

Chichester Local Plan 2014-2029

A27 Chichester Bypass Mitigation

Version 2 - DRAFT

Supplementary Planning Document

April 2024

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1.0 Introduction

- 1.1 The A27 is part of the Strategic Road Network and is therefore the responsibility of National Highways. All new housing development coming forward under the Local Plan is generating additional traffic impacts on the A27 Chichester Bypass junctions and the associated local highway network. These additional impacts require mitigation and, in the absence of any Government funding for mitigation works, the Council is dependent on securing financial contributions from new development to fund the necessary works.
- 1.2 Policy 8 of the Chichester Local Plan: Key Policies 2014-2029, adopted in 2015, makes provision for a coordinated package of improvements to junctions on the A27 Chichester Bypass that will increase road capacity, reduce traffic congestion, improve safety, and improve access to Chichester city from surrounding areas. The Transport Study of Strategic Development Options and Sustainable Transport Measures (2013)¹ identified an indicative package of measures for the six junctions on the Bypass: Fishbourne, Stockbridge, Whyke, Bognor Road, Oving Road and Portfield. These measures were identified as being sufficient to mitigate the impact of development proposed in the Local Plan and capable of being funded by that development.
- 1.3 Securing development contributions to fund the junction works was taken forward under Policy 9 (Development and Infrastructure Provision) of the adopted Local Plan. This policy was supported by guidance set out in the Planning Obligations & Affordable Housing Supplementary Planning Document (SPD), which was adopted in 2016. At that time, the package of junction improvements was calculated to cost £12,817,000.
- 1.4 In the period since the adoption of the Planning Obligations & Affordable Housing SPD, works to the Portfield and Oving Road junctions have been funded through developer contributions and have been completed. A significant level of developer funding has also been secured since 2016 towards the improvement works at the remaining four Chichester Bypass junctions (Fishbourne, Stockbridge, Whyke and Bognor Road). However, the costs of the remaining works have increased very significantly over the years and, in the continued absence of alternative funding sources, it is no longer possible to fully fund the remaining improvements works through the level of developer contributions that are set out in the 2016 SPD.

Purpose, Scope and Status of this Supplementary Planning Document

- 1.5 The purpose of this new SPD is to provide guidance to the use of Policies 8 and 9 of adopted Local Plan, by responding to the updated evidence setting out the costs of the remaining junction improvements. This SPD will replace the text set out within paragraphs 4.46 - 4.54 of the 2016 SPD with a revised approach that will guide how Policy 9 can be used to appropriately address the impact that current development ² is having on the A27 Chichester Bypass by increasing the level of contributions sought.

¹ <https://www.chichester.gov.uk/studies>. The study was commissioned by Chichester District Council, National Highways, West Sussex County Council and major development promoters.

² Current development refers to the development that comes forward under Policy 4 (Housing Provision) of the Chichester Local Plan: Key Policies 2014-2029.

- 1.6 On adoption of this SPD, the above paragraphs of the 2016 Planning Obligations & Affordable Housing SPD will be deleted. However, in all other respects, the 2016 SPD will remain operative and should therefore be read alongside this new SPD by applicants and developers seeking planning permission within the District.

Relationship with the adopted Chichester Local Plan and the Local Plan Review

- 1.7 National Planning Guidance states that SPDs should build upon and provide more detailed advice or guidance on policies in an adopted local plan. This SPD updates the text in paragraphs 4.46 - 4.54 of the 2016 SPD and provides guidance on the policies set out within the Chichester Local Plan: Key Policies 2014-2029, which was adopted in 2015. As with all SPDs, the text set out below provides guidance only to support applicants and decision makers in their interpretation and application of the policies set out with in the adopted Local Plan.
- 1.8 In the past few years, the council has made significant progress on a Local Plan Review. This has included the publication for representations of the Chichester Local Plan 2021-2039 Proposed Submission (Regulation 19) in February 2023 and the Submission of the new Local Plan to the Secretary of State in May 2024.
- 1.9 The Local Plan Review is therefore at an advanced stage of preparation and is supported by a suite of updated technical evidence which has highlighted the continued need for A27 mitigation to be funded through developer contributions. However, as explained in Section 2 below, the Council is not able to wait for the Local Plan 2021 - 2039 to be adopted before reviewing the approach to collecting contributions to mitigate the impact on the A27 of the development that is coming forward now, under the adopted Local Plan. Therefore, as the Local Plan 2021 - 2039 has not yet been adopted, this SPD seeks to provide updated guidance on the application of the policies within the adopted Local Plan: Key Policies 2014-2029, as set out in Section 3 below.
- 1.10 Once the new Local Plan has been adopted, this SPD will be withdrawn and replaced by the new approach that will be set out in the new Local Plan 2021 - 3039.

2.0 Background

The need for A27 Chichester Bypass improvements

- 2.1 The A27 is part of the Strategic Road Network and is therefore the responsibility of National Highways. Other roads within the District are the responsibility of West Sussex County Council (WSCC). Road congestion is a major concern for residents and businesses in the District; in particular, congestion around the junctions of the A27 Chichester Bypass. This in turn, leads to congestion on the local road network as drivers seek alternative routes, leading to further traffic-related problems on those alternative routes.
- 2.2 The Local Plan (2014 – 2029) acknowledges that without mitigation, new housing and employment proposed in the Local Plan would increase this congestion further, leading to increased queuing times around the A27 junctions and within Chichester city and a deterioration in highway safety. In response, Policy 8 (Transport and Accessibility) made provision for a coordinated package of improvements to junctions on the A27 Chichester Bypass that will increase road capacity, reduce traffic congestion, improve safety, and improve access to Chichester city from surrounding areas.
- 2.3 The basis for securing funding for A27 improvements to address the impact of the planned development identified over the plan period is set out in Policy 9 (Development and Infrastructure Provision). This explains that the Infrastructure Delivery Plan will be used to identify the timing, type and number of infrastructure requirements to support the objectives and policies of the Local Plan as well as the main funding mechanisms and lead agencies responsible for their delivery. Further, Policy 9 requires that all development, where appropriate, mitigates the impact of the development on existing infrastructure, facilities or services.

Funding collected or secured to April 2024

- 2.4 At the time the Local Plan was adopted, the relevant evidence base included the Transport Study of Strategic Development Options and Sustainable Transport Measures (2013) which identified an indicative package of measures for the six junctions on the Bypass, costing £12.82 million. These measures were identified as being sufficient to mitigate the impact of development provided for by the Local Plan. On this basis, the 2016 Planning Obligations & Affordable Housing SPD referred to the objective of securing £11.17 million in development contributions over the lifetime of the Local Plan. The remainder of the identified funding had already been secured by the time the 2016 SPD was adopted, specifically for the identified improvement works to Portfield Roundabout and Oving Road junction. Both of these junction improvements have since been completed.
- 2.5 Monitoring has indicated that £4.16 million in contributions has been collected since 2016 from development coming forward in the south of the district in accordance with the Policy 9 of the Local Plan and based on the contribution levels set out in the 2016 SPD. In addition, a further £6.16 million has been secured through signed S106 agreements for developments that have yet to commence or where payment triggers are not yet reached. A further £9.22 million in contributions is in the process of being

secured (under the contribution levels set out in the 2016 SPD) from the Strategic Development Locations at West of Chichester (Phase 2) and Tangmere, each of which are yet to be granted planning permission. The combined total of these sums was £19.54 million at April 2024.

- 2.6 Although the Policy 9 of the Local Plan and the 2016 SPD have been successful in securing more than the target level of developer contributions for A27 improvement works, the remaining improvement works to the Fishbourne, Bognor, Stockbridge and Whyke roundabouts have not been possible to deliver. The main reason for this is that the cost of delivering these improvement works has increased very significantly over the past decade, well beyond the level of funding that has been secured through planning contributions set out in the 2016 SPD.
- 2.7 The Council has continued to press for improvements to the A27 Chichester Bypass to be addressed by central government funding and there has been ongoing engagement between the Council and National Highways over the past decade, seeking to achieve this end. However, in spite of these efforts, no other sources of funding have been made available to address the shortfall from the funding secured through development contributions.

Updated technical evidence

- 2.8 The Council has updated the cost evidence for delivery of the Jacobs schemes, This has involved an uplift in costs to account for inflation and utilising the WSCC cost estimate model, whilst maintaining the specification of works for the junction improvements as close to the original schemes as possible. The following table sets out the revised cost for each of the required junction improvements yet to be delivered.

Figures show Million Pounds	Jacobs - Using Revised Costs Lower	Jacobs - Using Revised Costs Upper
Fishbourne	£7.6	£10.3
Stockbridge	£8.7	£14.6
Whyke	£7.1	£13.1
Bognor Road	£9.7	£15.2
Junction Total	£33.0	£53.2

The need for a revised approach

- 2.9 The evidence supporting the adopted Local Plan concluded that the level of development set out within Policy 4 would give rise to unacceptable adverse traffic and highway safety impacts on the A27 Bypass (and the associated local network), unless it was supported by appropriate mitigation works to improve capacity at the six Bypass junctions. This conclusion is supported by the Council's up-to-date transport evidence³ which has demonstrated that some of the Bypass junctions are already over-capacity.

³ Chichester Local Plan Transport Study (Stantec, January 2023)

Therefore, any new dwellings coming forward now, within the south of the District, whether permitted by the Council or on Appeal, place a cumulative impact upon the A27 Bypass, which the proposed junction improvements are seeking to address.

- 2.10 As set out above, the latest available cost estimates for the remaining junction improvements show an overall cost of between £33 and 53.2 million. From this total we deduct the £19.54 million in developer contribution receipts that have already been secured. This leaves a minimum of £13.46 million to be funded through developer contributions secured from the development that comes forward within the remaining period before the new Local Plan is adopted.

The level of development anticipated

- 2.11 As stated above, the contribution levels set out in this SPD would impact only new residential development that comes forward within the south of the District⁴ from now until the adoption of the new Local Plan. The Council's recent transport evidence shows that development within the northern area of the District does not have a significant impact on the A27 Chichester Bypass.
- 2.12 Planning Permission has yet to be granted for two of the Strategic Development Areas identified in the Local Plan. These are West of Chichester (Phase 2) and Tangmere. However, as these allocation sites both benefit from a 'Resolution to Grant' outline planning permission, their A27 mitigation contributions will be based on the levels set out within the 2016 SPD.
- 2.13 Taking the above into account, the development that will be affected by the contribution levels set out in this SPD will be in the form of any Parish Housing Sites as well as all 'windfall developments' which are permitted before the new Local Plan is adopted. Based on the Council's monitoring of such development in recent years, it is anticipated that approximately 250 dwellings per year would be affected. It is anticipated that the new Local Plan will be adopted within one year. Therefore, unless the new Local Plan adoption is delayed, the total number of dwellings affected would be in the region of 250.
- 2.14 As part of the revision to the 2016 SPD, it has been decided that contributions should be sought from all planning permissions where there is a net increase in residential dwellings. This is a change from the 2016 SPD guidance which anticipated that contributions would be sought only from schemes of 50 or more dwellings. The reason for this change is that there is no basis in Policy 9 of the Local Plan to exclude developments smaller than 50 dwellings from being required to mitigate their impact on the A27. Applying the contribution to all new dwellings is fairer and therefore more closely aligns to the 'test' for Planning Obligations set out in Regulation 122(2)(c) of the Community Infrastructure Regulations 2010 (as amended).

⁴ The 'south of the District' is the area to the south of the boundary with the South Downs National Park, as shown on Figure 1.

3.0 Policy Framework

National Policy and Guidance

- 3.1 Section 106 of the Town and Country Planning Act 1990 (as amended) sets out the legislative background against which Planning Obligations may be sought. In addition, Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) restricts the use of Planning Obligations to certain circumstances by setting out the three tests that must be satisfied in order for obligations to be required in respect of development proposals. Under Regulation 122 a Planning Obligation must be:
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.
- 3.2 The National Planning Policy Framework (NPPF, December 2023) sets out in paragraph 34 that plans should set out the contributions expected from development. With regard to the mitigation of the impact of new development on the A27 Chichester Bypass, the expectations are set out within Policies 8 and 9 of the Chichester Local Plan: Key Policies 2014-2029 (see below). Policy 9 includes reference to the Infrastructure Delivery Plan which is the means by which the key infrastructure requirements and funding mechanisms are set out. This SPD provides guidance and support to the interpretation and application of the policies within the adopted Local Plan. It is important therefore, that this SPD is read alongside the relevant Local Plan policies which should be used in the determination of planning applications.
- 3.3 Paragraphs 55 to 58 of the National Planning Policy Framework (NPPF) (2021) set out Government policy in relation to Planning Obligations. Further guidance is provided by the Planning Practice Guidance (PPG). This states that policies for Planning Obligations should be set out in plans and examined in public and that such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability.⁵ In the case of the contributions guidance set out within this document, the Local Plan policies underpinning the guidance are set out below. The contributions being sought have been informed by up-to-date infrastructure cost evidence and by up-to-date and proportionate local plan viability testing. The need for a significant increase in the level of contributions has been highlighted by the infrastructure cost evidence and by on-going engagement with National Highways and others. The need for a revision to the approach set out in the 2016 SPD also responds to the viability evidence as explained in Section 5 below.
- 3.4 It is acknowledged that the PPG also advises that it is not appropriate for plan-makers to set out new formulaic approaches to Planning Obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. The Council has considered this guidance carefully and is at an advanced

⁵ PPG Paragraph: 004 Reference ID: 23b-004-20190901.

stage of preparing a new Local Plan which will set out a clear policy basis for seeking A27 mitigation contributions in the future. However, as explained in Section 2 above, the Council must ensure that the cumulative impact on the A27 Chichester Bypass of development coming forward now (under the adopted Local Plan) can be effectively mitigated. The level of contributions set out within the 2016 SPD is no longer sufficient to fund the necessary infrastructure improvements that are capable of mitigating the impact of development coming forward now. Therefore, if the Council were to wait until the new Local Plan was adopted, development coming forward now would not be mitigating its impact on the A27 Bypass and would therefore be in conflict with Policy 9 of the adopted Local Plan.

- 3.5 The Council has also considered the guidance within the PPG stating that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area. The Chichester Community Infrastructure Levy (CIL) has been in place since 2016. However, the funding raised through CIL is not sufficient to fund the required A27 mitigations works and, in any case, this funding is required for other essential infrastructure and facilities that are needed to mitigate the impact of development, as set out within the Council's Infrastructure Delivery Plan.

Local Planning Policy

- 3.6 **Policy 4 (Housing Provision)** of the Chichester Local Plan: Key Policies 2014-2029 states that the plan will deliver 7,388 homes over the period 2012 to 2029. This includes existing commitments as well as site allocations, parish housing sites and windfall developments. Whilst the majority of this development has already been permitted and/or built, some parish housing sites and windfall developments continue to come forward and will do so until the new Local Plan is adopted.
- 3.7 **Policy 8 (Transport and Accessibility)** states that integrated transport measures will be developed to mitigate the impact of planned development. This will include a coordinated package of improvements to junctions on the A27 Chichester Bypass, that will increase road capacity, reduce traffic congestion, improve safety, and improve access to Chichester city from surrounding areas.
- 3.8 **Policy 9 (Development and Infrastructure Provision)** states that development and infrastructure provision will be coordinated to ensure that growth is supported by the timely provision of adequate infrastructure, facilities and services. The Infrastructure Delivery Plan will be used to identify the timing, type and number of infrastructure requirements to support the objectives and policies of the Plan as well as the main funding mechanisms and lead agencies responsible for their delivery
- 3.9 Policy 9 also states that all development will be required to provide or fund new infrastructure, facilities or services required, both on and off-site and, where appropriate, mitigate the impact of the development on existing infrastructure, facilities or services.

4.0 Planning Contributions

Level of funding to be secured

- 4.1 Section 2 above sets out that a minimum of £33 million will be needed to fund the remaining A27 junction improvement works which are provided for within Policy 8 of the Local Plan. These are set out in detail within the Transport Study of Strategic Development Options and Sustainable Transport Measures (2013). These works relate to improvements at Fishbourne, Stockbridge, Whyke and Bognor Road junctions.
- 4.2 The overall level of residential development that will be affected by this SPD cannot be known with certainty. This is because it is largely comprised of windfall development and there is also no certainty over when the new Local Plan will be adopted. However, based on the Council's recent monitoring and the anticipated programme for the Local Plan Examination, the total number of dwellings is anticipated to be in the region of 250. However, this number could change if more or fewer homes are permitted each year or if the adoption of the new Local Plan is delayed.
- 4.3 In the absence of any additional sources of funding, this would result in a notional contribution per dwelling of £53,840 (£13.46 million ÷ 250 dwellings).

Viability testing

- 4.4 It is clear that the level of contribution referred to above would render all residential development in the District unviable. Therefore, in order to determine what level of contribution would be feasible, on an average contribution per dwelling basis, local plan viability testing evidence has been used. This evidence was undertaken to support the Proposed Submission Plan in January 2023⁶ and tested a wide range of potential financial contributions for A27 mitigation across a number of different residential 'typologies' (scenarios) that are consistent with the nature of development coming forward within the District.
- 4.5 The outcome of the viability testing was that the majority of development typologies across the south of the District were found to be sufficiently viable at a contribution level of up to £8,000 per dwelling.

Calculation of planning contributions

- 4.6 Following the outcomes of the viability evidence, £8,000 per dwelling has been used as a 'Target Contribution Level'. This is effectively a starting point against which other factors, such as the location of development and the size of the dwelling (i.e. likely level of car ownership) can be applied. This ensure that the financial contribution applied to development is fairly and reasonably related in scale and kind.
- 4.7 As the 2016 SPD was based on a contribution apportionment approach that excluded windfall developments and other schemes under 50 dwellings, the Council has

⁶ Chichester Local Plan 2021-2039: Viability Assessment - Stage 2 (DSP, January 2023).

developed an alternative apportionment methodology which can be applied to all residential developments within the south of the District. This is based on up-to-date data taken from three sources:

- 2021 Census Household and Car ownership data;
- Department for Transport (DfT) National Trip End Model Car Ownership forecasts; and
- The Chichester Area Transport Model.

4.8 The analysis has been undertaken at Ward level for all wards in the south of the District, which are numbered 1 to 14. These are shown in Figure 1 below and also in Appendix 1:

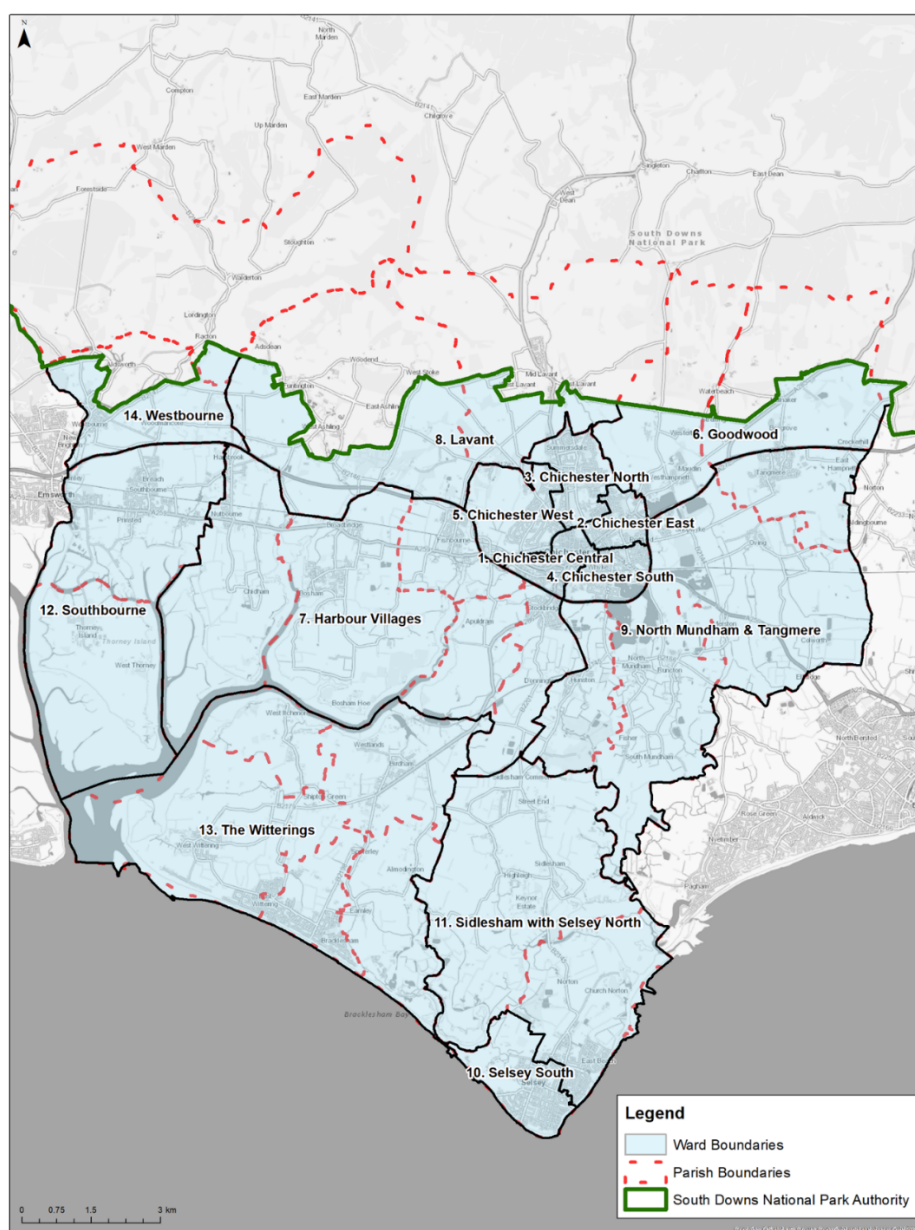


Figure 1: The 14 Wards south of the National Park

- 4.9 The methodology first determines a factor at ward level that is based on car ownership. The data is sourced from both the 2021 Census for current levels of ownership and from the DfT National Trip End Model version 8.1 to provide car ownership forecasts for 2029. Car ownership is used as a proxy for likely car trips and it is expected that in addition to dwelling size influencing car ownership, this will also be influenced by site proximity to a good range of amenities or good sustainable transport links. Lower car ownership results in a lower per dwelling contribution.
- 4.10 The Chichester Area Transport Model, is then used to determine the likely impact of dwellings on the A27 Chichester Bypass. This model has been used to determine the number of trips from each site (combined at ward level) that reach the A27 Chichester Bypass. This includes trips which may only cross over the A27 at one of the six junctions, as well as those that travel along the bypass.
- 4.11 The outcome of this is the matrix presented in Table 1 below. This provides an ‘Apportionment and Averaging Factor’ for each of the 14 wards and for each dwelling size.

Table 1: Apportionment and Averaging Factors

Wards (see Figure 1)	1-Bed	2-Bed	3-Bed	4+-Bed
1. Chichester Central	0.25	0.44	0.62	0.90
2. Chichester East	0.29	0.55	0.76	0.99
3. Chichester North	0.43	0.61	0.75	1.02
4. Chichester South	0.36	0.57	0.78	1.05
5. Chichester West	0.33	0.56	0.77	1.09
6. Goodwood	0.36	0.51	0.61	0.77
7. Harbour Villages	0.58	0.84	1.03	1.38
8. Lavant	0.41	0.52	0.61	0.86
9. North Mundham & Tangmere	0.66	0.90	1.15	1.52
10. Selsey South	0.46	0.69	0.91	1.25
11. Sidlesham with Selsey North	0.47	0.69	0.98	1.34
12. Southbourne	0.18	0.27	0.34	0.45
13. The Witterings	0.54	0.73	1.00	1.31
14. Westbourne	0.20	0.30	0.39	0.50

- 4.12 **The relevant Apportionment and Averaging Factor is then multiplied by the Target Contribution Level (£8,000) for each dwelling to derive the contribution for that dwelling.** An example is shown in Table 2 below for a development with a net increase of five dwellings in East Wittering.

Table 2: An example of how the contribution can be calculated (for the Witterings)

A. No. of dwellings	B. Size of dwellings	C. Target Contribution Level (= A x £8,000)	D. Apportionment and Averaging Factor (Table 1)	E. Total Contribution (= C x D)
3	2 bed	£24,000	0.73	£17,520
1	3 bed	£8,000	1.00	£8,000
1	4 bed	£8,000	1.31	£10,480
5	-	-	-	£36,000

Total A27 mitigation contribution that will be required

- 4.13 It is important to emphasise that the Total Contribution that may be calculated using the method described above is indicative only, based as it is on guidance provided by this SPD. In order for residential development within the south of the District to be acceptable to the Council, it must be consistent with the Local Plan as a whole ⁷, including Policy 9 (Development and Infrastructure Provision). Applicants are therefore advised to check with the Council about the level of A27 mitigation contributions that will be required for any given proposal, either during pre-application engagement or following submission of a planning application.

Development to which the contributions will apply

- 4.14 The A27 mitigation contributions will apply only to any **net increase in new dwellings coming forward in the area to the south of the National Park** (see Figure 1). The contribution will be sought from all new dwellings, including from affordable homes, retirement homes (such as sheltered housing) and from self or custom-build homes.

Demolitions and dwelling conversions

- 4.15 If a development involves the demolition of any dwellings or the conversion of a larger dwelling into multiple smaller dwellings, the total contribution for the dwellings to be lost can be calculated and deducted from the overall contribution for the development as a whole. The overall contribution for the development cannot fall below zero.

Development to which the contributions are unlikely to apply

⁷ Subject to other material considerations.

- 4.16 There are some cases where the A27 mitigation contributions are unlikely to be sought and these are set out below. The list below is not exhaustive however, and where applicants are in doubt, they are advised to ask about this during pre-application engagement with the Council.

Care homes / Extra Care facilities (Use Class C2)

- 4.17 Older and disabled persons care homes (including Extra Care homes) are generally for people who do not own or drive cars and so tend to have a very small or negligible impact on the A27 Chichester Bypass. For private care homes or Extra Care homes where parking spaces are provided for residents (beyond the normal level of visitor parking), the Council will consider applying the A27 mitigation contribution.

Purpose-built student accommodation

- 4.18 As with care homes, purpose-built student accommodation does not tend to provide parking spaces for the occupants or allow for the use of cars by students. These types of accommodation tend to be located within urban areas with good access to sustainable modes of travel. For student accommodation schemes where parking spaces are provided for occupants (beyond an appropriate level of visitor parking), the Council will consider applying the A27 mitigation contribution.

Holiday lets

- 4.19 For accommodation (whether a building or caravan) where the planning permission is for short-term holiday lets, it would not be appropriate to apply the contribution as this could result in double-counting the impact on the A27, to the extent that those using the lets may live within the south of the District. In addition, there is no viability evidence to support applying a financial contribution to the delivery of holiday accommodation.

5.0 Guidance on Procedures

- 5.1 Where a s106 agreement contains a financial obligation other than for A27 mitigation, applicants are advised to read the Planning Obligations & Affordable Housing SPD (July 2016). The guidance below relates only to those Planning Obligations intended to mitigate the impact of development on the A27 Chichester Bypass.

Section 106 Agreements and Section 278 Agreements

- 5.2 Under the 2016 SPD, where applicants were required to pay A27 mitigation contributions, the Section 106 Agreements required the applicant to enter into a Section 278 Agreement with National Highways. The s278 Agreement was then used to pay the contribution directly to National Highways. However, this practice has recently changed and Chichester District Council will now be collecting and holding the A27 mitigation contributions on National Highways' behalf. Therefore, the A27 mitigation contributions will be secured through Planning Obligations, either through a Section 106 Agreement with the Council or a Unilateral Undertaking by the applicant.
- 5.3 The funding collected will be passed, either to National Highways or to their nominated delivery partner, at the time that the initial work on the relevant junction improvement works is due to commence. Any interest payments received on the contributions being held by the Council will be put to use for the same purposes as the collected funds.

Trigger Points

- 5.4 During the s106 negotiation process, trigger points for each Planning Obligation will be agreed upon between the applicant and the Council. There are established trigger points which are suitable for s106 agreements and further guidance on this is provided within the 2016 SPD.
- 5.5 For the A27 mitigation contributions, there is a need to ensure that sufficient funding is available at the point that it is required. This could be some years before a new junction improvement is due to be completed, due to the long lead-in times required for the design and construction work involved in works on the Strategic Road Network. Therefore, the Council will seek payment of the full contribution prior to the commencement of the development.
- 5.6 Exceptions may be made for larger development schemes, where development will be phased over a number of years. In such cases a phased payment of A27 mitigation contributions will be negotiated with the applicant.

Monitoring

- 5.7 The Council starts managing and monitoring each s106 agreement/Unilateral Undertaking from the moment it is signed. This is a complex process and the Council employs a Planning Obligations Monitoring and Implementation Officer dedicated to overseeing this complex programme and ensuring the successful delivery of the Planning Obligations.

- 5.8 Where the payment of A27 mitigation contributions is phased due to the scale or phasing of a large development, the Council may require a monitoring fee to be paid in addition to the contribution, to cover the costs of monitoring the collection of contributions.

Index-linking Contributions

- 5.9 Financial contributions will be index-linked in order to allow for the fluctuation of prices between the date the agreement is signed and the date the payment is made. This is calculated based on the indexation adjustment of the relevant index, from the date the s106 agreement is signed to the expected date of payment. The additional amount paid on top of the financial contribution adjusts the contribution in accordance with inflation.
- 5.10 The method of indexation for the A27 mitigation contributions will be the **Tender Price Index of Road Construction (ROADCON)** which measures the movement of prices in tenders for road construction contracts in England, Scotland and Wales. This index is published by the Building Cost Information Service (BCIS). In the event that the index shall decrease, the contribution shall not fall below the figure set out in the s106 agreement.

Enforcement of Obligations

- 5.11 If it is evident that a Planning Obligation is not being complied with, officers will consider instigating enforcement action if other reasonable measures fail to secure payment. Planning Obligations are enforceable by Chichester District Council in the Courts by application for an injunction and for recovery of contributions payable.

Repayment of Contributions

- 5.12 The mitigation works for the A27 Chichester Bypass will not be able to commence until a sufficient quantum of funding has been collected for any given project. This could take multiple years. It is also the case that the implementation of each of the improvement works projects will have a long lead in time, again measured in years. Therefore, any repayment period negotiated through s106 agreements will be expected to be a minimum of 20 years to avoid undermining the process of funding the improvement works.

6.0 Development Viability

- 6.1 The guidance below is reproduced from paragraphs 3.6 to 3.12 of the 2016 SPD for the convenience of applicants.
- 6.2 In certain circumstances, it may be considered that the viability of a scheme is jeopardised due to site constraints or other factors and that this would justify a reduction in the amount of affordable housing or other planning obligations. It is recommended in such cases that applicants seek pre-application advice from the Local Planning Authority prior to the formal submission of a planning application.
- 6.3 Viability assessments to be submitted as evidence in negotiations must be capable of independent expert verification carried out by a qualified (RICS) surveyor/valuer. Any abnormal or exceptional development costs should be supported with robust and costed specialist reports and technical data.
- 6.4 Where viability is affected by large costs associated with bringing a heritage asset back into beneficial use, any enabling development and/or costs of the repairs will need to be supported with robust and costed specialist reports and technical data, sufficient to enable independent expert verification.
- 6.5 Where required, and at the Council's discretion, independent qualified RICS surveyor/valuers with specialist skills will be appointed by the Council to investigate the whole, or selected elements of submitted viability assessments. Any expenditure incurred by the Council in carrying out external verification of financial viability appraisals and assessing evidence must be reimbursed by the Applicant. Prior to instructing an external report and to ensure value for money and meet due diligence obligations, the Council will either appoint the District Valuer or obtain three cost limited estimates from appropriately qualified valuers/surveyors who are capable of acting on the matter without a conflict of interest, and agree the external expert with the applicant. The applicant will be required to provide a written undertaking to cover the costs before the valuer is appointed. Viability reports will be shared with the applicants.
- 6.6 Where such reports result in conflicts of opinion necessitating additional work and fees, supplementary undertakings to reimburse the Council will be sought. Any disputes between the Council and the applicant will be referred to an independent arbitrator (in accordance with RICS guidance).
- 6.7 Financial viability evidence will usually be required to reflect current day values and costs. Where proposals include phases of development that are expected to come forward over a number of years, assessments will be required to take account of projected changes in the value of development, or costs. Appropriate mechanisms may be required within s106 agreements to address the consequences of such changes over time.

6.8 RICS guidance, Financial Viability in Planning 2012⁸ provides more detailed guidance on current approaches to viability assessment in the planning context and appropriate methodologies.

⁸ This has in part been updated through Financial Viability in Planning: Conduct and Reporting (RICS, May 2019).

7.0 Glossary

2016 SPD: This refers to the Planning Obligations and Affordable Housing Supplementary Planning Document that was adopted by the Council in 2016.

Apportionment and Averaging Factor: This is a number (factor) that has been calculated by the Council to allow the calculation of A27 mitigation contributions for any given size of dwelling or location within the south of the District. The Apportionment and Averaging Factors take account of car ownership (current and projected), site location and the likely impact that new dwellings will have on the A27 Chichester Bypass.

Community Infrastructure levy (CIL): A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area. The Council introduced CIL in 2016.

Infrastructure Delivery Plan (IDP): This sets out the current planned and required infrastructure, when it will come forward, who will be leading on each aspect and the funding mechanisms and responsibilities required.

Local Plan: Key Policies (2014-2029): is the current local plan, adopted in 2015, that provides the policy basis for both the 2016 Planning Obligations and Affordable Housing SPD and this A27 Chichester Bypass Improvements: Planning Obligations SPD.

Local Plan Review (or Local Plan 2021-2039): is the emerging local plan that will, on adoption, replace the current local plan. The most recent version of the Local Plan Review is the Chichester Local Plan 2021 – 2039: Proposed Submission (Regulation 19), published in February 2023.

Material Consideration: Any factor relevant to the determination of a planning application or appeal, subject to limits set out in planning statute law, government circulars and guidance.

Mitigation: is the application of measures to avoid, minimize, or compensate for the adverse effects or harm created by new development.

National Highways (NH): Formerly known as ‘Highways England’ is an executive non-departmental public body, sponsored by the Department for Transport. They are responsible for managing the Strategic Road Network, of which the A27 is a part.

National Planning Policy Framework (NPPF): The suite of national planning policies to which planning decision makers must have regard in making planning decisions. The Council must also have regard to the NPPF in the preparation of local plans and other local planning documents. The latest version was published in July 2021.

Planning obligations: Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal.

Section 106 Agreements (s106): are formal planning agreements entered into under section 106 of the Town and Country Planning Act 1990 by a person with an interest in the land and the local planning authority; or via a unilateral undertaking entered into by a person with an interest in the land without the local planning authority.

Section 278 Agreements (s278): are formal agreements entered into under section 278 of the Highways Act 1980 by a person with an interest in the land and the highways authority. These are often used to secure off-site highways works needed to mitigate the impacts of a development.

Strategic Road Network (SRN): is the major road network made up of motorways and trunk roads (including the most significant 'A' roads, such as the A27). They are administered by National Highways (formerly Highways England) which is an executive non-departmental public body, sponsored by the Department for Transport. All other roads in the District are administered by West Sussex County Council.

Target Contribution Level: This is the notional starting point for A27 mitigation contributions (per dwelling) and was calculated taking account of up-to-date area-based viability evidence that was published on the Council's website in January 2023. The Target Contribution Level is £8,000 per dwelling.

Viability Assessment: An assessment of the financial viability of a development, taking into account a range of different factors such as location, type of site, size of scheme and scale of contributions to infrastructure and facilities.

APPENDIX 1: The 14 Wards south of the National Park

