

# Planning Obligations

**Draft Supplementary Planning Document**

February 2020





# 1 Introduction

In line with legislation outlined by the Community Infrastructure Levy 2010 (as amended) and the National Planning Policy Framework (NPPF) (as amended), Sunderland City Council has undertaken a comprehensive review of its approach to securing planning obligations from new development. This has been developed alongside the Sunderland Local Plan and the policies contained therein.

The council secures planning obligations from new development within the city via Section 106 of the Town and Country Planning Act 1990 (as amended). Developer contributions are sought in order to mitigate the impact of new development and to ensure the development is acceptable in planning terms. Planning obligations can be secured to support the delivery of a wide range of infrastructure, facilities and services, the details of the council's approach to securing planning obligations is set out within this Supplementary Planning Document (SPD).

This SPD will specifically supplement Policy ID2: Planning Obligations of the Core Strategy and Development Plan 2015-2033 (CSDP). In addition, it will provide further guidance in relation to the following policies within the CSDP:

- ID1: Delivering infrastructure
- H2: Affordable homes
- VC5: Protection and delivery of community facilities and local services
- NE1: Green and blue infrastructure
- NE2: Biodiversity and geodiversity
- NE4: Greenspace
- SP10: Connectivity and transport network

A Scoping Report for this SPD was subject to public consultation between July and October 2017 alongside the draft CSDP and a further round of consultation was undertaken on the draft SPD alongside the Publication Draft CSDP between 15 June 2018-27 July 2018. All feedback from both consultations has been incorporated into this document.

Once adopted, this SPD will be updated where necessary to reflect the most up to date policies and assist in the delivery of policies contained within the Sunderland Local Plan. The standards set out in this document will be applied to all applications valid on or after the date of its adoption.



## 2 Planning obligations and the purpose of this document

### Introduction

When determining planning applications for new development the council must take into account a wide range of issues to determine the acceptability of a proposed development. One of these considerations is whether the development would generate a need for new or improved infrastructure, services or facilities, without which the development would be unacceptable in planning terms.

The use of planning obligations can ensure that such needs are met to ensure new development is acceptable. These may be delivered directly by the developer or by way of a financial contribution to the council, which will arrange for the necessary investment to be made.

### Legislative Context

Section 106 of the Town and Country Planning Act 1990 (as amended) provides the mechanism for planning obligations to be secured from development. In addition, the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) set out additional legislation on the use of planning obligations.

Regulation 122 of the CIL Regulations defines that for a planning obligation to be taken into consideration when granting planning permission, it must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

Regulation 123 of the CIL Regulations placed limitations on the pooling of planning obligation contributions which meant that no more than five separate planning obligations could be entered into to enable the funding or provision of an infrastructure project or for the funding or provision of a type of infrastructure. However, on 1 September 2019, CIL Regulation amendments came into force which included the removal of the restriction of pooling and the replacement of regulation 123 lists with annual Infrastructure Funding Statements. This provides the council with much greater flexibility when funding infrastructure.

### National planning policy context

The National Planning Policy Framework (NPPF) identifies that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. It highlights that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition (paragraph 54). Paragraph 56 of the NPPF

| Mechanism                 | Details  | Example uses  |
|---------------------------|--|---|
| Planning Conditions       | To make otherwise unacceptable development permissible – these may restrict the use of development, or require specific approval via a discharge of conditions prior to commencement           | Noise and odours<br>Landscaping<br>Materials<br>Working hours                                   |
| S106 Planning Obligations | To make otherwise unacceptable development permissible by imposing controls that cannot be secured by planning conditions. These may be financial or non-financial and provided on or off-site | Provide affordable housing<br>Address site specific impacts<br>Deliver essential infrastructure |
| S278 Highways Agreements  | Agreements to provide for alterations to the adopted highway to be funded by developers  | Highway improvements  |

Figure 1: Summary of Planning Mechanisms used for mitigation against the impacts of development

restates the three statutory tests for planning obligations which are defined in the CIL Regulations and identifies that where obligations are being sought or revised, local planning authorities should take account of viability assessments, where required and appropriate, to prevent development from being stalled (paragraph 57).

In relation to viability, NPPF paragraph 55 makes clear that planning obligations should only be imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects. Paragraph 57 goes on to state that in planning applications that comply with up-to-date policies setting out expected contributions, it is up to the developer to demonstrate whether particular circumstances justify the need for a viability assessment at application stage. The Local Planning Authority as the decision maker, can decide on evaluation of all circumstances and evidence as to how much weight should be given to the viability assessment.

National Planning Policy Guidance (PPG) states that plans should be informed by evidence of infrastructure and affordable housing need. Viability assessment should not compromise sustainable development but should be used to ensure policies are realistic and the total cumulative cost of all relevant policies will not undermine deliverability of the plan.

## Local planning policy context

The council is currently preparing the Sunderland Local Plan in three parts:

**Part One** – Core Strategy and Development Plan (CSDP); This Plan sets an overarching strategy, strategic policies and strategic allocations and designations for the future change and growth of Sunderland. This Plan also includes local policies for Development Management purposes. This Plan will cover the period 2015 to 2033 and is for development within Sunderland’s administrative boundaries.

**Part Two** – Allocations and Designations Plan (A&D Plan); will set out local policies including site-specific policy designations and allocations for the development, protection and conservation of land in the city in order to deliver the overall strategy as set out within the CSDP.

**Part Three** – International Advanced Manufacturing Park (IAMP) Area Action Plan (AAP) 2017-2032; The IAMP AAP was adopted by Sunderland City Council and South Tyneside Council in November 2017. This part of the Local Plan sets out site-specific policies for the comprehensive development of the IAMP.

The CSDP along with the IAMP AAP supersedes some of the saved policies of the Sunderland Unitary Development Plan (UDP) 1998 and UDP Alteration No. 2 (2007). However, a number of policies will remain saved policies and continue to form part of the Development Plan until such a time as the Local Plan Part 2: Allocations and Designations Plan is adopted.

This document specifically supplements Policy ID2 Planning Obligations within the CSDP and as such provides further guidance on when planning obligations will be required and the nature of these requirements.

The CSDP recognises that in certain circumstances, particularly where planning conditions cannot make a development acceptable, planning obligations are necessary to mitigate and/ or compensate the impact of a development which, without that mitigation would render the development unacceptable in planning terms. As such, Policy ID2 sets out the council’s approach to planning obligations and specifies that:

1. Section 106 planning obligations will be sought to facilitate the delivery of:
  - i. affordable housing; and
  - ii. local improvements to mitigate the direct or cumulative impact of development where evidenced and/or additional facilities and requirements made necessary by the development, in accordance with the Planning Obligations SPD

Where it is not possible to deliver the policy requirements in full, a viability assessment should be submitted in line with the requirements of the PPG.

The use of planning obligations will be critical to the delivery of Strategic Priority 13 of the CSDP which identifies the need, to ensure that the city has the infrastructure in place to support its future growth and prosperity. In order to meet this need the council will seek to secure a fair and reasonable developer contribution without adversely affecting the ability for new developments to take place in the city.

The South Sunderland Growth Area (SSGA) is a major new growth area for housing development within the city, comprising of 227ha of land in the Ryhope and Doxford Park wards. Planning applications submitted for sites within SSGA will be considered separately to the standards within this document. The SSGA SPD and Infrastructure Development Study (IDS) will be used in its place, which provides specific guidance for planning obligations and infrastructure requirements in this strategic growth area.

It may be that further site or area specific SPDs or masterplans are prepared, in the future that will include their own site-specific planning obligations and infrastructure requirements. SPDs and masterplans will be publicised on the council's website. Pre-application discussions will highlight where, when and in what circumstances it will be necessary to deviate from the requirements set out within this document.



### 3 Summary of requirements

The legislative requirements which govern the use of planning obligations mean that each obligation needs to be considered individually having regard to site-specific circumstances of a development proposal.

Notwithstanding the above, it is possible to identify common issues that are likely to arise from the majority of development schemes and for which planning obligations may be required to mitigate the impacts.

The council's approach to securing planning obligations is therefore based around the following:

- **Affordable Housing** – As part of the housing mix, the council needs to secure an appropriate level of affordable housing to meet identified needs. As such developers will need to provide an element of affordable housing (both affordable rent and intermediate tenure) within new housing developments.
- **Education** – In recent years there has been an upturn in demand for local school places due to a combination of rising birth rates across the city and the availability of new housing. Notwithstanding this, the capital monies available to accommodate increased demand for school places is very limited and therefore developer contributions are sought to ensure the required school places from new housing developments are provided.
- **Children's Equipped Play Space** – Having local access to quality fixed play provision is an important part of a child's life and, as such, when new housing is proposed developer contributions will be sought to improve these facilities.
- **Ecology** – To minimise the impact of new development on biodiversity and geodiversity, the council aims to promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations. As such, developer contributions will be sought for on and off-site mitigation and enhancements related to a development and prevailing ecological and geographical factors.
- **Open Space** – The provision of open space is an important factor in the health and well-being of communities, providing a community function and making a significant contribution to quality of life. As such, in the event a development would result in a detrimental impact, loss of or increased pressure on existing open space a developer contribution may be sought to provide new or enhance areas of open space such as amenity green space and allotments.
- **Highways and Public Transport** – Most new developments will inevitably have some impact on the transport network around them, as such, to accommodate impact and to facilitate a move towards more sustainable modes of transport, improvements to the infrastructure or existing public transport services may be required which, depending on individual circumstances may be provided by way of a developer contribution.
- **Sport and Recreation** – Sport and physical recreation facilities will be safeguarded from development wherever possible. Where this is not possible and it cannot be demonstrated that the existing facilities are not surplus to demand, developer contributions will be sought for the creation of new or enhanced facilities to accommodate increased demand or compensate for their loss.
- **Other Site-Specific Requirements** – In some cases development may result in a need for other mitigating actions and these will be assessed on a case by case basis. Such requirements may relate, but not be limited to healthcare facilities, public realm improvements, public art provision and the protection of heritage assets.

| Infrastructure type             | Residential                    | Student accommodation                      | Non-residential    |
|---------------------------------|--------------------------------|--|--------------------|
| Affordable Housing              | 10 dwellings or 0.5ha. or more | Not required                               | Not required       |
| Education                       | Case by case basis             | Not required                               | Not required       |
| Equipped Play Space             | 10 dwellings or more           | Not required                               | Not required       |
| Ecology                         | Case by case basis             | Case by case basis                         | Case by case basis |
| Open Space (Amenity Greenspace) | 10 dwellings or more           | 10 units or floor space of more than 0.1ha | Not required       |
| Sport and Recreation            | Case by case basis             | Case by case basis                         | Not required       |
| Allotments                      | 10 dwellings or more           | Not required                               | Not required       |
| Highways                        | Case by case basis             | Case by case basis                         | Case by case basis |
| Public Transport                | Case by case basis             | Case by case basis                         | Case by case basis |
| Other site-specific             | Case by case basis             | Case by case basis                         | Case by case basis |

Figure 2: Thresholds for contributions

The above table summarises when planning obligations will typically be sought, however there may be specific cases that vary for justifiable reasons.

In line with the guidance set out in the CSDP, bed spaces can be notionally equated with types of dwellings, as set out below:

- One bedroom dwelling – 2 bed spaces
- Two bedroom dwelling – 3 bed spaces
- Three bedroom dwelling – 4 bed spaces
- More than 3 bedrooms – 1 bed space per each additional bedroom

When a development is targeted at a specific demographic it may not be appropriate to request developer contributions for some or all infrastructure types. All developments will be assessed on a case by case in line with the guidance set out in this document.

All thresholds which apply to housing development relate to the net increase in the number of dwellings. Net increase in this context refers to the increase having regard to any demolition of dwellings that may form part of a planning application.

The council will take into account the full extent of the site and area and neighbouring sites to ensure that sites are not developed in an incremental manner in order to remain below the defined threshold for when planning obligations are required.

### Applications for Outline Planning Permission

For applications for outline planning permission a formula will be identified within the legal agreement, which will be consistent with the guidance set out within this document and will be applied once the reserved matters application(s) have been received and the type of dwellings are known.

### Monitoring of Planning Obligations

For all Section 106 agreements a monitoring fee which is proportionate and reflective of the monitoring and reporting required will be charged. This will be calculated based on the number and type of obligations, the trigger points and duration for which monitoring is required. Further details of the monitoring fee can be found in Appendix 3 of this document.

### Viability

Where a developer considers that there are site-specific issues which mean that the cumulative impact of policy requirements and planning obligations would compromise development viability the council may enter into negotiations with developers to agree a reduced contribution where appropriate. Detailed information in relation to viability can be found in Section 13 and Appendix 2 of this document.

# 4 Affordable housing

## Introduction

The NPPF requires councils to set out the contributions that are expected from development, including the levels and types of affordable housing provision required; and set their own policies where affordable housing is needed. The NPPF sets out a requirement to undertake a local housing needs assessment to understand and meet objectively assessed affordable housing needs.

The Housing Strategy for Sunderland includes a headline action to “maximise the delivery of affordable housing, including flexible use of affordable housing contributions and a diverse range of affordable housing for rent and ownership”.

Policy H2 Affordable Homes of the CSDP requires that in order to deliver affordable housing to meet identified needs, all housing developments of 10 dwellings or more, or on sites of 0.5ha or more, should provide at least 15% affordable housing. This affordable housing should:

1. be provided on-site in order to help achieve mixed and balanced communities. However, exceptionally off-site provision or a financial contribution made in lieu maybe considered acceptable where it can be justified;
2. be retained in affordable use in perpetuity;
3. when part of a mixed housing scheme should be grouped in clusters throughout the site;
4. be indistinguishable in terms of appearance from the market housing; and
5. reflect the latest available evidence with regards the tenure split and size of dwellings.

Where it is not possible to deliver the affordable housing requirement in full, a viability assessment should be submitted in line with the requirements of the PPG.

CSDP Strategic Priority 4 identifies the need to provide a range and choice of accommodation, house types and tenures to meet the diverse needs of current and future residents.

In accordance with the current 2017 SHMA, the council will seek a tenure split of 80% affordable rent and 20% intermediate tenure. The SHMA will be updated regularly and applicants must consider this as a starting point with regards to tenure split and affordable housing mix. Other evidence, where appropriate will be considered to ensure the right tenure split and mix is delivered on sites.

If through a viability assessment it can be demonstrated that the 15% requirement is not viable with an 80:20 tenure split, consideration will be given in the first instance to reviewing the tenure split to still enable 15% to be provided. If it is considered that the 15% is still not viable, a sliding scale should be adopted by reducing the 15% down to a percentage that is viable.

The council recognises that in some instances, it may not be possible to deliver the affordable housing requirement in full. In this instance the applicant will be required to submit a detailed viability assessment to clearly demonstrate how the affordable housing requirement set out in Policy H2 would make the scheme unviable.

## Approach to seeking developer contributions

In line with the recommendations set out in the 2017 SHMA, the requirements set out in this SPD apply to all residential developments proposing 10 dwellings or more and on residential sites of 0.5ha or more, including mixed use sites with a residential element which meets the above threshold. However, residential developments within Use Classes C2 and C2A as defined by the Use Classes Order 1987 (as amended) and developments for student accommodation will be exempt.

In cases where a proposal is just under this threshold the developer may be required to justify the proposed density to ensure the land is being used efficiently. As a guide, a calculation of 30 dwellings per hectare will be used alongside other considerations such as location, accessibility and sustainability.

When applying the 15% affordable requirement, the number of dwellings will be rounded up when 0.5 or more and anything less will be rounded down.

Where development is to be phased or is subject to more than one planning application, the council will calculate the affordable housing requirement based on the overall area of the development site.

On larger sites of more than 50 dwellings, the council may review the viability of the scheme in respect of phasing to take account of changing market conditions.

The priority is for affordable housing to be provided on site in order to ensure that developments contribute towards creating mixed and balanced communities.

In exceptional circumstances, the council may accept delivery of affordable housing off-site. Only where it can be demonstrated to the council's satisfaction that neither on-site or off-site provision would be appropriate, the payment of a financial contribution in lieu of on-site provision may be acceptable.

Such instances for not providing on-site affordable housing may include:

- the development of general market housing is being promoted as part of a wider strategy to broaden the mix of neighbourhoods of predominately social rented tenure;
- there is an identified need for specific types of affordable dwellings that cannot be accommodated within the development site, for example where there is a need for large affordable homes but the development proposal is for apartments, or vice versa;
- the site is being developed for lower density housing; or
- it will deliver a greater number of affordable units of a size and type to meet local need.

In these circumstances a robust justification will need to be submitted as to why the provision cannot be made on site.

When delivering off-site provision the developer must consider:

- affordable housing need in the city as evidenced in the most recent SHMA; and
- appropriate innovative schemes such as the refurbishment of vacant properties in a regeneration and renewal area to assist in creating increased affordable social housing units, sustainable communities and reducing the number of empty properties in the city.

Affordable housing planning obligations may include a contribution towards the costs of land, property acquisition and refurbishment and other development costs associated with the provision of affordable housing.

## How the contribution will be calculated

Where the council considers that the affordable housing provision can be delivered off-site via a financial contribution, the level of contribution will be determined which represents the gap funding required to provide the equivalent units elsewhere or through another mechanism. The calculation of the gap funding is based upon the cost of acquiring equivalent units to those which would have been provided on-site less the worth of the units acquired to the organisation holding them.

Commuted sum calculation: £ Contribution =

$(\text{Open Market Value} - \text{Affordable Value}^*) \times (\text{Total Dwellings} \times \text{Affordable \% Required})$

\* Where the Affordable Value is the amount a Registered Provider (RP) would reasonably pay for affordable rented and intermediate housing. Capitalised rental income should be calculated net of any service charges, management charges and voids.

The following assumptions have been made in making this calculation:

- the equivalent new build units can be acquired in a suitable geographical area to the development site and comparable evidence is used to assess the estimated purchase cost and rental levels of those units;
- the units will be held as affordable housing by a registered provider or similar organisation in perpetuity, affordable housing being let at 80% of the market rent, or disposed of under a shared ownership mechanism, or whatever the current policy dictates;
- shared ownership units will have disposed of 50% of the equity at day 1 and a rent is charged based upon 2.75% of the remaining equity; and
- all rental streams are subject to deductions for voids, management and maintenance, based upon the age and condition of the property to be acquired, no purchaser's costs are levied and the capitalisation rate is based upon an all risks yield in line with market conditions and comparable evidence.

## How the obligation will be delivered

In accordance with paragraph 6.23 of the CSDP the council will use any contributions in lieu payments in partnership with other agencies and partners to:

- provide affordable housing on council or Registered Social Landlord (RSL) owned sites;
- bring empty housing back into use for affordable housing;
- work with developers or other affordable housing providers, to increase affordable housing provision on their sites;
- purchase housing on the open market; and
- any other initiative that will deliver affordable housing.

Contributions in lieu will be spent on providing affordable housing units according to local needs as assessed in the most recent SHMA at an affordable rent or for affordable home ownership and retained and monitored as such in perpetuity.

Contributions may be used as gap funding (the gap between the costs to acquire and refurbish less the worth of the units acquired to the organisation holding them) and will be registered on the title of the property.

When deciding where to acquire empty homes, the council will consider and give priority to the following:

- empty homes within regeneration and renewal areas;
- empty properties that have been vacant for over 2 years;
- empty homes that are problematic to a neighbour or are attracting crime and anti-social behaviour;
- areas where there are large numbers of empty homes; and
- local need as assessed by the most recent SHMA

The council advocates that applicants should aim to involve an affordable housing provider, where appropriate, at the earliest opportunity to avoid any delays through the formal planning application procedure.

Where Discounted Market Value units (DMV) are proposed as an intermediate tenure, local connection and eligibility criteria will apply, as set out in Appendix 1, and the level of discount will be a minimum of 30%.

Affordable housing should be available as an affordable unit in perpetuity to ensure the city offers choice in tenure for existing and future residents. Depending on the type of affordable housing provided this could entail recycling subsidy for alternative affordable provision or retention of discounts for future households.

Properties will be allocated in accordance with the council's Allocations Scheme, as approved by Cabinet in April 2017 and any subsequent amendments thereto that are approved by the council.

In order to create balanced, mixed and sustainable communities, the provision of affordable housing on site should be dispersed amongst the market housing in clusters of a size proportionate to the scale of the development. All affordable housing provision should be indistinguishable from other development on the site and the size and type of affordable housing units provided should also reflect those that are built to be sold the housing market.

Affordable Housing Units and type, including the type of intermediate tenure proposed, must be shown on the proposed site plan submitted as part of the planning application and should be covered in a draft Section 106 Heads of Terms, as identified in the Development Management Validation Checklist.



# 5 Education

## Introduction

The council will request developer financial contributions towards the creation of new school places to fulfil the demand generated as a consequence of new housing developments. The approach set out in this chapter ensures that the council has sufficient resources to respond to the increased demand and fulfil its statutory responsibility to ensure the sufficiency of local school places.

The importance of ensuring an adequate choice of school places is available to meet the needs of new and existing communities is outlined in paragraph 94 of the NPPF which states that local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that would widen the choice in education. In accordance with paragraph 94 the council will:

- give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- work with schools' promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

## Basis for requiring the contribution

Following a period of declining rolls in Sunderland's primary and secondary schools, there has been an upturn in demand for local school places. This is a consequence of the rising birth-rate across the city and the availability of new local housing. The increased level of demand for new primary school places has resulted in the council working with schools and academies to develop a programme to expand existing primary school accommodation across the city, with the majority of new places located in the Washington and Coalfield areas. Current projections indicate that the increased cohort numbers will be maintained in coming years, adding further pressure to the supply of primary school places.

An increased demand for places at Sunderland's primary and secondary special schools includes a proportion which has resulted from new development. Special school provision is currently delivered by city wide establishments with the local authority meeting home to school transport costs for children who attend those schools.

New housing developments will increase the number of primary and secondary aged children requiring a school place in the city. The reduction in the availability of primary school places in Sunderland through demographic changes has led to a requirement for the council to undertake capital schemes for school expansion using Basic Need Capital Funding. However, available capital to make further alterations in response to increasing demand for new school places as a consequence of new housing developments is limited.

## Approach to seeking developer contributions

A number of factors are taken into account when calculating the number of school places that are required in Sunderland.

Primary school places are governed by Infant Class Size Regulation in Key Stage 1. This aims to ensure that, unless exceptional circumstances are demonstrated, the maximum number of children in any Key Stage class is limited to 30 pupils per teacher.

In addition to demand caused through increased local birth-rates, recent government policy introduced the entitlement for eligible parents to access 15 hours free childcare for 2 year olds and for eligible parents to receive up to 30 hours free childcare for 3 and 4 year olds. The impact of this is that a greater age range and number must be considered when identifying the availability of nursery places required to serve any new housing development.

The physical capacity required by schools to deliver an effective curriculum is identified through a Net Capacity calculation. This is the Department for Education (DfE) measurement of required teaching space within each school based on identified and available class spaces which evaluates the number of students that can be accommodated in the school and identifies any shortfall in capacity to house additional pupils. However, the requirement for Infant class sizes takes precedent over Net Capacity Assessment.

In addition to teaching space any expansion would need to take into consideration requirements for increased studio space, dining and food preparation area, outdoor play, transition areas and access and parking as a minimum.

New developments should take into account average distance to the nearest schools. The distance is calculated as the shortest route along which the pupil, accompanied if necessary, can walk with reasonable safety including pedestrian footpaths as well as roads. The distance is calculated from the child’s permanent home to school. For children aged 8 years or under, the maximum statutory walking distance is 2 miles, for children aged over 8 the maximum statutory walking distance is 3 miles. It is recognised that, due to parental preference, some parents may proactively seek a school place outside of this radius. As such, this needs to be considered alongside the current reduced capacity in Sunderland’s primary school sector and all admission authorities use of proximity (shortest safest walking route) to a school as part of the criteria to allocate places.

Sunderland City Council adopts the following method to project primary and secondary demand.

**Primary schools** – Reception pupil numbers are derived using a combination of Office of National Statistics (ONS) birth-rate data and GP registrations. Data is aligned against postcodes with historical preference patterns which is then used to project demand for specific schools. Over demand identified against a school is allocated to schools within the same planning area with surplus places. Variable factors which may influence demand, such as the availability of places through the development of new Free Schools, existing nursery cohorts, the number of children already on roll and inspection outcome, are considered and accounted for.

**Secondary schools** – demand for future places is calculated using historical transfer patterns. Previous patterns of those leaving primary school are assessed to factor a new average for the secondary school cohorts. Consideration is given to recent surplus places in the secondary sector and the impact that this has on parental preferences with projections adjusted accordingly.

## How the contribution will be calculated

Developer contributions will be sought for all developments of 10 dwellings or more, however, residential developments within Use Classes C2 and C2A as defined by the Use Classes Order 1987 (as amended), developments for student accommodation and for older persons will be exempt.

In assessing the requirement for a Section 106 contribution the council will consider the following:

- Current school rolls of nursery, primary and secondary schools within the vicinity of the development.
- Future 5 year pupil projections for nursery, primary and secondary schools within the vicinity of the development.
- Net Capacity and Pupil Admission Number of schools within the vicinity of the development.
- The cumulative impact of planning applications with either full or outline permission which may impact on the availability of places at schools within the vicinity of the development.

Where it is identified that additional school places will be required as a consequence of new developments, either individually or cumulatively for multiple developments, within an area the calculation below will be applied.

- Number of children (per house type) x net number of dwellings – number of projected surplus = number of school places required
- Number of school places required x cost of average school place for that school sector (DfE multiplier x locality factor).

Sunderland City Council currently uses the DfE Pure Primary and Secondary rates per school places to calculate the overall cost of new places. The DfE rates are:

Nursery places - £13,115

Primary places - £13,115

Secondary places - £17,050

Pupil yield is calculated based on average number of school places required. For all developments the following factors will be applied:

|           | 1 or 2 Bedroom | 3 Bedroom | 4+ Bedroom |
|-----------|----------------|-----------|------------|
| Nursery   | 0.022          | 0.094     | 0.114      |
| Primary   | 0.057          | 0.24      | 0.29       |
| Secondary | 0.029          | 0.12      | 0.15       |

Figure 3: Pupil yield per private dwelling

The calculations are based on the number of primary and secondary aged pupils at postcodes registered between 2010 and 2014 attending Sunderland schools and nurseries.

If the council considers the number of current and projected placements to be sufficient to meet the needs of a development, no request will be made with only the relevant year group applied. Requests will be made on school sector for nursery, primary, secondary and special places as appropriate.

## How the contributions will be spent

Developer contributions will be used to fund costs associated with capital, e.g. the creation of new places and will not be used to meet the revenue requirements of any increase in capacity, such as the employment of additional teaching staff or any conditional work that is not linked to increasing capacity or ensuring existing space is suitable to accommodate increased pupil numbers.

The delivery of any additional places will be based on demand and budget availability at the time of development commencing and S106 contributions being received. In order to effectively meet demand the council will, as far as practicable, request for financial contributions to be spent within the vicinity of the site. In this instance 'vicinity' means a 2 mile radius from the site for primary schools and a 3 mile radius from the site for secondary schools, so as to align S106 expenditure with the DfE statutory walking distances detailed above.

Where appropriate contributions may be directed towards increasing capacity at one of Sunderland's new or existing special primary or secondary schools for children with special educational needs and disabilities for whom a local mainstream school is not considered an appropriate educational setting.

The use of the DfE cost multipliers is intended to provide an indication on the cost of expansion or refurbishment and does not extend to the development of new schools.

It is expected that when the scale of a development cannot be sufficiently accommodated through the expansion of an existing school or academy the contribution sought includes the provision of any land required to develop a new build school and sufficient contribution to meet all capital requirements associated with the new build.

In some cases it may be appropriate for the council to request that the developer, in addition to the provision of land, also construct and equip any new school. This would be subject to negotiation between the council and the developer to agree any planning obligations via the Section 106 process.



# 6 Open Space (Amenity greenspace and allotments)

## Introduction

Greenspace relates to public and private open space and is identified within the city's Greenspace Audit as including amenity greenspace, provision for children and young people, natural and semi-natural greenspace, formal parks and country parks, allotments and community gardens, outdoor sports facilities, school playing fields and grounds, cemeteries and church grounds, civic spaces and coast and estuary.

In the event that a development would cause a detrimental impact on, intensification of use of or loss of existing greenspace a S106 developer contribution may be sought to provide or improve one or more type of greenspace.

For the purposes of calculating developer contributions this Chapter should be used to calculate contributions for open space (amenity greenspace) and allotments. When determining the requirements for Children's Equipped Play Space, Ecology and Sport and Recreation contributions reference should be made to Sections 7, 8 and 9 respectively.

## Basis for requiring the contribution

Paragraph 97 of the NPPF states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

CSDP Policy NE4 Greenspace states that new developments will be required to contribute towards the provision of new and/ or enhanced greenspace where there is an evidenced requirement. Reference will be made to the most up to date Greenspace Audit to determine if a contribution is required towards green space to mitigate the impacts of the proposed

development. The type and quantity of any contribution required will be determined in accordance with the Greenspace Audit and this SPD to meet the policy required of CSDP Policy NE4.

The city contains a wide diversity of greenspace, however the spatial distribution and quality of these areas remains varied, especially in older neighbourhoods. It is therefore important to protect valued greenspace from development and create new and enhance existing greenspace where a greater distribution and higher quality can be achieved.

Accessible, quality green spaces make a significant contribution to the health, wellbeing, and social cohesion of the communities and people living in Sunderland. These spaces also have wider environmental benefits. They support biodiversity, providing valuable habitats and links within the existing green network, which allow wildlife to migrate and adapt to changing environments.

Allotment sites provide important green spaces and access to local opportunities for fresh food cultivation. These facilities have an important dual role in maintaining health and wellbeing and as such their provision will continue to be monitored and new allotment provision will be sought where a shortage in allotment provision is identified.

Through the 2018 Greenspace Audit the council has quantified and surveyed all greenspace in Sunderland and the value it has to the local community. The council is committed to ensuring that all residents have access to a wide range of quality greenspace by:

- Prioritising environmental improvement in areas where the variety, quantity and quality is poor;
- Enhancing the fixed formal play offer, and developing greenspaces for children and young people;
- Improving access to quality natural greenspaces;
- Improving access to suitable quality woodland sites;
- Maintaining high quality allotment provision across the city; and
- Ensuring that all residents can access a range of indoor and outdoor sport and leisure venues across the city.

## How the contribution will be calculated

In accordance with CSDP Policy NE4, the development of a site that is identified in the council's Greenspace Audit will only be permitted where:

- The proposal is accompanied by an assessment that clearly demonstrates that the provision is surplus to requirements; or
- A replacement facility which is at least equivalent in terms of usefulness, attractiveness, quality and accessibility, and where of an appropriate quantity, to existing and future users is provided by the developer on another site agreed with the council prior to development commencing; or
- If replacement on another site is neither practicable or possible an agreed contribution is made by the developer to the council for new provision or the improvement of existing green space or outdoor sport and recreation facilities and its maintenance within an appropriate distance from the site or within the site.

For all major residential developments of 10 dwellings or more and developments for student accommodation of 10 units or floorspace of 0.1ha or more the following open space provision should be made:

- A minimum of 0.9ha per 1,000 bed spaces of useable greenspace should be provided on site unless
- A financial contribution for the maintenance/upgrading to neighbouring existing greenspace is considered to be more appropriate

Provision of new open space should be provided by the developer to a design and specification first approved in writing by the council along with a maintenance and management plan. The provision should be retained as open space in perpetuity by the developer and monitored as such through the Section 106 process. New or enhanced greenspace must be publicly useable and available. Grass verges should not be included in any calculations and heavily engineered SUDs solutions will not be considered acceptable within greenspace provision.

## Open Space

Contributions towards the improvement, enhancement or maintenance of existing areas of open space will be calculated as follows:

Typical cost of improving 1ha of open space and maintenance over a 5 year period = £75,833.50 = £7.58 per square metre

0.9ha divided by 1,000 bed spaces = 9 square metres per bed space\*

9 x £7.58 = Developer contribution of £68.22 per bed space.

The number of bed spaces will be calculated in line with the guidance set out within Section 3 of this document.

## Allotments

For contributions direct towards allotment provision there is a requirement of 15 plots per 1,000 households with an average size of between 250 and 300 square metres. However, where contributions in lieu are proposed a contribution of £85.50 per dwelling will be applied.

## How the contribution will be spent

The quantity and quality of greenspace across the city varies on an area by area basis. Through the Greenspace Audit the council has quantified and surveyed all green space in the city and the value it has to the local community. Sunderland's Green Infrastructure Strategy and accompanying Delivery Plan identifies priorities for green infrastructure delivery in Sunderland and will assist in identifying key priorities for improvement.

Financial contributions will be directed towards the improvement, enhancement and maintenance of existing greenspace.

Existing areas of greenspace may benefit from improvement works to cope with the extra use as a result of the new development. This could include, but is not limited to:

- Provision of additional or replacement bins and seating
- Increasing and improving footpaths, lighting, fencing, gates and signage near the new development
- Provision of new and improvement of existing planting and soft landscaping

# 7 Equipped play space

## Introduction

The NPPF highlights the importance of promoting healthy communities and the role that planning can take in their provision. Paragraph 92 identifies that to deliver social, recreational and cultural facilities and services the community needs, planning policies should plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments.

Furthermore, CSDP Policy NE4: Greenspace identifies the requirement for development to contribute towards the provision for children and young people. Reference will be made to the most up to date Greenspace Audit to determine if a contribution is required towards equipped play space to mitigate the impacts of the proposed development. The type and quantity of any contribution required will be determined in accordance with the Greenspace Audit and this SPD to meet the policy requirements of CSDP Policy NE4.

## Basis for requiring the contribution

The council recognises that play is an important part of a child's life and that all children and young people have the right to access quality fixed play provision. The availability of play provision is recognised as being important to improving life chances and aspirations for each child and young person in the city.

The council is committed to the continued provision and improvement of play facilities and aims to:

- provide a standard quality of play provision in Sunderland;
- provide a sustainable approach for play provision in Sunderland;
- ensure that play is strategically planned;
- maintain and create, when able, free and inclusive play spaces;
- involve children and young people in the development of play refurbishments and developments; and
- work in partnership to develop, support and promote high standards for play

## Approach to seeking developer contributions

Developer contributions will be sought for all developments of 10 dwellings or more, however, residential developments within Use Classes C2 and C2A as defined by the Use Classes Order 1987 (as amended) and developments for older persons and student accommodation will be exempt.

Equipped play provision may be provided on site as part of a development to a design and specification first approved in writing by the council. Such provision must be retained and maintained in perpetuity by the developer.

Following an injection of funding through the Play Pathfinder Programme (2006 to 2009) and a subsequent period of revenue reduction, the current location of play areas in the city is considered to be adequate in terms of spread and location and sustainable in quantity.

In some instances new play areas may need to be developed to replace existing facilities if it is considered that the site and location would most benefit from an improved provision. In addition, significant areas of housing growth may require new play sites which may be provided on site as part of the development or as a financial contribution to the council.

Developer contributions are sought for the development, enhancement, replacement and maintenance of play provision in Sunderland to serve the needs of the occupants of new housing developments with good quality, suitable and modern play facilities.

## How the contribution will be calculated

Developer contributions will be calculated on the basis that the budget cost of providing a good quality fixed play area with a range of equipment suitable for mixed ages is approximately £170,000, including ground works and professional fees. Contributions for equipped play areas will be sought for dwellings of 2 bedrooms or more.

There are 128,000 dwellings in Sunderland, of which approximately 119,000 have 2 bedrooms or more. At present there are 118 play areas within the city.

119,000 dwellings divided by 118 play areas = 1,008.48  
2+ bedroom dwellings per play area

Average Cost of Play Area Construction = £170,000

Maintenance Costs for 20 years at £20,000 per annum =  
£400,000

Renewal and Repairs for 20 years = £140,000

Total costs £710,000 divided by 1008.5 2+ bedroom  
dwellings = £704 per unit.

## How the contributions will be spent

Contributions will be spent on the provision of children's play facilities within the vicinity of the development, the location of which is determined by the Ward in which the new development is located within the city and in all cases will be detailed in the S106 legal agreement. The provision will fall into two categories:

1. The development of a new play facility; or
2. The improvement, enhancement, refurbishment and/ or maintenance of existing play facilities

In the event of a new play site the location and facility provision will be determined following a consultation process with Ward Councillors and community engagement as required.

When contributions are aligned to existing play sites an assessment will be undertaken of each of the fixed play sites in the locality of the new housing development. Suggestions will be presented to Elected Members identifying where the available funds could be spent to improve and upgrade the existing facility.

Contributions which are used for maintenance will be used for, but not limited to, safety inspections, cleansing and minor repairs and patching of tarmac and safety surfacing. Contributions towards repairs and renewals will be allocated for the replacement of play equipment, fencing, seats, bins and surfacing as the playground wears out.

# 8 Ecology

## Introduction

In accordance with guidance set out in paragraphs 174 - 177 of the NPPF the council will promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations to minimise the impact of new development on biodiversity and geodiversity.

CSDP Policy NE2: Biodiversity and Geodiversity outlines the circumstances in which measures will be secured in order to safeguard the provision, maintenance and monitoring of appropriate mitigation and/ or compensation measures.

Primary legislation specific to European Sites is the European Union Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive) and Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (the Habitats Directive). In addition further detailed guidance can be found within the Natural Environment and Rural Communities Act 2006 and the North East Local Nature Partnership – Biodiversity Action Plan Priority Species and Habitats.

The impacts of development, and any subsequent planning obligations and developer contributions are assessed against the current legislation, policy and guidance pertaining to designated European Sites and/ or other (Non-European) sites, species and habitats of conservation importance.

## Basis for requiring the contribution

As the acknowledged reference on ecological impact assessments the Biodiversity: Code of Practice for planning and development published by the British Standards Institute (BS42020:2013) and CIEMMA EcIA Guidelines support the requirement for suitable planning obligations. Developer contributions will be sought for on and off site mitigation and enhancement specific to each development and prevailing ecological and geological factors. The primary focus will be the conservation of ecological and geological features such as protected and priority species and habitats, local and strategic wildlife corridors and Local Sites and will differ depending on the type of site which will be impacted.

## European Sites

Development assessed as having a likely significant effect on European Sites, through a Habitats Regulation Assessment (HRA), will be required to contribute in whole or part to mitigation measures specific to the impacts along with contributions required or agreed for any other ecological or geological mitigation and enhancement measures. The level of contribution for development assessed through HRA screening or Appropriate Assessment will be calculated against provision required to address the direct and indirect impacts on the key features of European Sites.

## Non-European Sites

When proposals for new development are unable to avoid any direct or indirect negative impacts on biodiversity or geodiversity of non-European sites the developer must mitigate against these impacts, or as a last resort compensate and always provide sustainable enhancements and net gain in biodiversity.

## How the contribution will be calculated

Contributions will be calculated on a case by case basis, taking into account the proposal and nature of the site and surrounding area. Contributions will be sought when it is considered the development will result in direct or indirect impacts which are detrimental to the biodiversity or geodiversity on or surrounding the site.

In mitigating against the effects of new development on European Sites contributions will be calculated per dwelling by the cost of mitigation measures, including long-term maintenance. Mitigation includes provision for Sustainable Alternative Natural Greenspace (SANG) and sustainable Strategic Access Management and Monitoring (SAMM), which may include a ranger service and maintenance for of a minimum of 75 years.

Contributions will be proportionate to the scale, type and impacts of a development or combination of developments, and based on the average cost of creation, improvement and maintenance of wildlife and geological features and sites. This may be done on a stand-alone basis or in combination with other concurrent development within a geographic area.

Due to the complexities associated with protected species, habitats and environments and the potential range of harm that may be caused as a result of new development it is not possible to create an accurate formula for the calculation of developer contributions. The following examples outline potential factors which will be considered when assessing a development to determine the level of mitigation and contribution required.

Development inclusive of associated infrastructure which results in direct and indirect negative impacts on designated wildlife sites and their buffer zones, protected and priority species and habitats as well as wildlife corridors will be expected to provide on and off site ecological mitigation and enhancement measures such as, but not limited to:

- Habitat improvement and creation;
- Access control measures to address impacts such as habitat loss and increased disturbance from people and domestic animals; and
- Staff resourcing to ensure delivery.

The contribution sought will be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development.

## How the contribution will be spent

Provision of mitigation and enhancement measures will be on or off site and may be implemented prior to commencement of development or occupancy or the implementation of the operational use, to ensure the measures are established and workable, for example, to accommodate displaced species or to control disturbance events that result from increases in people and domestic pets.

SANG and SAMM are two of the main mitigation measures appropriate for addressing the recreational impacts of development on European Sites; one or both methods will be applied following an assessment of need. These principles, like the mitigation hierarchy, will also apply where development impacts on other ecological and geological receptors.

Contributions will deliver species, habitat and geological conservation and include provision for habitat creation, establishment, maintenance, monitoring, interpretation, land acquisition, staff resources, management and/ or other elements appropriate to a specific development. The type and mix of measures required to conserve biodiversity and geodiversity will reflect the type and mix of uses in a development, the mix of future residents/ users and the existing distribution and status of habitat and species in the locality.

Pooling of contributions and other resources will be employed where appropriate to add value, ensure sustainability and address cumulative pressures.

A means of long term maintenance is fundamental to sustainable delivery of any provision achieved through, for example a management company, trust or similar, possibly via an annual homeowner or business levy. The council may take on the responsibility, particularly for off-site provision, subject to an agreed commuted sum to cover identified costs. If a developer does not intend to offer areas for adoption, the council will enter into a Section 106 agreement with the developer to ensure that satisfactory alternative and appropriate arrangements are in place for future maintenance.

# 9 Sport and recreation

## Introduction

Chapter 8 of the NPPF identifies the importance of access to high quality open spaces and opportunities for sport and recreation on the health and well-being of communities. Paragraph 97 states that existing sports and recreational buildings and land, including playing fields, should not be built on unless:

- An assessment has been undertaken which clearly determines the land is surplus to requirements;
- The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- The development is for alternative sports and recreation provision, the needs for which clearly outweigh the loss.

CSDP Policy NE4: Greenspace reiterates the requirements as set out in paragraph 97 of the NPPF.

## Basis for requiring the contribution

In Sunderland it is important that sufficient good quality sports facilities are provided to ensure that residents of new housing developments have access to a range of such facilities for recreation and exercise.

Contributions from developers for the benefit of sport and recreation can be generated in two ways:

### From a residential development resulting in a new resident population

Sport England's Sports Facility Calculator should be used to estimate the sport and recreation needs, such as sports halls and swimming pools, generated by an increased population as a result of a new residential development. This calculator assists in identifying additional demand for different types of sports provision as well as the cost of provision.

Dependent on the outcome of the Calculator a number of options will be presented, including:

- Measures to increase the capacity of pitches and sites that will serve the development;
- Provision of new playing pitches (in conjunction with other parties) off-site; and

- Provision of playing pitches within the application site.

The developer should consider the results alongside the council's Playing Pitch Strategy (PPS) and relevant strategy recommendations and actions, to determine the most appropriate way of meeting the estimated demand. Part of the purpose of the PPS is to consider the adequacy of pitch provision against current demand and projected population growth identified and planned for within the Sunderland Local Plan. The PPS identifies measures that seek to address deficiencies in playing pitch provision where they exist or are predicted to arise. In instances where an area has sufficient playing pitched provision across sports and age groups to absorb demand generated from the proposed development then the developer will not be required to make a contribution to playing pitch provision.

It should be noted that Sport England's Sports Facility Calculator will only be used to inform the respective viability assessment.

### Developments on a current or former playing field

Where playing pitches have not been used for a number of years and/ or a developer wishes to use a pitch for development purposes, a developer contribution will be required for the provision of appropriate replacement facilities. In these circumstances, the developer will be required to follow a process consistent with Sport England guidance and the Sunderland Playing Pitch Strategy. The approach should be referred to when considering the need for a developer contribution and to ensure any financial contribution received is directed towards an area of need.

In line with Sport England guidance, the use of a developer contribution to replace a playing field should only be considered once it has been established that the interests of sport are better served by provision of a new playing field resource elsewhere.

## How the contribution will be calculated

For developments which result in the complete loss of playing fields (with full replacement), the following process will be adopted:

- Calculating the playing field area (not just the pitch area) and using Sport England’s register of facility costs to establish the value of replacement provision; and
- Using the register of facility costs to calculate the cost of providing new ancillary facilities such as pavilions and car parking.

The process will need to meet the requirements of Sport England’s playing field policy (exception E4).

Developments which result in the complete loss of a playing field (without replacement) must comply with Sport England’s playing field policy where it can be shown that there is a surplus or excess of playing pitch provision in the locality. This process will require:

- A local needs assessment for the relevant sport, taking into consideration supply and demand issues outlined in the Playing Pitch Strategy. This assessment will identify if a new provision needs to be built or if a financial contribution would be better spent elsewhere in the locality.
- The developer should consult Sport England guidance (exception E1) to assess the cost of facility replacement to identify a suitable mitigation financial contribution. Generally, this will be of a solicited process, involving the developer meeting the requirements of Sport England, the council and the relevant sport governing body.

## How the contribution will be spent

Contributions may be directed towards the capital costs associated with the provision of existing facilities. Some playing pitches may benefit from improvement works to cope with the extra use as a result of the new development. This could include, but is not limited to:

- Improving the quality of pitches
- Increasing the play capacity of nearby pitches
- Providing fencing, lighting, seating and other upgrades to improve a site
- Providing upgrades to changing rooms to accommodate additional demand

Financial contributions may also be directed towards specific projects which will be specified in the individual legal agreement. A project may be funded from contributions from a number of sources in order to develop facilities which best meet the needs of the local community. For example, Sunderland’s Planning Pitch Strategy recognises that investment in key football hub sites across the city will be a priority and artificial turf pitches are an important feature of these sites.

# 10 Highways

## Introduction

Transport infrastructure requirements will be funded by a range of different mechanisms which will vary depending on site specific circumstances and over the timescale of the Sunderland Local Plan.

CSDP Policy ST3 Development and Transport sets out the infrastructure and transport requirements expected as part of new developments, when required.

Alongside Section 106 agreements, planning conditions are the main mechanisms for the provision of essential on-site design requirements and infrastructure. These may include highway infrastructure agreements as covered by Sections 38 and 278 of the Highways Act 1980 which provide discretionary powers for the Highways Authority to enter into an agreement with a developer to adopt a new highway or improve an existing highway.

Highway improvements secured through a Section 278 legal agreement will normally only be required where they are essential for the operation of the development and the adjacent highway network. Highway mitigation measures on the wider network will normally be secured through a Section 106 agreement. The requirement for developers to enter into a planning obligation to provide transport improvements will be considered on a case by case basis.

## Basis for requiring the contribution

Most developments will inevitably have some impact on the transport network around them as a consequence of the construction of the development itself or the activities that take place once the development is complete. New developments usually generate additional travel journeys. In order to accommodate this increase in demand and to facilitate a move towards more sustainable modes of transport, improvements to infrastructure or amendments or additions to public transport services may be required to support the development. The focus will be on encouraging greater use of the public transport network, supported by demand management measures and making best use of existing infrastructure.

Given that potential transport and highways impacts are site and development specific in nature, the submission of a Transport Assessment or Transport Statement (depending on the perceived impact of the

development) and a Travel Plan, where required, will be the primary mechanism in determining what measures are required to mitigate the impacts of the development.

The Transport Assessment should identify the potential adverse transport impacts (deemed to result in significant impact on both highway safety and congestion on the local road network) of the development and how it is proposed to mitigate these impacts. The Framework Travel Plan will also set out, as far as practicable, how development proposes to mitigate adverse transport impacts and promote sustainable travel.

Where a financial contribution is required, it will normally be used to provide transportation improvements, including but not limited to, highway, pedestrian and cycling improvements in the vicinity of the site or a specific public transport improvement that directly benefits the development. In certain circumstances financial contributions may be used towards major enhancements or wider transport schemes that provide benefits to the wider area as well as directly to the development. This may include funding to support improvements to the strategic road network, including the A19, A1(M), A194(M) and A184, depending on the individual circumstances of the scheme and through dialogue with Highways England.

## How the contribution will be calculated

The type and level of contribution required for off-site highway works for major developments will be determined through the Transport Assessment. If the development is on previously developed land and is currently or has recently been in use, the traffic generation from the previous development will be taken into account when determining the impact of the new development.

Where more than one major development is expected to come forward in a particular area the council will consider the cumulative impact of all the developments to ensure that the cost of transport infrastructure or improvements is shared between developers, ensuring scheme viability is not compromised. This will be the case for both local infrastructure improvements near the developments and also the wider strategic road network. The level of contribution from each development will be determined by applying a pro-rata contribution based on the vehicular trip generation of each development.

For major developments it is important that the traffic mitigation measures are provided in a timescale commensurate with the phasing of the development. This will be facilitated through the inclusion of appropriate trigger points within the Section 106 agreement.

The full cost of the transport mitigation measures will need to be met by the applicant unless agreed otherwise by the council or a transport provider.

Highways England are a statutory consultee and will be consulted as a matter of course on planning applications deemed to potentially create an adverse impact on the Strategic Road Network. Based on the assessment of traffic impact through the planning process, Highways England may recommend highways improvements to the strategic and junction approaches on the local road network or seek the introduction of planning conditions containing mitigation measures.

## How the contributions will be spent

The Sunderland Local Plan Infrastructure Delivery Plan (IDP) has identified a range of measures to improve traffic management and reduce congestion at traffic pinch points throughout the city as well as measures to improve access to sustainable transport options. The emerging North East Combined Authority (NECA) Transport Plan also sets out measures to reduce congestion across the combined authority area and provides recommendations on actions that should be taken to improve bus services and future patronage. These plans, as well as other relevant strategies, should be taken into account when considering what is required to mitigate the impact of development. Such mitigation measures may include, but not be limited to:

- Highway and junction improvements;
- New safe and easy to use road crossings where needed or the improvement of existing pedestrian/cycle facilities in close proximity to the development site;
- Traffic management and traffic calming initiatives in close proximity to the development site;
- Introduction of interventions to restrain and reduce traffic volumes;
- Provision and improvement of cycling routes;
- New secure cycle parking areas and facilities;

- Provision of parking and disabled parking spaces; and
- Electric vehicle charging points.

Section 106 contributions may be directed towards revenue costs associated with the future maintenance of the infrastructure, similar to a commuted sum arrangement for a period of up to 20 years, unless otherwise agreed. Maintenance requirements will cover costs associated with the upkeep and general repair of traffic signal equipment and electric vehicle charging infrastructure installed as part of highway works associated with a development proposal.

# 11 Public transport

## Introduction

As identified in Chapter 9 of the NPPF all developments that will generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment so that the likely impacts of the proposal can be addressed.

Chapter 12 of the CSDP identifies that focusing on sustainable transport development will not only improve accessibility but will also help to improve traffic congestion, air quality, road safety and supporting increased levels of physical activity and overall health.

The council will work closely with Nexus and bus operators to develop a high level and holistic approach to seeking developer contributions to supporting public transport. This will provide the basis of comprehensive public transport strategies for individual major developments which will provide a framework for development contributions. The precise detail of such strategies will be agreed once more detail on the phasing, implementation and site layout of the developments and associated infrastructure are clarified.

## Basis for requiring the contribution

CSDP Strategic Priority 11 outlines the ambition to promote sustainable and active travel and seek to improve transport infrastructure to ensure efficient, sustainable access.

New developments will usually generate additional travel journeys. To accommodate this increase in demand and to facilitate a change to more sustainable modes of transport, improvements to infrastructure or amendments or additions to public transport services may be required to support the development. The focus will be on encouraging greater use of the public transport network, supported by demand management measures and making best use of existing infrastructure.

## How the contribution will be calculated

The provision of a half hourly daytime service and an hourly evening service using a 'midi' sized vehicle (capable of taking standees) could currently cost in the region of £350,000 per annum, a figure which would be off-set by the revenue received.

To determine the developer contribution the following calculation will be applied:

Cost of providing the bus service or facilities divided by the number of housing units or employee numbers in the proposed development.

The figures outlined above are based on liaison with Nexus and bus operators. The precise level of developer contribution would be subject to negotiation at the planning application stage.

In the case of major developments it will be necessary to seek a developer contribution to provide a 'pump priming' bus service in advance of developing sufficient 'critical mass' in terms of population and infrastructure to enable commercial bus service provision to be viable. It is anticipated that any development funding for bus services would be for a three year period with annual tapered reductions on the assumption that commercially viable services will be provided thereafter.

## How the contribution will be spent

The Sunderland Local Plan Infrastructure Delivery Plan (IDP) has identified a range of measures to improve traffic management and reduce congestion at traffic pinch points throughout the city. There are also a number of measures to improve access to sustainable transport options. The emerging North East Combined Authority (NECA) Transport Plan also sets out measures to reduce congestion across the combined authority area and provides recommendations on actions that should be taken to improve bus services and future patronage. These plans, as well as other relevant strategies, should be taken into account when considering what is required to mitigate the impact of the development.

Examples of the types of infrastructure which may be required to mitigate the impact of development include:

- Improving or increasing public transport access and capacity;
- Highway and junction improvements;
- Introduction of interventions to restrain and reduce traffic volumes; and
- Works to upgrade and maintain public transport infrastructure in close proximity to the development site such as bus stops and shelters.



# 12 Other site-specific planning obligations

There may be instances where a development would result in a material increase in the need or demand for other types of infrastructure or services which are not specifically addressed within this document, and where provision is required in order to make the development acceptable in planning terms. In such cases the council will negotiate with applicants on a case by case basis having regard to site-specific circumstances.

The potential scope of site-specific planning obligations is extensive and may include a diverse range of infrastructure and services.

## Heritage Assets

CSDP Policy BH1 Design Quality states that developments should achieve high quality design and positive improvement from all development. CSDP Strategic Priority 7 highlights the need to protect and enhance the quality of our built and historic environment and the delivery of distinctive and attractive places and the delivery of this is supported through Policies BH7 Historic Environment and BH8 Heritage Assets.

Where detrimental impacts on heritage assets through new development cannot be avoided, mitigation through direct physical improvements to other heritage assets in the vicinity of the site, landscape, public realm, or green infrastructure improvements to enhance the setting of listed buildings and conservation areas should be provided. Support for the repair, restoration and re-use of nearby heritage assets can help to conserve and enhance the area's valued historic environment. The introduction of public art, signposting or interpretation informed through all relevant collecting, archiving and researching of information can help to retain and promote the history and heritage of the area, particularly in instances where new developments result in a loss of, or detrimental impact to, heritage assets or their setting. Such improvements may be sought through on-site provision or via an off-site financial contribution for their delivery.

## Public Realm

New developments should achieve high quality and inclusive design for all development, which is central to creating successful places, in terms of providing the space for movement, interaction and activity, as well as defining the setting and relationship between surrounding buildings. A high quality and well designed public realm can also serve to promote sustainable transport choices, by encouraging walking and cycling, and facilitating access to public transport hubs and services.

New developments may introduce the need for improvements to the surrounding public realm within the vicinity of the development, where the development would result in an intensified use of the public realm. As such a financial contribution may be sought towards the provision or improvement of public realm on a case by case basis from relevant developments.

Contributions may be directed towards a wide range of projects, including enhancement of the built environment; provision/ improvement of public space, such as public squares; signage and interpretation boards; public art; and street furniture.

## Health

There is a current shortfall of clinical floorspace to meet existing need and satisfy existing patient lists in many GP practices across Sunderland. This shortfall exists within each of the sub areas across Sunderland. Housing development delivered during the plan period will further exacerbate the shortfall and lead to acute impacts on GP provision. Therefore, the council will seek contributions for health infrastructure on an individual application basis where Sunderland Clinical Commissioning Group (CCG) provide evidence of a specific need for contributions.



# 13 Approach to securing planning obligations

## Viability

The council will seek to secure a fair and reasonable developer contribution without adversely affecting the ability for new developments to take place in the city. Paragraph 57 of the NPPF states that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.

The council recognises the wider benefits of development to the city in terms of the associated outputs from the development such as regeneration or helping to meet housing need. As outlined in CSDP Policy ID2, the council will consider a request from the applicant to reduce the level of planning obligations on the basis that it is not financially viable to provide or pay (whether in part or full) any Section 106 planning obligation requirements or charges deemed necessary and appropriate.

Such requests must clearly demonstrate to the council what the applicant is prepared to fund in terms of planning obligations, the reasons why the development cannot support the full planning obligation requirements such as high abnormal costs, including comprehensive evidence which must include an Economic Viability Assessment (EVA) in order for the council to take it into account as a material consideration.

The assessment should be submitted, if possible, at the pre-application stage of the planning process to enable the request to be considered and verified by the council.

EVA's should be accompanied by a detailed explanatory statement which clearly shows the residual value of the land and therefore that the price payable is not sufficient to incentivise the landowner to release the land for the proposed development and would otherwise hold the land undeveloped until a time where their incentivised price could be reached. The council does not provide a form of Economic Appraisal Tool (EAT), however appraisals such as the Homes England EAT are considered acceptable.

Developers will be required to work on a fully 'open book' basis and the EAT must contain prices, costs and assumptions that reflect the proposed development including anticipated sales prices supported by comparable market evidence and costs supported by tendered quotations or BCIS data.

All viability submissions will be carefully considered by the council. Once submitted, the council's professional advisors will review the information provided to support a reduction in the required planning obligations including the EVA, to initially determine if sufficient information has been provided to support the request. Following this a third party appointed by the council as Local Planning Authority will carry out an independent appraisal of the site to determine if acceptable development would be viable which would bring forward development of the site. Any costs incurred through this process will be payable by the applicant.

The land value and developer's return elements of the appraisal will be determined as to what is sufficient to incentivise both parties to sell and develop the scheme. These will broadly be reflective of the returns currently being sought and accepted within the market, including any adjustment to account for the market risk of the scheme.

Developers return will typically range between 17.5% and 22.5%.

In considering viability the price paid or agreed by the applicant for the land will not be taken into account whilst reviewing the viability assessment, but consideration will be given to what a reasonable land value would be which is sufficient to incentivise the land owner to sell or develop for the proposed scheme based upon a number of factors including case law, market conditions and guidance.

## Negotiation of reduced contributions

The council is under no obligation to accept a reduction in the required level of planning obligations and may ultimately refuse the planning application if the applicant will not provide these, however if it can be demonstrated that a scheme is unable to fund the required Section 106 contributions and this is verified by an independent

third party then the council will consider the cumulative benefit of the scheme and how the need for required obligations can be met from an alternative source than the developer with a view of negotiating a reduced requirement from the scheme.

## Viability Re-test

For major development sites where development will be phased, the council may consider viability on a phase by phase approach where the requirement could be relaxed in the early phases and viability re-tested prior to the commencement of future phases of the development.

In such circumstances the council is open to discuss the re-test mechanics, this will broadly follow the same format of the initial submission however it may be agreed to fix certain elements of the EAT from the outset to provide greater certainty of delivery for the developer and their funders. Trigger points for re-testing will be set out in the Section 106 agreement at the outset.

## Pre-application engagement

Applicants are strongly encouraged to engage in pre-application discussions with the council in order to determine the nature and scale of contributions that will be required, prior to submitting a planning application.

On submission of a planning application all relevant supporting documentation should be submitted in accordance with the Development Control Validation Checklist. Where pre-application advice has been sought and the council has indicated that a Section 106 agreement would be necessary, a draft Heads of Terms should be submitted with the planning application. This will ensure that the determination of a planning application is not unnecessarily delayed.

Details of the process for engaging with the local planning authority at pre-application stage can be found on the council's web page or by contacting the Development Management service.

Figure 4 outlines the process for negotiating planning obligations from the pre-application stage.

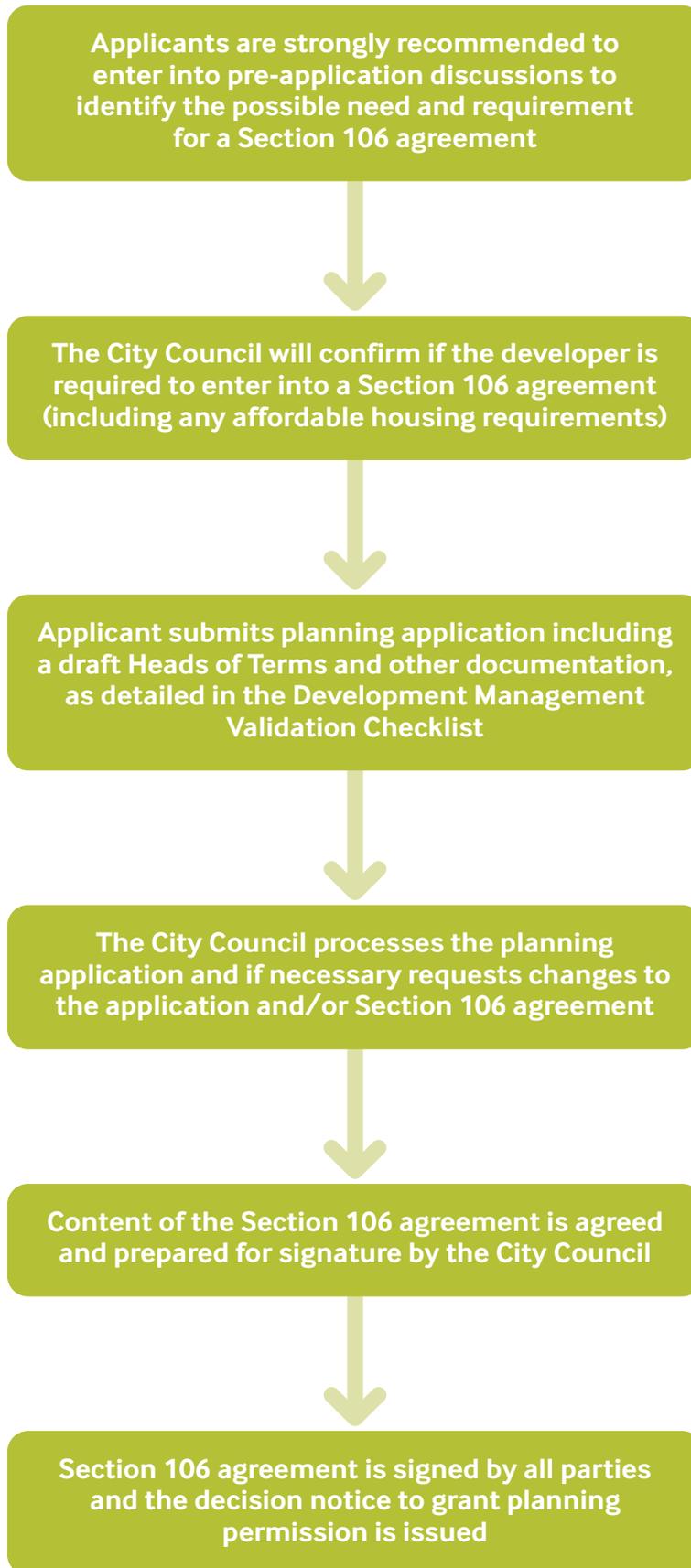


Figure 4: Process of Negotiating Planning Obligations



# 14 Implementation

Where pre-application advice has been sought and the council has indicated that a Section 106 agreement would be necessary a draft Heads of Terms should be submitted with the planning application. This document should be used alongside the advice of the council to complete the draft the Heads of Terms.

For applications where pre-application advice has not been sought from the council and it is identified that a section 106 legal agreement will be required the case officer will engage in discussions with the developer at the earliest possible opportunity in order to prevent delays in the decision-taking process. The guidance contained within this document should be used in the preparation and negotiation of the legal agreement by the developer and the council.

## Provisions of works by applicants

In some instances the best means of addressing the impact of a development may be for a developer to deliver infrastructure works, as an alternative to making a financial contribution. For example, the developer may provide open space and play facilities on-site, as part of the development or undertake public realm improvements off-site to mitigate the impact of the development.

Where a developer considers that they can satisfactorily address the impact of a development through delivering infrastructure works themselves this should be demonstrated to the council at pre-application stage. If the council considers the scope of the works to be appropriate to address the impact of development a Section 106 agreement will be required to ensure the agreed works are implemented to an agreed standard, having regard to the quantity, quality and location of the provision.

## Future maintenance, management and retention in perpetuity

Consideration to the future maintenance and management of new facilities and infrastructure provided through new developments or via a legal agreement should be given. Where appropriate any maintenance and management plan should be submitted in writing to the council to outline the actions to be taken. Alternatively, a commuted sum or monies secured via a Section 106 agreement may be sought by the council for the future maintenance of new

infrastructure and facilities to ensure their longevity and retention in perpetuity. In all cases the retention, maintenance and management of new infrastructure will be monitored by the council in perpetuity.

## Unilateral undertakings

In certain instances, where only the applicant needs to be bound by a planning obligation, and not the council, it may be appropriate for the developer to make a unilateral undertaking in relation to the delivery of the planning obligations.

Resolving planning obligations through a unilateral undertaking can offer advantages in terms of time, cost and resourcing to both the developer and the council. Where a developer is considering making a unilateral undertaking, it should seek the views of the council as to the appropriateness of the proposed approach and the relevant projects which any funding should be directed towards.

## Hierarchy of requirements and contributions

When it is demonstrated that the full amount of planning obligations cannot be delivered due to viability the council will determine where the available contributions should be directed in order to best meet the needs of the local area at the time and in accordance with the current policy and national regulations.

## Approach to the phasing of contributions

Where necessary, the timing of provision of infrastructure will be linked directly to the phasing of the development, taking account of viability to ensure that the planned and necessary infrastructure is available to serve the development when it is first required. The cumulative impact of developments will be taken into account.

## Index linking of financial contributions

All financial contributions shall be index linked (using the Retail Price Index) from the date the legal agreement is signed to the date the payment is due.

## Non-payment

Planning obligations will be monitored by the council's Planning Obligation Officer to ensure compliance. Delivery of all obligations will be required in line with trigger points specified in the legal agreement. In the event of late payment, the owner shall pay the contribution (inclusive of RPI) together with interest from the date the payment was due to the date of payment (both dates inclusive) at the base rate of the Bank of England, for the time being applied.

# Appendix 1: Affordable housing

## Discounted Market Sales – Local Connection and Eligibility Criteria

To be eligible for the scheme applicants need to meet one of the following local connection criteria:

- must currently live in the city and have done for the last 12 months;
- must be employed on a permanent basis within the city or are to be employed on a permanent basis in the city or have retired from employment within the city and wish to remain in the city (priority will be given to key workers who fill a skills shortage in the city);
- must have a longstanding family connection to the city, such as the children of local residents or elderly people who need to move back to the area to care for or be cared for by relatives or other carers; or
- is a former member of the armed forces who is returning to the city upon discharge.

Applicants should lack their own housing or live in housing which can be demonstrated to be inadequate or unsuitable to meet their existing and future needs, whether because of its tenure, size, type, design, condition, security or cost.

All applications should include a letter from an Independent Financial Advisor (IFA) who represents or is appointed by a representative of a firm registered with the Financial Conduct Authority (FCA) stating the maximum they can borrow and to confirm that the applicant cannot purchase the property without the benefit of discount.

Applicants are required to provide information on their household income (single/combined) and savings and this should be verified by an IFA. The assessment will take into account all capital and savings. Any capital generated as a result of the sale of an existing property must be included in the application/assessment.

Discounted Market Value (DMV) properties are not available to investors on a buy to let basis and on completing the purchase of a DMV property applicants must have no financial interest in any other property.

## Discounted market value - process for re-sales

Properties sold as Discounted Market Value should remain as such in perpetuity, to ensure this the vendor will need to sell to prospective buyers who meet the local connection and eligibility criteria with the same discount percentage that they received when purchasing the property. The council will charge a planning obligations monitoring fee of £500 per unit on granting planning permission of each unit to ensure retention in perpetuity of such units and by applying and monitoring the local connection and eligibility criteria for the first and each subsequent sale of the unit.

The council will hold a legal charge representing the DMV proportion of the property.

The vendor will need to inform the council of their intention to sell the property and obtain a valuation of not more than 3 months old from a Royal Institute of Chartered Surveyors (RICS) valuer.

The vendor should inform their estate agent that the unit is affordable housing and supply them with a copy of the Section 106 agreement detailing the rate of discount and any eligibility criteria.

If after marketing the dwelling after a continuous period of at least 6 months no satisfactory purchaser is found, then the owner may dispose of the dwelling to a purchaser without the requirement that the eligible person must have a local connection.

If, after the above options have been exhausted and the property can still not be sold consideration will be given to removing the eligibility criteria and selling the property at market value. In this instance the percentage discounted monies must be returned to the council and re-used for affordable housing provision within the city.

Owners can rent out the property to a qualifying person only if they can prove that it could not be sold as an affordable unit. The owner may only charge an affordable rent of 80% of market rent, inclusive of service charge. The vendor will need to inform the council of their intention to rent out the property and the rental value will be agreed by the council. The owner should also seek the relevant permissions from their mortgage company if renting the property out.

## Affordable housing grant

Affordable housing grant is generally not available for the affordable housing contribution on a market site. However, where there are viability issues which result in the full affordable housing requirement not being delivered, the developer will be expected to exploit any possibility of securing grant funding to enable delivery of the full affordable housing requirement.

# Appendix 2: Site viability

## Economic viability assessments (EVA)

To facilitate the delivery of a successful development the costs associated with the affordable housing requirements and all other planning obligations or equivalent should be taken into account when negotiating the purchase price of the land. In addition, it is expected that the known costs associated with developing a brown field site will also be deducted from the land value during negotiation with the site vendor.

The following list provides many of the usual inputs required for a viability assessment but is not exhaustive. An applicant may wish to include further items depending upon the specifics of the proposed development.

### Development Value

- Description of unit types
- Most economic use of the land
- Number of each type of unit
- Size of each unit type
- Expected letting and sale price
- Costs of sale and letting (including marketing and legal fees)

### For lettings:

- Management costs
- Voids
- Repairs
- Yields used to capitalise rental income

### Build Costs

- Construction period
- Detail of any phasing
- Build cost
- Infrastructure costs
- Ground works
- Utilities

- Plot connection
- Abnormal costs
- Contingency

### Other Costs

- Professional fees
- Developer's profit
- Section 106 contributions and associated fees
- Planning permission
- Building regulations
- Site acquisition costs, including Stamp Duty Land Tax, legal and surveyors fees

### Finance Costs

- Interest rates
- Arrangement fees

For viability retesting the Economic Appraisal Tool (EAT) should include actual sales evidence to support the GDV and, where available, development fees, actual build, marketing, site works, abnormal, land acquisition costs and any other reasonable and proper costs that have been incurred in this respect.

The report shall include all reasonable and necessary evidence in order to substantiate all costs and values applied as well as other information as may be requested by the council in order to demonstrate viability of the relevant residential phase.

# Appendix 3: Planning obligations monitoring fees

The amended Community Infrastructure Levy Regulations 2019 permit Local Planning Authorities to charge fees in respect of the cost of monitoring (including reporting under the CIL Regulations) in relation to the delivery of planning obligations.

The monitoring fee will be proportionate and reflective of the monitoring and reporting required and will be calculated based on the number and type of obligations, the trigger points and duration for which monitoring and reporting is required, as detailed below.

| Obligation type  | Fee                                   |
|--|---------------------------------------|
| Non-Financial Obligations (including Affordable Housing) | £250 per trigger point per obligation |
| Financial Obligations                                    | £500 per contribution type            |
|  | £500 per point of monitoring          |
| Affordable Housing – Discounted Market Sale Units        | £500 per each unit approved           |
| Perpetuity Clauses                                       | £1,250 per clause                     |

The point of payment will be varied depending on the type of application, as detailed below.

| Application type   | Point of payment   |
|--|--|
| Full planning permission (including when this forms part of a hybrid application)    | Full fee on signing the agreement  |
| Outline planning permission (including when this forms part of a hybrid application) | £500 on signing the agreement and the remainder on approval of a reserved matters application                      |
| First reserved matters application   | Full fee applicable to the phase minus £500 on signing the legal agreement   |
| Subsequent reserved matters application  | Full monitoring fee applicable to the phase on signing the legal agreement   |
| Deed of Variation  | £500 on signing the legal agreement  |
|  | Where additional triggers or obligations are introduced an additional fee will be calculated using the above table |
| Unilateral Undertaking   | £500 on signing the legal agreement  |
| Agreements with all obligations complied with on signing the legal agreement         | £80 per obligation type on signing the legal agreement   |



