follow the Mayor's approach to these schemes.	The draft Affordable Housing and Viability SPG provides more detailed guidance on how the viability of these schemes should be assessed.

Chapter/ Paragraph	Proposed change	Reason for change
6.3	Amended to make clear that review mechanisms cannot be used to reduce the amount of affordable housing.	In response to representations that review mechanisms should take account of a scheme being less viable than when planning permission was granted.
6.4	Updated to reference the London Affordable Housing and Viability SPG and the requirement for review mechanisms for Route A schemes. The names of the review mechanisms have been amended.	Alignment with the draft Affordable Housing and Viability SPG.
6.5	Amended so that pre-implementation reviews will take place after 24 months and an advanced stage review will take place at 75% of sales rather than 75% of occupation.	Alignment with the draft Affordable Housing and Viability SPG.
6.6	New paragraph setting out when review mechanisms will be used for Route B schemes.	Alignment with the draft Affordable Housing and Viability SPG.

### **3. Second stage consultation on the Revised Draft Development Viability SPD (5 April- 5 May 2017)**

3.1. The following methods were used to advertise the consultation:

- Copies made available on the Council's consultation webpages and the planning policy- supplementary planning documents and other policy guidance webpages
- Notification of the consultation to those on the planning policy consultation database (including businesses, community groups, amenity societies, residents, developers, landowners and individuals who have asked to be kept informed)
- Notification of the consultation to neighbouring boroughs and the Greater London Authority
- Copies of the draft SPD made available at Phoenix House and all of Lambeth libraries

3.2. A total of 17 representations were received from the following individuals and organisations:

- Deloitte on behalf of Guy's and St Thomas' Hospital
- DP9 on behalf of ITV Plc
- Equality Human Rights Commission
- Environment Agency
- Greater London Authority
- Highways England
- Historic England (including Historic Places Team: London)
- Individual (1)
- Kennington, Oval and Vauxhall Forum
- Nathaniel Lichfield and Partners on behalf of U+I Group
- Port of London Authority
- Quod on behalf of Downing Students
- Ripleys on behalf of an individual
- Savills on behalf of Thames Water
- Shaw Corporation on behalf of Totsbridge Limited and Shaw Corporation Limited
- Transport for London

3.3. The representations received can be summarised into nine main issues, the majority of which were raised during the first round of consultation. These are set out in Table 4. Table 5 sets out all of the comments received and the Council's response to each comment. Table 6 sets out the changes made in the final SPD and the reasons for these changes.

**Table 4: Summary of main issues raised**

Main issue raised
The council should not allow for exceptions when publishing viability appraisals
The SPD should make clear that a viability appraisal may not be needed for s73 applications and should not be required at pre-application stage
The use of review mechanisms is not in accordance with the NPPG and the 80:20 split has not been tested
Reference should be made to certain costs, such as implementing SUDS and investing in heritage assets
The SPD should make clearer the role of planning obligations and make reference to planning obligations for transport
Commercial information should not become publically accessible and the SPD should make clear what it considers to be expectations to its approach on full transparency
A different approach should be taken for student accommodation and for developments which fund improvements to healthcare facilities.
The council should accept alternative use value as the benchmark land value and should not consider the landowner when calculating the premium.
The SPD should not rely on the Mayor's Affordable Housing and Viability SPG as this is only in draft form.

**Table 5: Revised Draft Development Viability SPD representations and Council's response**

Ref	Respondent	Comment	Response
RDLDV 001/001	Equality and Human Rights Commission	The Commission does not have the resources to respond to all consultations, and it is not our practice to respond to consultations on local plans or infrastructure projects unless they raise a clear or significant equality or human rights concern. Local, Parish and Town Councils and other public authorities have obligations under the Public Sector Equality Duty (PSED) in the Equality Act 2010 to consider the effect of their policies and decisions on people sharing particular protected characteristics. We provide advice for public authorities on how to apply the PSED, which is the mechanism through which public authorities involved in the planning process should consider the potential for planning proposals to have an impact on equality for different groups of people. To assist, you will find our technical guidance <a href="#">here</a> .	No change. An Equalities Impact Assessment has been undertaken prior to seeking authorisation to adopt the SPD.
RDLDV 002/001	Historic England (Archaeology South London)	Having considered this document I conclude that I have no direct comment regarding Development Viability SPD. It is anticipated that further policy comment will be provided to you by my colleagues in the Historic Places Team: London, Historic England.	No change.

Ref	Respondent	Comment	Response
RDLDV 003/001	Highways England	Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity. Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN). In this case M25 and M11. Having examined the above document, we do not offer any comments.	No change.
RDLDV 004/001	Port of London Authority	It is noted that the draft SPD focuses specifically on the requirements for financial viability assessments and the basis on which submitted assessments will be assessed by the Council. The SPD includes development proposals which do not provide a policy compliant level of affordable housing. The Port of London Authority is the statutory harbour authority for the tidal Thames between Teddington and the Thames Estuary. Its statutory functions include responsibility for conservancy, dredging, maintaining the public navigation and controlling vessel movements and its consent is required for the carrying out of all works and dredging in the river and the provision of moorings. The PLAs functions also include for promotion of the use of the river as an important transport corridor to London. With this in mind, the PLA do not have any comments to make with regard to the draft SPD, which considers the viability issues associated with affordable housing.	No change.
RDLDV 005/001	Individual	There is much in this document that I agree with. I think it is very important that both existing and future land values should reflect the development constraints imposed by a Council's adopted Development Plan, unlike the current arrangement where excessively high and unjustified land values appear to impose constraints on the implementation of the Council's Development Plan. I am, however, very sceptical that an affordable housing programme on the scale required in places like Lambeth can, and should, be completely financed from capturing surplus development value from new building projects. In relation to the draft SPD, there are two specific issues	No change. The provision of affordable housing in relation to residential development is sought in accordance with Local Plan policy H2 and the statutory tests for the use of planning obligations set out in the Community Infrastructure Levy Regulations 2010. These state that a planning obligation may only constitute a reason for granting planning permission if the obligation is:

Ref	Respondent	Comment	Response
		<p>that I think need further more detailed consideration, clarification and possible revision. First, in relation to para 2.2 and Local Plan Policy D4, I think there is an opportunity here to make it clear that Section 106 planning obligations, affordable housing provision, and affordable housing payments cannot be simply used to overcome fundamental planning objections where a proposed scheme is wholly unacceptable when assessed against the Development Plan and other material considerations. While planning obligations can legitimately be used "to make the development acceptable in planning terms", they cannot be imposed as a way for a Council to share in the profits of a development, or as an inducement in order to gain planning permission.</p>	<ol style="list-style-type: none"> <li>1. Necessary to make the development acceptable in planning terms;</li> <li>2. Directly related to the development; and</li> <li>3. Fairly and reasonably related in scale and kind to the development</li> </ol> <p>Affordable housing contributions would not be accepted "to overcome fundamental planning objections where a proposed scheme is wholly unacceptable when assessed against the development plan and other material considerations". This point does not need to be made in the Development Viability SPD.</p>
RDLDV 005/002	Individual	<p>Secondly, despite the good intentions and statements relating to transparency and public scrutiny in paras 1.2 and 1.3, and in paras 4.1 - 4.9 of the draft Report, Lambeth Council is still resisting the public disclosure of viability appraisals for very spurious reasons using the Environmental Information Regulations as a convenient excuse. There is no guarantee that this document will change that. As an example, I refer you to the latest response to my recent Freedom of Information request for the Council to disclose the viability appraisal for a development in Hoadly Road, Streatham (see attached). The reasons given for non-disclosure include:</p> <p>(a) because it relates to material which is unfinished and incomplete because the Council is currently considering the planning decision, and it is important that the Council has a safe space to make its decision. Disclosure of information at this stage may undermine our decision-making process; and</p> <p>(b) it may be confusing or misleading for the public which would not be in the public interest.</p> <p>This is insulting, and one of the main reasons why there is a lack of public trust in the planning process. How can I have any confidence that the new SPD will change this approach? Presumably the Council will still be able to resist disclosure of the viability appraisal on spurious grounds such as these, in order to maintain the so-called "safe space" - which in reality is a 'secret space' which cannot be publicly scrutinised. The well-meaning words in the new SPD mean nothing if there is a statutory get-out clause that allows the</p>	<p>No change. The observations are centred on the Council's handling of a disclosure request in a particular case. There are established processes in place for people who have requested information in specific cases and who are dissatisfied with the response they have received to pursue the matter, should they wish to do so. The Revised Draft SPD is concerned with providing guidance on planning policy and Chapter 4 clearly sets out the Council's approach - in the context in particular of the Environmental Information Regulations 2004 - to transparency and to the publication of viability appraisals.</p>

Ref	Respondent	Comment	Response
		Council to still keep viability appraisals secret while a planning application is assessed, and only released after the decision is made. A post-justification disclosure is clearly not the same as "facilitating community involvement in planning decisions".	
RDLDV/005/003	Individual	<p>Can you update me on the whether changes have been made to the draft SPD, and when it will be adopted by Lambeth as a final document. I assume any changes will be in conformity with the London Plan and its draft Affordable Housing and Viability SPG, in particular the Mayor of London's wish to lead the way in fostering a culture of 'openness and transparency'. In particular "he considers that information relevant to planning determinations should be publicly available alongside the other application documents in order to foster a greater understanding of and trust in the planning system." (see paras 1.17 - 1.20). The Mayors draft SPG says this approach is consistent with the Freedom of Information Act 2000 which gives the public the right to request information held by the Planning Authorities, and which aims to ensure that public sector bodies are open and accountable. The Environmental Information Regulations 2004 which relate to environmental information held by public authorities provide a similar public right to access.</p> <p>"The guiding principle is that all information should be accessible, although the legislation sets out certain exceptions to this general rule. These exceptions are, however, qualified by a public interest test and recent decisions by the information tribunal have demonstrated that the public interest in maintaining confidentiality rarely outweigh the public interest in disclosing the information.</p>	Lambeth's SPD is proposed to be adopted following the publication of the Mayor's Affordable Housing and Viability SPG in August 2017. The Revised Draft SPD has been aligned with the Mayor's SPG and reference is made to the Mayor's approach to transparency in Chapter 4 of the Revised Draft SPD. The Revised Draft SPD sets out how the starting point for any information submitted as part of viability appraisal is that this information shall be treated transparently and the Council will draw on the principles of the Environmental Information Regulations 2004 when determining whether any information submitted as part of a viability appraisal should remain confidential, if requested by an applicant.
RDLDV 006/001	Savills on behalf of Thames Water Utilities Ltd	Thames Water Utilities Ltd (Thames Water) Property Services function is now being delivered by Savills (UK) Limited as Thames Water's appointed supplier. Savills are therefore pleased to respond to the above consultation on behalf of Thames Water. Thames Water is the statutory water and sewerage undertaker for the Borough and is hence a "specific consultation body" in accordance the Town & Country Planning (Local Development) Regulations 2004 (as amended in May 2008). In their role as a statutory undertaker we have the following comments on the draft revised Statement of Community Involvement (SCI). Assessments of viability of development	No change. The requirements for Sustainable Urban Drainage (SUDs) are set out in the Lambeth Local Plan. The Local Plan has undergone an assessment of the cumulative impacts of all policies on development viability and was found sound. The Revised Draft SPD makes clear that development costs should be included in the appraisal. It is not necessary for



Ref	Respondent	Comment	Response
		<p>will need to consider infrastructure costs as set out in the draft viability SPD. This should include the costs to deliver SuDS which are necessary to comply with the adopted policies of the London Plan and consideration should also be given to the costs associated with water and wastewater infrastructure provision. In establishing any costs associated with delivery of water and wastewater infrastructure Thames Water encourage developers to discuss their development proposals and drainage requirements at the earliest opportunity. Any developers are advised to contact Thames Water Developer Services as early as possible to discuss the infrastructure requirements for the site. Thames Water Developer Services can be contacted by post at: Thames Water Developer Services, Reading Mailroom, Rose Kiln Court, Rose Kiln Lane, Reading RG2 0BY; by telephone on: 0845 850 2777; or by email at: <a href="mailto:developer.services@thameswater.co.uk">developer.services@thameswater.co.uk</a></p>	<p>the Revised Draft SPD to set out an exhaustive list of all development costs, such as SuDS.</p>
RDLDV 007/001	Rapeys on behalf of an individual	<p>As you will be aware, my client has been promoting the site at 50 Groveway for housing use for a considerable period of time, and is currently considering development options for the site. As such we seek to make the following comments on our client's behalf, in regards to the planning policy document which is currently out for consultation. We previously submitted representations to the Draft Supplementary Planning Document (SPD) Development Viability (November 2016), which fundamentally requested that the document should be amended to include clear thresholds which reflect National Planning Policy Guidance, and confirm that developments of 10 units or less should not have to provide affordable housing or demonstrate viability. Further we advised that notwithstanding this, our client would not object to a threshold being set which is consistent with the threshold of 10 or more units as set out in the Employment Skills and Planning Obligations SPD. We have reviewed the Council's Consultation Statement produced in response to the November consultation. It states the circumstances in which a financial appraisal is required are set out in Lambeth Local Plan Policy H2. Policy H2 (d) states that "a financial appraisal will be required if the affordable housing provision is less than the specified policy requirements or where provision of affordable housing is not in accordance with policy". In regards to affordable housing provision for schemes of less than 10 units, Policy H2 (a) states "for sites providing fewer than 10 units, a financial contribution towards the delivery of off site affordable housing will be sought,</p>	<p>No change. The circumstances in which a financial appraisal is required are clearly set out in Lambeth Local Plan H2. The Revised Draft SPD is providing additional guidance on the implementation of this policy and cannot be used to change or add to policy. With regard to affordable housing contributions on sites with 10 or fewer units, whilst the Written Ministerial Statement and PPG are material considerations, they do not replace or override the development plan as the starting point for planning decisions. The statutory duty on Local Planning Authorities is to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. This will therefore be addressed through the determination of individual planning applications, pending a review of the Lambeth Local Plan. It should be noted that the threshold set out in the Draft Employment and Skills SPD is set out in Policy ED14 and relates to obligations for employment and training only.</p>

Ref	Respondent	Comment	Response
		<p>in line with the Council's methodology". However, Policy H2 (aii) pre-dates and is contrary to, National Planning Policy Guidance (NPPG) which specifically states that contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from developments of 10-units or less. The Consultation Statement states that the NPPG is a material consideration which will be given due consideration in the determination of individual planning applications, however this contradiction results in a considerable level of ambiguity. Policy H2 (aii) is evidently out of date, but Lambeth's SPD as drafted creates uncertainty as to whether affordable housing contributions should be sought for schemes of fewer than 10 units and whether a financial viability assessment is also required. It is therefore important that the Development Viability SPD is further revised to remove this ambiguity, and confirm that development schemes of 10 units or less should not have to provide affordable housing or demonstrate viability. As set out in our representation to the November consultation, notwithstanding this, our client would not object to the threshold of 10 or more units as set out in the Employment Skills and Planning Obligations SPD. We request that the Council considers this representation in full and that those considerations are reflected in the next stage of the document's preparation.</p>	
RDLDV 008/001	TfL	<p>Please note that these comments represent an officer level view from Transport for London Borough Planning (hereafter referred to as TfL) and are made entirely on a "without prejudice" basis. They should not be taken to represent an indication of any subsequent Mayoral decision (if necessary) in relation to this development. Planning obligations are often secured to support site specific transport mitigation, as such it is requested that reference to Lambeth Local Plan policy T6 is inserted into paragraph 2.1. Within paragraph 2.2, it is requested that reference is made to s106 contributions being used where necessary to deliver increased public transport capacity. This includes increased bus capacity, which isn't classed as infrastructure and as a result CIL cannot be used for this purpose. Referencing this will remove any ambiguity at the decision making stage.</p>	<p>No change. This Revised Draft SPD relates to development viability and not the use of planning obligations more generally. The use of planning obligations in Lambeth is set out in Local Plan Policy D4.</p>
RDLDV 009/001	KOV Forum	<p>This is a response to the revised draft SPD on Development Viability on behalf of the Kennington, Oval and Vauxhall Forum. We confine ourselves to</p>	<p>No change. Chapter 4 sets out the Council's approach to transparency and the publication of</p>

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		<p>two issues, transparency and EUV+ as benchmark land value. As regards transparency, and section 4 of the SPD generally, we welcome every move towards invariable publication of viability studies and appraisals unredacted. But we note that the SPD, at paras 4.4 and 4.5 still allows the applicant to plead for redaction "exceptionally". All our experience tells us that this exception will swallow the rule. As we noted in our earlier comment "The objective of the EIR is to allow the public and in this case the affected community to have relevant factual information in time for them to participate effectively in environmental decision making." [Per Judge Warren, giving judgement in the Greenwich case] [our emphasis] Again in the Clyne case, in reviewing the public interests favouring disclosure, which outweighed any interest in maintaining confidentiality: "There is much importance in transparency of viability assessments and reviews in allowing the public to interrogate the reasons a developer is unable to fulfil the core policy strategy on 40% affordable housing (subject to viability). The EIR objective is to allow the affected community to have relevant information in time to participate effectively in environmental decision-making, which would include before the planning permission was finalised..." [Per Judge Taylor, giving judgement in the Clyne case] [our emphasis] Viability studies are not confidential just because the applicant says so - as EIR Reg 12(5) says : " For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—...(e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest; " Again as we noted, the material in the Clyne case was confidential (hence triggering the need for a subsequent expensive public interest balancing test) because the Council began by conceding it was, by accepting it labelled as such without demur in the first place.</p> <p>"d) The common law of confidence applied because (a) the information has the necessary quality of confidence because it was not trivial – it went directly to the core of the developer’s business strategy – and was not in the public domain; and (b) it was shared in circumstances importing an obligation of confidence. The viability assessment was submitted to the Council on the basis that it was a confidential document and the Council agreed to accept it on that understanding. This expectation of confidentiality was expressed on the front page of the viability assessment, albeit it was not</p>	<p>viability appraisals. Paragraph 4.2 of the SPD states that the "Environmental Information Regulations 2004 (EIR) cover access to 'environment information' held by public authorities including local planning authorities. 'Environmental information' for these purposes includes information relating to development viability. Under the EIR there is a presumption in favour of disclosure of environmental information. The EIR recognise that there are certain circumstances ('exceptions') where environmental information may fall not to be disclosed. In most cases, a balancing exercise has to be carried out to decide whether the exception should outweigh the presumption in favour of disclosure." In addition, paragraph 4.4 states that the Council will draw upon the principles of the EIR in deciding whether there is any reason why the submitted viability information should not be published alongside other planning application documents and that it will only depart from its starting point of transparency where there is a convincing case that one or more of the exceptions in the EIR would apply to outweigh the public interest in disclosure of the information.</p>

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		possible to contract out of the EIR." [our emphasis] Para 22(d) Information Commissioner submission in Clyne] For these reasons we argue that no viability study should henceforth be accepted on confidential terms, and that if Lambeth does so receive them, its SPD will be ineffective in fulfilling the purposes of the EIR, and will be creating a rod for its own back in foreseeably incurring expensive "public interest balancing" exercises.	
RDL DV 009/002	KOV Forum	We commend Lambeth for sticking to EUV+ as the benchmark. We would go further and identify a benchmark methodology for calculating it, to reduce unnecessary argument and expense. For commercial premises, we would take the current rateable value from the valuation list, capitalise it at a suitable rate of return (probably 5%, giving a multiplier of 20) and add a fixed premium of 20%. We do not favour a site specific uplift, which merely opens the door to yet more expensive and arguable special pleading, allowing hope value to seep into benchmark land values.	No change. Support is noted for the use of existing use value plus. Planning Practice Guidance (Paragraph: 023 Reference ID: 10-023-20140306) states that the most appropriate way to assess land will vary from case to case and should be informed by comparable, market-based evidence wherever possible. When calculating the premium it is also necessary to take account of the circumstances of the site and the landowner as set out in the Mayor's Affordable Housing and Viability SPG. (paragraph 3.45). It is not appropriate to set out a benchmark methodology for calculating the existing use value plus in the Revised Draft SPD as it will vary from case to case, based on comparable evidence.
RDL DV 010/011	Environment Agency	Thank you for consulting the Environment Agency on the above. We made our representation in our letter of 13 February 2017 reference SL/2007/101496/SD-21/IS1. We have no further comments.	No change.
RDL DV 011/002	Historic England (Historic Environment Planning)	Thank you for consulting Historic England on the revised draft SPD on Development Viability. We have previously identified the need to integrate consideration of conservation requirements into assessments of viability where sites contain heritage assets requiring investment. It will be helpful to highlight this aspect in your heritage strategy to make this connection, if not in this document. We have no other comments.	No change. If a site contains heritage assets requiring investment, this would normally be considered within development costs in the assessment of development viability. It is not considered necessary to include an exhaustive list of potential development costs in the Revised Draft Development Viability SPD. However, the potential impact of conservation considerations

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			on development viability, where sites contain heritage assets requiring investment, can be highlighted when Lambeth brings forward its Heritage Strategy.
RDLDV 012/001	Quod on behalf of Downing Students	<p>Please find below representations submitted in respect of the Draft Lambeth Development Viability Supplementary Planning Document SPD Consultation, on behalf of Downing Students. These representations are submitted in accordance with Regulation 12 of the Town and Country Planning (Local Planning) (England) Regulations 2012.</p> <p>The comments set out in table 1 below should be given due regard and consideration in making the amendments deemed necessary for the Development Viability SPD to be formally adopted by Lambeth Council in accordance with the 2012 Regulations and the 2004 Act, which require Local Development Documents that are not a Local Plan (i.e SPD's) to be:-</p> <p><i>i) Limited to statements of environmental, social, design and economic objectives which are relevant to the attainment of the development (Regulation 5(1)(a)(iii));</i></p> <p><i>ii) Consistent with the development plan (Regulation 8 (3)); and</i></p> <p><i>iii) Prepared with regard to national policy and guidance (Section 19(2)(a) of the 2004 Act).</i></p> <p>In respect of requirement ii) whilst the London Plan is part of the Statutory Development Plan, the emerging London Affordable Housing and Viability SPG, which seeks to provide guidance on the application of London Plan policy, is at present only in 'Draft' form and is subject to change following an extensive consultation exercise during which it is understood a large volume of objections were received including those submitted on behalf of Downing. It is not therefore considered appropriate for the Lambeth Development Viability SPD to replicate the Mayor's SPG until it has been revised, to reflect the outcome of the consultation, and formally adopted by the GLA.</p> <p>In respect of requirement iii), National Policy (NPPG ID: 12-028-20140306) (NPPF para 153 &amp; 204) is clear that supplementary guidance should not be used to introduce other new planning policy that is required to be subject to independent examination. Detailed requirements for other planning obligations, not already required in the Development Plan should not therefore be contained within planning guidance.</p>	No change. The circumstances in which a financial appraisal is required are clearly set out in Lambeth Local Plan Policy H2. The Revised Draft SPD is providing additional guidance on the implementation of this policy and cannot be used to change or add to policy. Lambeth's SPD is proposed to be adopted following the publication of the Mayor's Affordable Housing and Viability SPG in August 2017.

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RDLDV 012/002	Quod on behalf of Downing Students	Delete paragraph 2.8. The respondent supports a consistent approach to Viability Assessments, it is however submitted that reference to 'The London Borough Viability Protocol' should be removed as this document holds no statutory planning status and has not been formally consulted on.	No change. The London Boroughs Viability Protocol is non-statutory guidance and its status is already made clear in the Revised Draft SPD. It was consulted on in early 2016 before being published in November 2016.
RDLDV 012/003	Quod on behalf of Downing Students	Add 'If possible' to the start of para 3.2. It is not always possible to prepare a viability assessment at the pre-application stage due to time constraints and resource required in the preparation of the supporting evidence (as required in accordance with Section 5 of the Draft SPD) following design a fix. This requirement could result in a delay to the planning process and the delivery of much needed residential accommodation.	No change. The council's approach to requiring draft appraisals at pre-application stage is flexible and it is not anticipated that seeking information which reflects the scale and nature of the proposed development would be a source of delay to the planning process.
RDLDV 012/004	Quod on behalf of Downing Students	Add <i>'unless otherwise agreed with the Council'</i> to the end of the first sentence in paragraph 3.3. Viability assessments sometimes commercially sensitive information (i.e compensation budgets) which could prejudice the commercial position of a developer. This information cannot therefore be made publically available. In the case of Elephant and Caste the First Tier Tribunal General Regulatory Chamber (Information Rights) recognised there needs to be a balance between transparency and commercial confidentiality and found that the public interest favoured withholding the some information (9th May 2014). The emerging London Plan Affordable Housing & Viability SPG includes provisions for commercially sensitive information to be withheld where agreed with the GLA ahead of submission (for example where the land acquisition is being negotiated).	No change. Chapter 4 sets out the Council's approach to transparency and the publication of viability appraisals. Paragraph 4.2 of the Revised Draft SPD states that the "Environmental Information Regulations 2004 (EIR) cover access to 'environment information' held by public authorities including local planning authorities. 'Environmental information' for these purposes includes information relating to development viability. Under the EIR there is a presumption in favour of disclosure of environmental information. The EIR recognise that there are certain circumstances ('exceptions') where environmental information may fall not to be disclosed. In most cases, a balancing exercise has to be carried out to decide whether the exception should outweigh the presumption in favour of disclosure." In addition, paragraph 4.4 states that the Council will draw upon the principles of the EIR in deciding whether there is any reason why the submitted viability information should not be published alongside other planning application documents and that it

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			<p>will only depart from its starting point of transparency where there is a convincing case that one or more of the exceptions in the EIR would apply to outweigh the public interest in disclosure of the information. The Mayor's Affordable Housing and Viability SPG does not make specific reference to commercially sensitive information which may be withheld, such as where land acquisition is being negotiated, but sets out that 'in very exceptional circumstances there may be legitimate reasons for keeping limited elements of viability information confidential'. The SPG then goes further in paragraph 1.22 and sets out how the non-disclosure would need to be justified.</p>
RDLDV 012/005	Quod on behalf of Downing Students	<p>Delete '<i>where student proposals are required to provide an element of affordable student accommodation</i>' from para 3.4. In the absence of a local development plan policy which sets a viable and deliverable target for Affordable Student Accommodation (reflecting local planning requirements including CIL) the Council should not require Student schemes to provide any Affordable Student Accommodation. As presently worded the London Plan requirement for the 'maximum viable' level of student accommodation does not provide an appropriate policy framework in which Student Developers can purchase land. For example it is not clear if student developers should prepare bids for land on the basis of, for instance, 5% Affordable Student Accommodation or 50% Affordable Student Accommodation. On this basis, it is considered that London Plan Policy 3.8 cannot be applied to individual sites and therefore only provides a framework for preparation of local policy.</p>	<p>No change. Lambeth Local Plan Policy H7 sets out the requirement for student accommodation by stating that student housing will be secured by planning obligation or condition relating to the use of land or its occupation by members of specified educational institutions. Where the accommodation is not secured for students, the development will be subject to the requirements of policy H2 in respect of affordable housing provision. In addition, paragraph 3.53B of the London Plan states where there is not an undertaking with a specified academic institution, providers should, subject to viability, deliver an element of student accommodation that is affordable for students in the context of average student incomes and rents for broadly comparable accommodation provided by London universities. The Development Viability SPD cannot be used to revisit adopted planning policy or introduce new policy. Its purpose is to provide</p>

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			further guidance on how adopted policies will be applied.
RDLDV 012/006	Quod on behalf of Downing Students	Amend <i>'will be required'</i> to <i>'may be required'</i> on lines 4 & 5 of para 3.8. Add <i>'the revised assessment should focus on the impact of the proposed change only'</i> to para 3.8. There should be no one size fits all approach to S73 applications. In some circumstances a minor amendment to the unit mix will undoubtedly have no impact on the conclusions of the original viability assessment (particularly in large schemes and/or where the affordable housing offer represented a significant overprovision). Flexibility should be included within the SPD for the Council to use their discretion where it is not considered necessary for a revised assessment to be prepared (potentially causing delay). The SPD should also clarify that, where a revised assessment is required, this should focus on the impact of the change only. This is consistent with DCLG Guidance and S73 of the Act.	The Revised Draft SPD makes clear the circumstances in which a viability appraisal will be required for s73 applications. It already makes clear that there is no requirement to reassess the viability of the whole scheme. No change other than a cross reference added to the additional guidance on s73 applications provided in the Mayor's Affordable Housing and Viability SPG.
RDLDV 012/007	Quod on behalf of Downing Students	Amend <i>'require'</i> to <i>'encourage'</i> in the first line of para 5.2. SPDs must be prepared in accordance with the development plan (Regulation 5(1)(a)(iii)) and with regard to national policy and guidance (Section 19(2)(a) of the 2004 Act). The Planning Obligations SPD therefore cannot be used to introduce new policy requirements which are inconsistent with national policy. The NPPG (10-023-20140306) is clear that <i>'the most appropriate way to assess land or site value will vary from case to case'</i> . The approach also conflicts with para 4.1.4/5/6 of the recently adopted London Plan Housing SPG (2016) page 11 of the GLA's Development Appraisal Toolkit Guidance Notes (Jan 2014), pp.28- 29 of the LHDG's Viability Testing Local Plans (June 2012) and p12 of the RICS Financial Viability in Planning Guidance Note (2012) – all of which advocate several approaches to land value. None solely rely on Existing Use Value (EUV).	No change. The Revised Draft SPD is not introducing new policy but provides further guidance to the policies in the Lambeth Local Plan, particularly policy H2 which sets out the circumstances in which a viability appraisal will be required. In addition, the Revised Draft SPD is clear that Existing Use Value Plus is the Council's preferred approach for calculating a site's benchmark land value. The benefit of this approach is that it clearly identifies the uplift in value arising from the grant of planning permission through a comparison with the value of the site without planning permission. This is consistent with the PPG which states 'a competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current



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			use value or its value for a realistic alternative use that complies with planning policy'. The Council's use of EUV+ is also consistent with the Mayor's Affordable Housing and Viability SPG. Chapter 5 of the Revised Draft SPD sets out the limited circumstances in which using alternative use value will be accepted.
RDLDV 012/008	Quod on behalf of Downing Students	<p>Add <i>'the site's alternative use value'</i> to para 5.5'. Delete <i>'circumstances of the site and its owner'</i> from para 5.5. The NPPG states in para ID:10-022-20140306 that <i>"A competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for the development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of the land or its value for a realistic alternative use that complies with planning policy."</i></p> <p>In many cases the land owner and applicant are the same entity. This should not however be factored into the premium calculation. The RICS GN states in box 10 that <i>'the nature of the applicant should normally be disregarded as should benefits or disbenefits that are unique to the applicant. The aim should be to reflect industry benchmarks having regard to the particular circumstances in both development management and plan making viability testing'</i></p>	No change. When calculating an appropriate premium, it is necessary to have regard to the circumstances of the site and its owner. For example, where an existing permission for a site exists, this will need to be taken into account when calculating the premium. If the landowner is also the applicant then this will be taken into account when calculating the premium. The approach set out in the Revised Draft SPD is consistent with the Mayor's Affordable Housing and Viability SPG. It should be noted that the RICS Guidance Note does not have the status of planning policy or guidance.
RDLDV 012/009	Quod on behalf of Downing Students	Delete <i>'and it can be demonstrated that the use could be implemented on the site in question'</i> from para 5.6. Delete <i>'Generally the Council will only accept the use of AUV where there is an existing implementable permission for that use'</i> . A further requirement to demonstrate the use could be implemented is onerous, inconsistent with national policy and is not a requirement for planning applications consistent with the Act and Development Management regulations. This should be deleted from the Draft SPD. The NPPG states in para ID:10-022-20140306 that <i>"A competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for the development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of</i>	No change. The PPG states that when using AUV, it should be a realistic alternative use that complies with planning policy. To be realistic, a proposal must be deliverable and so if it cannot be demonstrated that a scheme can be implemented on the site in question, then it cannot be considered an appropriate or realistic alternative use.

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		<i>the land or its value for a realistic alternative use that complies with planning policy.</i>	
RDLDV 012/010	Quod on behalf of Downing Students	Amend ' <i>publically accessible</i> ' to ' <i>appropriate market</i> ' in para 5.10. Build cost tender information which informs tender price estimates prepared by suitably qualified Quantity Surveyors is commonly commercially sensitive and is not therefore publicly accessible. There is limited publicly available information on build costs. The BCIS database has a relatively small sample base and is not therefore an appropriate replacement for an elemental cost estimate based site specific circumstances.	No change. For transparency, build costs should be benchmarked against publically accessible information and supported by evidence from cost consultants. This is consistent with the approach in the Mayor's Affordable Housing and Viability SPG.
RDLDV 012/011	Quod on behalf of Downing Students	Delete para 5.18. It is not always appropriate to require a review mechanism where a scheme is overproviding affordable housing (i.e where the offer is based on a growth model approach which entails greater development risk). A review in this scenario risks the double counting of viability.	No change. Review mechanisms will be used where an applicant has relied on growth forecasts to assess whether any additional affordable housing can be delivered based on actual figures and to assess whether the modelling was correct. It will not result in any double counting because if the growth modelling was correct, then the scheme has already delivered as much affordable housing as it can and no more would be sought.
RDLDV 012/012	Quod on behalf of Downing Students	Para 5.22. Add new sentence ' <i>Student accommodation similarly to long term private rent, differs significantly from build for sale housing and therefore requires a more flexible approach to affordable housing and other planning obligations to ensure these schemes remain viable and deliverable</i> '. The SPD should recognise that Student Accommodation Schemes provide a long term income stream which generates a lower capital value than private sale. These schemes also have a lower efficiency due to the need for communal floorspace. These schemes therefore requires a more flexible approach to affordable housing and other planning obligations to ensure they remain viable and deliverable.	No change. Whether or not a planning obligation is sought is a matter of whether the obligation complies Regulation 122 of the Community Infrastructure Levy Regulations 2010. Consideration of affordable housing in relation to student accommodation is matter for Local Plan policy rather than this SPD.
RDLDV 012/013	Quod on behalf of	Add ' <i>where the scheme is to be built out over a long period of time</i> ' to the end of the first sentence in para 6.4. The adopted London Plan Housing SPG (2016) (para 4.3.3) makes clear that review mechanisms are	No change. The Revised Draft SPD does not introduce new policy but provides further guidance to the Council's adopted development

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	Downing Students	appropriate when <i>'a large scheme is built out in phases and/or is built out over a long period of time'</i> . It also states <i>'For schemes with a shorter development term consideration should be given to using S106 clauses to trigger a review of viability if a scheme is not substantially complete by a specified date.'</i> The NPPG states (10-017-20140303) that <i>'where a scheme requires phased delivery over the medium and longer term, changes in the value of development and changes in costs of delivery may be considered'</i> .	plan, particularly Policy H2 and the requirements for review mechanisms. Policy H2 states that 'provisions for re-appraising the viability of schemes may form part of s106 planning agreements where the financial appraisal demonstrates that the maximum amount of affordable housing a scheme can reasonably support is below the policy target'. This is supported in paragraph 5.14 of the Local Plan. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be used to address changing circumstances and uplift in values to secure any additional affordable housing. The review mechanisms set out in the Revised Draft SPD are consistent with the Lambeth Local Plan, the London Plan and the Mayor's Affordable Housing and Viability SPG.
RDLDV 012/014	Quod on behalf of Downing Students	Add <i>'In certain circumstances it may not be appropriate to require a review'</i> to the end of para 6.4. It is not always appropriate to require a review mechanism where a scheme is overproviding affordable housing (i.e where the offer is based on a growth model approach which entails greater development risk and could result in the double counting of viability). It is also not appropriate for Student housing schemes to include a review mechanism because the investment value already factors in long term rental growth.	No change. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be used to address changing circumstances and uplift in values to secure any additional affordable housing following grant of planning permission. Where a growth model approach has been used, the review will not result in any double counting because if the growth modelling was correct, then the scheme has already delivered as much affordable housing as it can and no more would be sought. Student accommodation schemes would only be subject to a review mechanism where they include an element of affordable housing for the wider population (rather than affordable student accommodation for students) because the student accommodation element of

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			the scheme has not been secured for students (under Local Plan policy H7).
RDLDV 012/015	Quod on behalf of Downing Students	Para 6.5. Replace 'for all schemes not meeting the 35% threshold' with 'where appropriate' in the first sentence. The 35% threshold set out in the Mayor's SPG is at present only in 'Draft' form and is subject to change. It is also not always appropriate to require a review mechanism where a scheme is overproviding affordable housing (i.e where the offer is based on a growth model approach which entails greater development risk and could result in the double counting of viability).	No change. Lambeth's SPD is proposed to be adopted following the publication of the Mayor's Affordable Housing and Viability SPG in August 2017. Where a growth model approach has been used, the review will not result in any double counting because if the growth modelling was correct, then the scheme has already delivered as much affordable housing as it can and no more would be sought.
RDLDV 012/016	Quod on behalf of Downing Students	Para 6.5. Add 'full' before 'occupation' in sentence 4 of bullet 2. It is not appropriate for a near end review mechanism to restrict the occupation of units which have already been sold or rented. The review would restrict the sale/ renting of final units, restrictions on occupation are therefore not required.	No change. The near end review mechanism will not restrict the sale or renting of final units. The review mechanism will be triggered at 75% of sales and then must be undertaken prior to the occupation of units in the scheme. This allows for the remaining units to be let or sold whilst the review is taking place.
RDLDV 012/017	Quod on behalf of Downing Students	Para 6.7. Amend ' <i>20% of the increase in the scheme's value returned to the developer and 80% to the Council</i> ' to ' <i>shared equally 50/50 between the Council and developer</i> '. The proposed 80/20 split is arbitrary and has not been tested to ensure it would not frustrate overall housing delivery. It also does not reflect the terms of reviews agreed by the Council to date. Any additional contribution identified by a review should be shared equally with the Authority in order to provide sufficient incentive for the developer to maximise the performance of the scheme.	No change. The Revised Draft SPD states that the split will typically be 80% to the council and 20% to the developer. This allows for flexibility but is clear that the split reflects the primary purpose of review mechanisms, which is to secure policy compliant levels of affordable housing. The 20% allows developers to benefit in the event of higher development values and lower costs but ensures that maximum public benefit is secured over the period of the development. It should be made clear that the surplus and subsequent split is a reflection of and attributed to any additional profit once the agreed profit levels/costs have been taken into account. Therefore it is not considered that this would

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			<p>have any bearing on development risk or the ability to secure development finance. The Mayor has not objected to Lambeth's approach in his response to the revised draft SPD.</p>
RDLDV 013/001	DP9 Ltd on behalf of ITV plc	<p>It is recognised that there is a need to strike the right balance in planning decision taking. Developers / applicants often require confidentiality at the pre-application stage in respect of emerging proposals that may not be in the public domain as well as at the application stage, typically in respect of scheme / development viability information. This confidentiality often needs to be balanced against the needs to inform and consult with the local neighbours etc who might be affected by development proposals. Councils and the communities likely affected by development / scheme proposals need to understand the issues of viability and how these impacts on the ability of a scheme to deliver on specific planning objectives e.g. affordable housing. The process of communicating the information to local groups / residents / neighbours takes place through the pre-application process entered into by the developer /applicant. That process continues through the application stage up to a report being prepared and tabled with the planning committee. Members of the planning committee will be privy to the relevant (and often confidential) background information that has determined what a scheme is able to provide. Elected members are in place to represent the borough population and to serve on decision making committees. There is a need for a balanced approach to the development process. This applies both to the level of section 106 obligations, alongside CIL levies etc, as well as the information that is placed in the public domain to justify the approach that a developer / applicant might take in respect of specific aspects. Section 4 of the SPD discusses transparency. The current approach is that the scheme viability information submitted to support planning applications is done so on a confidential basis owing to the commercial sensitivities of the information. This should not alter. Officers and lead members, and those of the Planning Committee charged with determining an application will be advised of the specifics of a case and can, if they request, view the viability material. It is noted, however, that the SPD quotes the PPG as saying that "transparency of viability evidence is encouraged wherever possible". It is</p>	<p>No change. The PPG states that for viability, transparency of evidence is encouraged wherever possible, which is a presumption in favour of the publication of viability appraisals and information. In line with this approach, Chapter 4 of the Revised Draft SPD already clearly sets out the Council's approach to transparency and the publication of viability appraisals. Paragraph 4.2 of the Revised Draft SPD states that the "Environmental Information Regulations 2004 (EIR) cover access to 'environment information' held by public authorities including local planning authorities. 'Environmental information' for these purposes includes information relating to development viability. Under the EIR there is a presumption in favour of disclosure of environmental information. The EIR recognise that there are certain circumstances ('exceptions') where environmental information may fall not to be disclosed. In most cases, a balancing exercise has to be carried out to decide whether the exception should outweigh the presumption in favour of disclosure." In addition, paragraph 4.4 states that the Council will draw upon the principles of the EIR in deciding whether there is any reason why the submitted viability information should not be published alongside other planning application documents and that it will only depart from its starting point of</p>

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		relevant to highlight the words “encouraged wherever possible”. This is different to the current approach of the draft wording of the SPD, para 4.5, p11 which sets out that an “exceptional circumstance” case should be made for withholding from publication any part of the viability assessment	transparency where there is a convincing case that one or more of the exceptions in the EIR would apply to outweigh the public interest in disclosure of the information.
RDLDV 013/002	DP9 Ltd on behalf of ITV plc	The SPD, p11 justifies its approach to transparency on the basis of the advice in the PPG – footnote 6 refers to PPG para 17. Can the reference be clarified – para 17PPG refers to costs and values in decision-taking, not transparency?	No change. The footnote was amended in the Revised Draft SPD to correct the reference to paragraph 004 which states that ‘transparency of evidence is encouraged wherever possible’.
RDLDV 013/004	DP9 Ltd on behalf of ITV plc	It is appropriate that the Viability Appraisal Methodology (section 5, p13 SPD) is flexible in its application and that applicants are able to justify particular approaches to the inputs to viability assessments.	No change. As clearly explained in the Revised Draft SPD, Existing Use Value Plus is the Council’s preferred approach for calculating a site’s benchmark land value. The benefit of this approach is that it clearly identifies the uplift in value arising from the grant of planning permission through a comparison with the value of the site without planning permission. This is consistent with the PPG which states ‘a competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of its value for a realistic alternative use that complies with planning policy’. Chapter 5 is sufficiently flexible by setting out the circumstances in which AUV as an alternative approach will be considered.
RDLDV 013/005	DP9 Ltd on behalf of ITV plc	The SPG, section 5, para 5.9 advises that engagement with Registered Providers should begin during the pre-application process and affordable housing values should reflect discussions with and offers made by Registered Providers. We note that an affordable housing valuation could also be suitable at this stage.	No change. Comment is noted.

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RDLDV 013/006	DP9 Ltd on behalf of ITV plc	Section 5, paragraph 5.22 states that for purpose built schemes for long-term private rent (Build to Rent), the council will follow the Mayor's approach to viability appraisals in the draft Affordable Housing and Viability. It should be taken into consideration that the long-term management and ownership of the affordable element Mayor's Build to Rent still requires clarity.	It is proposed to adopt the Lambeth SPD after the Mayor's final SPG has been published.
RDLDV 013/007	DP9 Ltd on behalf of ITV plc	Review mechanisms are discussed at section 6, p16 SPD. The planning guidance recognise that review mechanisms might be appropriate for large multi phased schemes and / or in periods of economic uncertainty. The SPD should acknowledge that review mechanisms are not mandatory and that each case will be assessed on its own merits having regard to scheme and site circumstance and bearing in mind the relevant planning guidance and advice.	No change. The Revised Draft SPD does not introduce new policy but provides further guidance to the Council's adopted development plan, particularly Policy H2 and the requirements for review mechanisms. Policy H2 states that 'provisions for re-appraising the viability of schemes may form part of s106 planning agreements where the financial appraisal demonstrates that the maximum amount of affordable housing a scheme can reasonably support is below the policy target'. This is supported in paragraph 5.14 of the Local Plan. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be implemented to address changing circumstances and uplift in values to secure any additional affordable housing throughout the implementation of the planning permission. The review mechanisms set out the in the Revised Draft SPD are consistent with the Lambeth Local Plan, the London Plan and the Mayor's Affordable Housing and Viability SPG.
RDLDV 014/001	Lichfields on behalf of U + I Group Plc	We submitted representations to the initial consultation on 13 February 2017. These representations made a number of comments, including requesting that: the review mechanism is amended to a 50:50 uplift split (up to the policy compliant position), rather than an 80:20 split;	No change. The Revised Draft SPD states that the split will typically be 80% to the council and 20% to the developer. This allows for flexibility but is clear that the split reflects the primary purpose of review mechanisms, which is to secure policy compliant levels of affordable

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		<p>the SPD clarifies that the council's intention to publish information is discussed and agreed as part of pre-application discussions; and the SPD clarifies that, in cases where the council does not accept the applicant's request for confidentiality, the council will provide a robust written response setting out why the information should be made public.</p> <p>Reviewing the updated document, it is disappointing that these comments have neither been adequately responded to nor addressed in the updated draft SPD. In particular, there appears to be no rationale or justification given for the proposed 80:20 split, leaving the matter clearly unsound.</p>	<p>housing. The 20% allows developers to benefit in the event of higher development values and lower costs but ensures that maximum public benefit is secured over the period of the development. It should be made clear that the surplus and subsequent split is a reflection of and attributed to any additional profit once the agreed profit levels/costs have been taken into account. Therefore it is not considered that this would have any bearing on development risk or the ability to secure development finance. The Mayor has not objected to Lambeth's approach in his response to the revised draft SPD.</p>
RDLDV 014/002	Lichfields on behalf of U + I Group Plc	<p>The amended reference to the draft Affordable Housing and Viability SPG, and the limited information with regard to information being kept confidential in 'very exceptional circumstances', represents a risk for developers and clearer guidance should be given as to what types of exceptional circumstances are more likely to be recognised.</p>	<p>No change. The Revised Draft SPD is clear on the council's approach to transparency. In addition, the Mayor's Affordable Housing and Viability SPG makes clear in paragraph 1.22 that "If an applicant wishes to make a case for an exceptional circumstance in relation to an element of their assessment, they should provide a full justification as to the extent to which disclosure of a specific piece of information would cause an 'adverse effect' and harm to the public interest that is not outweighed by the benefits of disclosure. The Mayor will consider this carefully with reference to the 'adverse effect' and overriding 'public interest' tests in the EIR, as well as the specific circumstances of the case."</p>
RDLDV 014/003	Lichfields on behalf of U + I Group Plc	<p>As a further point and in connection with paragraph 3.2, we note that the submission of draft financial viability assessments at pre-application stage is helpful to allow inputs/methodology to be agreed <i>if</i> the scheme is at a sufficiently advanced stage, however, there needs to be an appreciation that pre-application schemes will evolve and that costs/values etc may change in response to this.</p>	<p>No change. Whilst it is acknowledged that pre-application schemes will evolve, the council's approach to requiring draft appraisals at pre-application stage is flexible and it is not anticipated that seeking information which reflects the scale and nature of the proposed</p>



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			development will be a source of delay to the planning process.
RDLDV 014/004	Lichfields on behalf of U + I Group Plc	We respectfully request that our earlier representations are reconsidered and that the SPD is expanded to clarify the processes for disclosure and circumstances in which information may or may not be kept confidential.	No change. The comments submitted during the first round of consultation on the Draft SPD (Ref LDV020) have been reconsidered but there is no change to the response. The Revised Draft SPD sets out the Council's stance on transparency of information. It is not possible to set out a comprehensive list of the exceptional circumstances and when they will apply. The purpose of the SPD is provide further guidance on the policy framework and not to set out what may potentially happen in every single case.
RDLDV 015/001	Deloitte LLP on behalf of Guy's and St. Thomas Charity and King's College London	On behalf of our clients, Guy's and St Thomas' Charity ("the Charity") and King's College London ("KCL") ("clients"), we are writing to respond to the London Borough of Lambeth (LBL) Draft Supplementary Planning Document Development Viability, currently published for consultation until 5 May 2017. Our clients have previously submitted representations on the earlier draft of this SPD and generally those comments stand, given that the current draft SPD has not made any attempts to address or respond to our concerns. Guy's and St Thomas' Charity is an independent charitable foundation which supports new ideas to tackle major health and care challenges in the London boroughs of Lambeth and Southwark, and therefore has considerable interest in planning matters in the borough. Enclosed is a site plan of the Charity's land ownership in the borough, which is referred to as 'Land at Royal Street' and includes Stangate and Canterbury House, Becket House, land adjacent to Archbishops Park and an associated car park. King's is a partner of the Guy's and St Thomas' NHS Foundation Trust. Guy's and St Thomas' Hospital is made up of two of London's oldest and most well-known teaching hospitals. King's are pioneers in health research, and provide high quality teaching and education. This partnership allows them to provide the latest treatments alongside the best possible care. Our clients welcome the opportunity to comment on the draft Supplementary Planning Document. We welcome the Council's decision to prepare a Development Viability SPD (Draft SPD) as a means of bringing consistency and transparency to the	No change. An amendment was made in the Revised Draft SPD to allow for other models in addition to Argus Developer software. However, alternative models are required to show full calculations and inputs which allows the model to be fully interrogated and the inputs varied.

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		<p>approach to viability for new development within the Borough. We recognise that the SPD is in draft form and that the Council is seeking feedback from developers, landowners and consultants to help determine whether the proposals are feasible from a market perspective. It is in this context that we have prepared this response. Paragraph 3.5 states that all financial viability appraisals should be accompanied by a fully working Argus Developer software model that can be tested. Argus Developer software is licensed software for individual use. Our clients therefore consider any requirement to submit a working model to be onerous. The requirement instead should be for financial viability appraisals to be accompanied by a 'protected' residual valuation, the relevant inputs from which the Council can input into its own model.</p>	
RDLDV 015/002	Deloitte LLP on behalf of Guy's and St. Thomas Charity and King's College London	<p>The benchmark land value approach is referenced throughout the draft SPD, however, paragraphs 5.2 and 5.3 specifically state that: <i>"5.2 In the majority of circumstances the council will require that the benchmark land value is derived from existing use value plus an appropriately justified site-specific premium as an incentive to encourage the landowner to bring the land forward for development. This is supported by guidance provided by the GLA. 5.3 The principle of this approach is that a landowner should receive at least the value of the land in its 'pre-permission' use, which would normally be lost when bringing forward land for development. A premium is added to provide the landowner with an additional incentive to release the site"</i>. Whilst supportive of a viability test which objectively considers the contribution a development site can make to important policy aspirations, such as affordable housing, our clients consider the benchmark land value approach to be particularly unclear and onerous. As a general point, it is incredibly difficult to value educational and health facilities as their value is derived from their specific operational uses rather than their potential developable value. On this basis, the benchmark land value approach is not an accurate one. In addition, the principle set out in paragraph 5.3 takes little account of a landowner's legitimate expectation to receive full value for its land which reflects the consented use, rather than the existing use of the property. No guidance is given as to what the 'additional premium' should be as an incentive to release a site. For the Charity, for example, who hold Land at Royal Street as an investment for the benefit of its beneficiaries, it would</p>	<p>No change. The Existing Use Value can be established for any use. The Revised Draft SPD sets out the circumstances in which Alternative Use Value will be accepted. It also sets out how the premium will be determined on a case by case basis, having regard to the circumstances of the site and owner, policy requirements and extant planning permissions. This is consistent with the Mayor's Affordable Housing and Viability SPG.</p>

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		<p>expect to bring forward a planning application and receive full value for the land reflecting the consented scheme. This full value can then be reinvested for the benefit of health care in the Boroughs. The approach in paragraph 5.3 assumes that in calculating viability the developer's profit is protected at the expense of the landowner which, if applied in practice to the acquisition of land, presents little incentive for the landowner to develop. An approach which adopts the legitimate end value of the land as an integral part of the site appraisal, with a viability test which considers the impact of all development costs (including the land) on the profit margin of the developer is, in our client's view a more equitable approach.</p>	
RDL DV 015/003	Deloitte LLP on behalf of Guy's and St. Thomas Charity and King's College London	<p>The draft SPD currently requires any site-specific abnormal costs to be identified at the pre-application stage and supported by robust evidence (including contractor costs) (paragraph 5.13). Our clients request that this is revised so that it is required 'at the earliest stage possible' rather than at pre-application stage. In most instances, the pre-application stage is far too early to identify all costs, including contractor costs, as the pre-application stage is often used to establish the principle of development, and a full team of consultants is not usually appointed until there is some certainty over the development proposals. Paragraph 5.19 allows for all likely section 106 planning obligations and applicable CIL charges to be included as a development cost. On this basis, our clients request that development costs also take account of funding other assets for wider public benefit, including those associated with new or replacement health and education provision.</p>	<p>No change. The Revised Draft SPD is clear that a draft appraisal is necessary at the pre-application stage for proposals which are likely to trigger a requirement for affordable housing to agree the inputs and methodology which will inform the final proposal. The approach is flexible and the information required will reflect the scale and nature of the proposed development. Paragraph 5.13 relates specifically to site-specific abnormal costs which are known to have an impact on the viability of development and land values and so should be raised during the pre-application process. In addition, in certain circumstances, it may be possible for land and/or infrastructure to be provided in kind, instead of money, to satisfy a charge arising from CIL. In such a case, this would be taken into account in the assessment of development viability on a case by case basis.</p>
RDL DV 015/004	Deloitte LLP on behalf of Guy's and St. Thomas Charity and	<p>The draft SPD is currently drafted to allow provisions for re-appraising the viability of schemes and proposes that review mechanisms are in place to determine whether a development is capable of providing additional affordable housing (paragraph 6.3). As a starting point, our clients do not consider review mechanisms to be appropriate for large scale, long term</p>	<p>No change. The Revised Draft SPD does not introduce new policy but provides further guidance to the Council's adopted development plan, particularly Policy H2 and the requirements for review mechanisms. Policy H2 states that</p>

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	King's College London	<p>masterplan developments, which are delivered over a number of phases. This is a potential option for a long term strategy for the Guy's and St Thomas' Westminster Bridge Campus. Our clients request that the draft SPD is updated to clarify that any reappraisal of the viability of schemes also accounts for circumstances when schemes are proven to be less viable. The draft SPD should set out how this would be dealt with, taking into account that in such circumstances no development might be possible. Our clients are not clear how the review mechanism would work in practice and requests clarification on this matter. For example, how will the review take account of an increase in bank borrowing costs, construction inflation or overage provisions which a landowner will legitimately have included in any contractual arrangements with his development partner.</p>	<p>'provisions for re-appraising the viability of schemes may form part of s106 planning agreements where the financial appraisal demonstrates that the maximum amount of affordable housing a scheme can reasonably support is below the policy target'. This is supported in paragraph 5.14 of the Local Plan. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be implemented to address changing circumstances and uplift in values to secure any additional affordable housing following initial implementation of the planning permission. They should be based on up to date figures and will therefore take account of increases in finance or construction costs. Review mechanisms could not result in a reduction in the overall quantum of affordable housing as this would need to be considered through a new planning application.</p>
RDLDV 015/005	Deloitte LLP on behalf of Guy's and St. Thomas Charity and King's College London	<p>The draft SPD proposes a pre-implementation review, which will be placed on all schemes where the Council considers there to be a likely delay in starting on site and/or it is necessary to incentivise delivery. It states that "<i>pre-implementation reviews will normally be triggered in the event construction does not commence within 12 months of the grant of planning permission</i>". It is not clear how the Council will determine the schemes that are considered likely to be subject to a delayed start or what criteria will be applied. Our clients request clarification over what criteria might be applied to determine whether a scheme will be subject to a pre-implementation review. The requirement to commence construction within 12 months is particularly onerous. There is no requirement in planning law to commence development within one year and there may be entirely legitimate reasons for a landowner not to bring forward a consented scheme until later in the life of the planning permission. The Mayor's draft Housing SPG states that an <i>early review</i> will be required "<i>where an agreed level of progress on</i></p>	<p>No change. Paragraph 6.5 was amended following the first round of public consultation on the Draft SPD to state that early reviews will normally be triggered in the event construction does not commence within 2 years of the grant of planning permission. The exact parameters for triggering a review mechanism will be agreed with the council through the s106 agreement in individual cases and there is no need to provide further guidance on this. Paragraph 6.5 of the Revised Draft SPD will be the starting point for the use of review mechanisms.</p>

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		<p><i>implementing the permission (this will be agreed by applicant and LPA, and the Mayor where relevant, on a site-by-site basis) is not made within two years of the permission being granted</i>. Our clients consider this approach to be more appropriate should a pre-implementation review be imposed. However, given the complexity of funding hospital-related development, our clients seek confirmation from the Council that in the event of a site (such as Land at Royal Street) being brought forward as enabling development for wider public benefit, then this will be a legitimate reason for not imposing the early review.</p>	
RDLDV 015/006	Deloitte LLP on behalf of Guy's and St. Thomas Charity and King's College London	<p>For schemes that require a review, it is proposed that there is an advanced stage review which will be triggered by the occupation of 75% of the market units. The draft SPD also states that <i>"an occupation clause is likely to be required which would prevent full occupation of the development until the review is completed and any additional affordable housing is delivered or a commuted sum is paid"</i>. As with the pre-implementation review our clients consider this to be a particularly onerous requirement which has the potential to delay progress of the development whilst a review is carried out.</p>	<p>No change. An amendment was made in the Revised Draft SPD to state that the near end review mechanism will be triggered at 75% of sales. This will not delay progress to developments as the review will be triggered at 75% sales and must be undertaken prior to occupation of units in the scheme. This means that units can continue to be sold or let whilst the review is taking place.</p>
RDLDV 015/007	Deloitte LLP on behalf of Guy's and St. Thomas Charity and King's College London	<p>The draft SPD states that <i>"where a viability review demonstrates an improvement in a scheme's viability, a percentage split of the increase in the scheme's value between the developer and the council will be agreed on a case by case basis. This will typically be: 20% of the increase in the scheme's value returned to the developer and 80% to the council, up to the level that would be required for a policy compliant scheme."</i> Our clients object to this approach which ignores the landowner's legitimate right to share in any improvement in viability. Our clients believe this provision to be onerous and extremely difficult to implement. It therefore requests further information from the Council, and in any event requests that a clause be inserted stating that this will be reviewed and agreed on a case by case basis.</p>	<p>No change. The Revised Draft SPD states that the split will typically be 80% to the council and 20% to the developer. This allows for flexibility but is clear that the split reflects the primary purpose of review mechanisms, which is to secure policy compliant levels of affordable housing. The 20% allows developers to benefit in the event of higher development values and lower costs but ensures that maximum public benefit is secured over the period of the development. It should be made clear that the surplus and subsequent split is a reflection of and attributed to any additional profit once the agreed profit levels/costs have been taken into account. Therefore it is not considered that this would have any bearing on development risk or the</p>

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			ability to secure development finance. The Mayor has not objected to Lambeth's approach in his response to the revised draft SPD.
RDLDV 015/008	Deloitte LLP on behalf of Guy's and St. Thomas Charity and King's College London	In summary, our clients request that the approach to benchmark land value, development costs and review mechanisms is explained further, and reviewed to take account of the comments set out in these representations. In particular, our clients request that the draft SPD is updated to explain how the viability approach should be adjusted for landowners and developers delivering facilities for public benefit (such as the Charity whose development might be driven by the need to fund improvements to local health provision).	No change. The Revised Draft SPD sets out the approach to land values, development costs and review mechanisms, which is consistent with the Mayor's Affordable Housing and Viability SPG. What a scheme delivers can be expected to be addressed as part of the assessment of the planning merits. All proposals that trigger affordable housing requirements, or do not meet the requirements of other policies due to viability, will be required to submit a viability appraisal to justify why the policy requirements cannot be met. Expected revenues from a non-commercial scheme would fall to be considered as part of a viability exercise in the same way as for commercial landowners.
RDLDV 016/001	GLA on behalf of Mayor of London	Thank you for consulting the Mayor of London on the revised draft SPD. As you are aware all development plan documents including supplementary planning documents have to be in general conformity with the London Plan under section 24 (1)(b) of the Planning and Compulsory Purchase Act 2004. The GLA provided comments on the draft SPD in a letter dated 13 February 2017 and further comments by email on 23 March 2017. The changes made to the SPD to bring this in line with the Mayor's draft Affordable Housing and Viability SPG reflect the comments made on the previous version of the document and are welcome.	No change. Comment is noted.
RDLDV 017/001	Shaw Corporation on behalf of Totsbridge Limited	Paragraph 3.8 states that where an application made under section 73 has the effect of increasing the number of residential units and/or varying the tenure mix, and in any other case where the council considers it is warranted, the applicant will be required to submit an updated viability appraisal. Notwithstanding that by definition an application submitted under section 73 is 'minor material', it may be apparent that a change in unit	The Revised Draft SPD makes clear the circumstances in which a viability appraisal will be required for s73 applications. It also makes clear that there is no requirement to reassess the viability of the whole scheme. No change other than a cross reference added to the new

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		<p>numbers or unit mix will not have a material impact on viability because the degree of change is minimal, such that a full updated viability appraisal is not warranted. We therefore suggest that the text is amended to read as follows: “Where an application made under section 73... the applicant will may be required to submit an updated viability appraisal”. It will therefore be at the discretion of Officers to consider whether an updated viability assessment (and the cost and time that this incurs) is justified. It is taken therefore that where proposed amendments to a planning application are ‘non-material’ there will not be a requirement to submit an updated viability appraisal but suggest this is made explicit.</p>	<p>guidance on s73 applications in the Mayor’s Affordable Housing and Viability SPG.</p>
RDL DV 017/002	Shaw Corporation on behalf of Totsbridge Limited	<p>The following addition has been made in the revised draft: “For the purposes of assessing viability, the consented scheme to which the s73 application relates will be used as the benchmark land value”. This cannot always be the case. For example, the Section 106 Agreement may have recorded a Benchmark Land Value (BLV) against which any review will be benchmarked. The agreed quantum of affordable housing or other planning obligations may have been agreed notwithstanding that the original viability appraisal produced a deficit to BLV. It would be unreasonable to ignore a previously agreed BLV and deficit position – simply because the viability of the scheme may have improved does not necessarily mean that the residual land value is producing a ‘surplus’ above the original BLV. This sentence should be deleted.</p>	<p>Change. It is proposed to amend Paragraph 3.8 to state ‘For the purposes of assessing viability, the consented scheme to which the s73 application relates will typically be used as the benchmark land value’. This will enable consideration of occasions where a scheme was not viable at the time of the original consent. In addition a cross reference has been added to the new guidance on s73 applications in the Mayor’s Affordable Housing and Viability SPG.</p>
RDL DV 017/003	Shaw Corporation on behalf of Totsbridge Limited	<p>Paragraph 5.6 states that AUV will be acceptable “in limited circumstances” and “generally the council will only accept the use of AUV where there is an existing implementable permission for that use”. It is considered that these additions limit the ability of the Council to promote one form of development that offers superior planning benefits over another less desirable alternative. It may be that an alternative use of the site is acceptable in respect of planning policy but may not offer the same degree of planning benefits as the subject application – it is not relevant whether an alternative scheme has been implemented. If the alternative scheme: a) is acceptable in principle; and b) is of higher value, it is appropriate to consider such an alternative scheme as the basis of BLV because otherwise the landowner would not have the incentive to deliver the subject application and would instead</p>	<p>No change. The Revised Draft SPD is clear that the Council’s preferred approach for benchmark land value is existing use value plus and also sets out the limited circumstances in which AUV will be accepted. This is consistent with the approach in the Mayor’s Affordable Housing and Viability SPD. Each planning application submitted to the council is assessed on a case by case basis on its own merits in accordance with the development plan and any other material considerations.</p>

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		pursue an application for the alternative scheme, even though this may be less desirable to the Council. These additions should be deleted.	
RDLDV 017/004	Shaw Corporation on behalf of Totsbridge Limited	Paragraph 5.20 states that “profit requirements for affordable housing for rent or ownership should reflect lower levels of risk (typically around 6%)”. The affordable housing content still carries risk (for example if the RP experiences financial difficulties or becomes insolvent). Whilst the risk with a pre-sale of the affordable housing content might be less, there are still interest and risk factors to consider such that a more reasonable profit assumption for the affordable housing component is not less than 10%. We therefore suggest that the statement in brackets “typically around 6%” is deleted.	No change. Paragraph 5.20 of the Revised Draft SPD uses an industry standard which takes account of the lesser risk associated with affordable housing which is set at ‘typically 6%’. If there is a genuine justification for a greater level of profit then an applicant can make a case for this.
RDLDV 017/005	Shaw Corporation on behalf of Totsbridge Limited	Paragraph 6.5 sets out the two “stages” when a viability review will normally be required for all schemes not meeting 35% affordable housing, being: 1) where construction does not commence within 2 years of the grant of planning permission; and 2) a “near end review” (usually at 75% of sales of market units). We do not consider that a “near end review” is required for all schemes where a stage 1 review has not been triggered – i.e. if construction has commenced within 2 years of grant of planning permission, there should not normally be a requirement for a stage 2 “near end review”. This will have the effect of incentivising the early delivery of developments where the affordable housing viability has only recently been agreed. We note the following key points: Whilst it is acknowledged new guidance is currently out for consultation, the Mayor’s Housing SPG and current guidance states that review mechanisms may be considered “when a large scheme is built out in phases and/or is built out over a long period of time”. For schemes with a shorter development term the emphasis is on using review mechanisms only where there is a delay to delivery and completion of the scheme. The intent of review mechanisms should not to be to apply to smaller single phased developments but rather to ensure policy incentivises early delivery of new homes where the scheme viability and affordable housing contribution has only recently been agreed. In a number of cases a proportion of affordable housing may have been agreed notwithstanding a deficit position and the applicant will be taking an	No change. Near end review mechanisms are required for all schemes which do not provide a policy compliant level of affordable housing. The Revised Draft SPD does not introduce new policy but provides further guidance to the Council’s adopted development plan, particularly Policy H2 and the requirements for review mechanisms. Policy H2 states that ‘provisions for re-appraising the viability of schemes may form part of s106 planning agreements where the financial appraisal demonstrates that the maximum amount of affordable housing a scheme can reasonably support is below the policy target’. This is supported in paragraph 5.14 of the Local Plan. Where a scheme has demonstrated it cannot provide the policy requirement for affordable housing, review mechanisms will be implemented to address changing circumstances and uplift in values to secure any additional affordable housing.



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		<p>optimistic view on sales value growth in order to achieve an acceptable affordable housing offer. This is at significant risk to the applicant, where a scheme may already be at the margins of viability.</p> <p>In considering the terms of development funding, potential investors and funders have close regard to the terms of the Section 106 Agreement. A second stage review brings a significant element of uncertainty into the future value of the land and the returns it would provide. There might, for example, be a significant discrepancy between the Council's and applicant's assessment of costs and values, to which the developer would have little redress with occupation of units held in abeyance. This effectively ransoms the developer and chokes cash flow for the developer and contractor alike. This uncertainty discourages investors and funders and makes funding more difficult and expensive to secure. Alternatively it may be a reason to decline the funding altogether.</p> <p>A second stage review may have a role to play where a development is likely to be delivered in a number of phases or over a long time period but not for single phase developments.</p> <p>Should a development be meaningfully commenced (i.e. demolition and material operations undertaken) within two years of the date of permission, there should be no need for any further viability review as the developer will already have taken on board significant risk and in locking the necessary funding at the outset the funding risk as well in order to achieve this headline offer. We suggest that paragraph 6.5 is amended to state that "where an agreed level of progress on implementation has been made within two years of the permission being granted, a near end review will not normally be required other than where a large scheme is built out in phases and/or is built out over a long period of time". Paragraph 6.6 should be amended to explicitly state that "where an agreed level of progress on implementation has been made within two years of the permission being granted there will be no need for a near end review".</p>	
RDLDV 017/007	Shaw Corporation on behalf of Totsbridge Limited	Paragraph 6.7 states that "where a viability review demonstrates an improvement in a scheme's viability, a percentage split of the increase in the scheme's value between the developer and the council will be agreed on a case by case basis" and notes that "this will typically be: 20% of the increase in the scheme's value returned to the developer and 80% to the Council, up	No change. The Revised Draft SPD states that the split will typically be 80% to the council and 20% to the developer. This allows for flexibility but is clear that the split reflects the primary purpose of review mechanisms, which is to

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		to the level that would be required for a policy compliant scheme”. We do not consider that the proposed split of surplus of 80:20 in favour of the Council is fair or justified, as it does not incentivise the delivery of a scheme nor reflect the risk in progressing a scheme, especially when the agreed viability may be showing a deficit. Nor is the proposed split consistent with the Mayor of London’s draft Viability SPG, which states that where a surplus above the initial agreed profit level is identified, this should be split 60/40 between the LPA and developer – Paragraph 6.7 should be amended to state that typically 40% of the increase in the scheme’s value should be returned to the developer (i.e. to accord with the Mayor of London’s draft Viability SPG).	secure policy compliant levels of affordable housing. The 20% allows developers to benefit in the event of higher development values and lower costs but ensures that maximum public benefit is secured over the period of the development. It should be made clear that the surplus and subsequent split is a reflection of and attributed to any additional profit once the agreed profit levels/costs have been taken into account. Therefore it is not considered that this would have any bearing on development risk or the ability to secure development finance. The Mayor has not objected to Lambeth’s approach in his response to the revised draft SPD.
RDLDV 017/008	Shaw Corporation on behalf of Totsbridge Limited	Section 6 should be amended to include explicit reference that in calculating whether a ‘viability review demonstrates an improvement in a scheme’s viability’; a surplus will only be generated where the residual value of the development at the point of the review exceeds an agreed minimum Benchmark Land Value (BLV). The BLV agreed at grant of planning permission should be recorded in the Section 106 Agreement. The BLV should be a minimum, because the BLV is subject to market changes and inflation.	No change. Additional affordable housing would only be sought where a scheme generates a genuine surplus above the benchmark land value. For the purpose of viability appraisals, the benchmark land value will be captured in the review mechanism in the S106 agreement.

**Table 6: Summary of proposed changes to Final Draft SPD**

Chapter/ Paragraph	Proposed change	Reason for change
3.8	Add ‘typically’ to this paragraph to read ‘For the purposes of assessing viability, the consented scheme to which the s73 application relates will typically be used as the benchmark land value’. Reference is also made to the Mayor’s Affordable Housing and Viability SPG.	The insertion of ‘typically’ will allow for flexibility in considering whether to use the consented scheme as the benchmark land value for s73 applications where the original scheme was not viable at the time consent was granted. Further guidance on s73 applications was included in the Mayor’s Affordable Housing and Viability SPG published in August 2017 and a cross-reference has been included in the Final Draft SPD.

**Table 7: Addendum to Table 2 Draft Development Viability SPD representations and Council's response**

Ref	Respondent	SPD Section	Comment	Response
LDV024/001	Historic England (Historic England Planning Adviser)	Policy context	The purpose of the SPD is to provide clear guidance on viability to take forward policy in the adopted Lambeth Local Plan. We note that the matter principally addresses the matter of affordable housing as a key area of concern; we are pleased to see that provision is also made for consideration of additional matters addressed in other policies of the local plan (para 1.4 and 2.1). In this connection, it would be appropriate to refer to the heritage policies of the local plan (Q18 onwards) within paras 2.1 or 3.4. This would add clarity for users of the SPD, highlighting the need to make provision for, for example, archaeological investigation and publication of the results, or the repair of a heritage asset within a development site, each of which could be the subject of s106 agreements, or planning conditions.	No change. The SPD makes clear that development costs should be included in the appraisal. It is not necessary for the SPD to set out an exhaustive list of all development costs, such as archaeological investigations or repairs to a heritage asset.