

# Chichester District Council

## Planning Obligations & Affordable Housing Supplementary Planning Document



January 2016

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Chichester District Council adopted its Community Infrastructure Levy (CIL) on 26 January 2016 and implemented it on 1 February 2016. This has significant implications for how the Council plans for the delivery of infrastructure and secures contributions for infrastructure from development. This Supplementary Planning Document (SPD) sets out Chichester District Council's proposed policy for securing developer contributions from new development that requires planning permission, and once finalised will be an important material consideration in determining planning applications.

## Note to Reader

This document has been written to support the new Chichester Local Plan: Key Policies 2014 – 2029, and the Chichester Community Infrastructure Levy.

This document has been amended to reflect some or all of the following:

- Comments received on the draft document as a result of consultation;
- Any amendments to relevant policies in the final Local Plan: Key Policies;
- Government policy changes made up to 1 December 2015.

This document was adopted as SPD at the same time as the Community Infrastructure Levy (CIL) was adopted.

## Relationship with other Planning Documents

This Planning Obligations and Affordable Housing SPD applies to the geographic area covered by the Chichester Local Plan: Key Policies. It excludes the part of the district covered by the South Downs National Park because the South Downs National Park Authority is the planning authority for the National Park area.

This SPD will support the Local Plan: Key Policies, particularly Policy 9 “Development and Infrastructure Provision” which sets out the Council's objective to secure infrastructure. Throughout the Plan there are a number of policies which refer to securing the provision of infrastructure.

This SPD replaces ‘The Provision of Service Infrastructure Related to new Development in Chichester District’ adopted in December 2004.

In liaison with infrastructure providers the Council has produced an Infrastructure Delivery Plan (IDP) that supports the Local Plan: Key Policies. The IDP identifies what infrastructure is required to deliver the development anticipated by the Local Plan. The IDP is a live document and will be updated on a regular basis as further details about infrastructure requirements and costs are known.

## Purpose of the Planning Obligations SPD

The Chichester Local Plan: Key Policies makes provision to deliver 7,388 homes to the period 2029. This growth will result in increased pressure on local infrastructure services and facilities, creating demand for new provision. The Council and developers have a responsibility, through the planning process, to manage the impact of this growth and ensure that any harm caused by development is mitigated and that the necessary infrastructure is provided. The Council expects new development to contribute to site related and other infrastructure needs. The purpose of this SPD is to:

- Explain the Council's approach to using planning obligations to local residents, developers and the wider community;
- Explain the relationship between the CIL and s106 Planning Obligations;
- Explain the circumstances under which the Council will collect s106 contributions to mitigate the impacts of a development on infrastructure;
- Improve transparency about the priority and calculation of planning obligations;
- Provide applicants with greater certainty on when planning obligations will be sought;
- Provide a consistent methodology for calculating obligations across the Local Plan area;
- Explain the Council's approach to the delivery of appropriate market housing and affordable housing to meet local need and demand.

## How should it be used?

This SPD will be utilised by the Council as a material consideration when assessing planning applications and will be reviewed and updated periodically as necessary. Developers should draw on the document to assist in their costing and inclusion of s106 planning obligations in their financial planning and to help reduce time required negotiating and agreeing obligations with the Council.

In some instances, dependent on site specific circumstances, additional mitigation measures outside the scope of this SPD may be sought.

The SPD should be read alongside the CIL Draft Charging Schedule, Draft Regulation 123 list, or subsequent publications, because planning obligations are additional to Community Infrastructure Levy (CIL) payments.

## Structure of the Supplementary Planning Document

This document considers the role s106 planning obligations have in the area covered by the Chichester Local Plan by setting out the council's approach and legislative context. The negotiating process for planning obligations is then outlined and those planning obligations to be sought by the Council are detailed. Finally, the procedure and management processes for planning obligations are explained.

**1.1** This section sets out how s106 planning obligations (including affordable housing), CIL, planning conditions, and Highways Section 278 (s278) agreements work together as a set of tools to help achieve sustainable development. The Council will consider the cumulative impact of these upon development when considering any planning application.

## Planning Conditions

**1.2** Planning permission may be granted subject to conditions to secure matters that are needed in order to make a development acceptable in planning terms. They cannot be used to secure financial contributions but can be used to ensure that certain elements related to the development proposal enhance the quality of development, and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. In the Chichester plan area such conditions are likely to include, for example:

- Details about construction
- Time limits
- Landscaping
- Heritage and archaeology
- Ecology
- Site related transport improvements;
- Site related flood risk measures and drainage
- Details of materials to be used in the development
- Opening/operational hours of business/commercial uses.

## Highway Improvements – Section 278 and Section 38 Agreements

**1.3** Where development requires work to be carried out on the existing adopted highway, an Agreement will need to be completed between the developer and either the Secretary of State for Transport (for the strategic road network for which Highways England is responsible), or West Sussex County Council as the Local Highway Authority (for the local road network), under Section 278 of the Highways Act 1980. Examples of such works could be the construction or improvement of a new access or junction, or safety related works such as traffic calming or improved facilities for pedestrians and cyclists. There may also be an agreement under s38 of the Highways Act relating to the subsequent adoption of roads by West Sussex County Council.

## Planning Obligations (s106)

**1.4** Paragraph 203 of the National Planning Policy Framework (NPPF) states that planning obligations should only be used where it is not possible to address unacceptable impacts of development through a planning condition.

**1.5** Planning obligations secured through s106 of the Town and Country Planning Act 1990 (as amended) are entered into as legal agreements between local planning authorities, landowners, developers and any others with an interest in the land. In certain circumstances an applicant/developer may submit a unilateral undertaking in respect of a planning obligation. Planning obligations impose financial and /or\_non-financial obligations on those with an interest in the land and will become binding on that parcel of land.

# 1 . Introduction

**1.6** In the area covered by the Chichester Local Plan, planning obligations will be used to compensate and/or mitigate the impact of a development, which is not covered by the CIL contribution, and which would otherwise make the development unacceptable in planning terms. The National Planning Policy Framework permits planning obligations to be used in the following ways:

- Prescribe the nature of a development e.g. by requiring a proportion of affordable housing within a development;
- Secure a contribution from a developer to compensate for loss or damage created by a development;
- Mitigate the impact of a development.

**1.7** Since April 2015, the CIL Regulations scaled back the use of planning obligations to prevent the pooling of more than 5 separate obligations to fund a particular project or type of infrastructure, backdated to 6 April 2010. The exceptions to this are affordable housing, and s278 contributions in respect of the Strategic Road Network collected by Highways England where there are no pooling restrictions.

**1.8** Contributions relating to affordable housing will not be sought within the Local Plan area from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1000 sqm in the non-rural settlements. In the areas designated as rural areas under section 157(1) of the Housing Act 1985 (all other parts of the Local Plan area), the district council will apply a lower threshold of 5 units and under. Within the rural area, affordable housing can be provided through off-site provision facilitated by a cash payment to the Council, paid before completion of the development.

**1.9** On 14 August 2015 the National Planning Policy Framework Planning Practice Guidance was further amended to exempt starter homes exception sites from making affordable housing or tariff-style S106 contributions. The government has also announced its intention to amend the CIL Regulations to exempt starter homes from the Community Infrastructure Levy. Starter Homes are expected to be located on exception sites on commercial and industrial land that is either under-used or unviable in its current or former use, and which has not currently been identified for housing. [DCLG Starter Homes exception sites Guidance](#)

## Community Infrastructure Levy (CIL)

**1.10** Chichester District Council as planning authority is entitled to charge a levy on new development. The CIL will apply to most new development and charges are based on the size and type of the development. The basis for the CIL charge for each development type will be detailed in the Council's Community Infrastructure Levy Charging Schedule or successor documents.

**1.11** CIL will partially replace the existing s106 system. Unlike s106 Planning obligations, CIL receipts may be pooled into one fund which can be used for infrastructure needed to support new development across Chichester's Local Plan area (as set out in the Council's CIL Regulation 123 list) during the plan period . Planning obligations may not be used to fund an item that is locally intended to be funded by CIL. This SPD clarifies how the Council intends to implement each mechanism.



**1.12** The CIL allows the Council to work with infrastructure providers and communities to set priorities for what the funds collected under the levy should be spent on, and provides a funding stream so that the delivery of infrastructure projects can be planned more effectively.

**1.13** The CIL is designed to give developers and investors greater confidence to invest because there will be more certainty 'up front' about how much money they will be expected to contribute towards community infrastructure. Equally, the wider community and developers alike will be better able to understand how new development is contributing towards infrastructure provision within the area covered by the Chichester Local Plan.

## **Chichester Local Plan: Key Policies**

**1.14** The Chichester Local Plan: Key Policies was adopted by the Council on 14 July 2015. Proposals which require planning obligations should be considered in accordance with the Chichester Local Plan: Key Policies. This SPD will support and supplement the Local Plan, and so will be an important material consideration in the decision making process.

**1.15** The Local Plan outlines that planning obligations may be used to secure appropriate forms of development with the necessary on and off-site infrastructure requirements. These principles are set out in the following Local Plan Policies:

- Policy 1 – Presumption in favour of sustainable development
- Policy 2 – Development Strategy and Settlement Hierarchy
- Policy 6 – Neighbourhood Development Plans
- Policy 7 – Masterplanning Strategic Development
- Policy 8 – Transport and Accessibility
- Policy 9 – Development and Infrastructure Provision
- Policy 10 – Chichester City Development Principles
- Policy 11 – Chichester City Employment Sites
- Policy 13 – Chichester City Transport Strategy
- Policy 14 – Development at Chichester City North
- Policy 15 – West of Chichester Strategic Development Location
- Policy 16 – Shopwyke Strategic Development Location
- Policy 17 – Westhampnett/North East Chichester Strategic Development Location
- Policy 18 – Tangmere Strategic Development Location
- Policy 19 – Tangmere Strategic Employment Land
- Policy 20 – Southbourne Strategic Development
- Policy 22 – Integrated Coastal Zone Management for the Manhood Peninsula
- Policy 23 – Selsey Strategic Development
- Policy 24 – East Wittering and Bracklesham Strategic Development
- Policy 25 – Development in the North of the Plan area
- Policy 34 – Affordable Housing
- Policy 35 – Affordable Housing Exception Sites
- Policy 39 – Transport, Accessibility and Parking
- Policy 44 – Development around the Coast



# 1 . Introduction

- Policy 50 – Development and Disturbance of Birds in Chichester and Langstone Harbours Special Protection Areas
- Policy 51 – Development and Disturbance of Birds in Pagham Harbour Special Protection Area
- Policy 52 – Green Infrastructure
- Policy 54 – Open Space, Sport and Recreation

## 2 . Approach to Planning Obligations and CIL

### The Interaction between Planning Obligations & CIL

**2.1** Although CIL is expected to make a significant contribution to the infrastructure requirements of the Chichester Local Plan area, other sources of public and private funding will continue to bear the main burden of infrastructure funding. Following the adoption of a Charging Schedule, CIL will contribute towards the costs of infrastructure connected with the wider growth of the plan area whereas planning obligations will be directly related to the site specific impacts. CIL liability on a development is non-negotiable.

**2.2** The provision of affordable housing lies outside of the remit of CIL and will continue to be secured through s106 Agreements. S106 Agreements and planning conditions will also continue to be used for local infrastructure requirements on development sites, for example site specific highway improvements, on-site provision of amenity/open space; connection to utility services (as required by legislation); habitat protection; access footpaths and roads; archaeology and other site specific requirements.

**2.3** The principle is that all eligible development must pay CIL, as well as contribute to any site specific requirements secured through s106 Agreements. Further details on the levy charge can be found in the Community Infrastructure Levy Charging Schedule and should be read in conjunction with this document. CIL is an appropriate delivery mechanism for infrastructure to support the development and growth of an area, rather than to make individual planning applications acceptable in planning terms.

**2.4** The Council will publish on its website a Regulation 123 List, which will set out the projects or types of infrastructure that it intends to fund through the levy. This is to ensure that no double counting takes place between the infrastructure to be funded by the CIL from that funded from s106 Agreements. This document should be read in conjunction with the Regulation 123 list.

**2.5** The table below summarises the various mechanisms outlined above

Mechanism	Details	Use
Planning Conditions	To make otherwise unacceptable development acceptable	Planning applications and other types of applications under the Planning Acts, such as listed building consent and advertisement consent.
Planning Obligations	S106 planning obligations can secure particular on-site/localised requirements or control that cannot be secured by condition to make otherwise unacceptable development acceptable	Affordable housing, and other requirements to address the direct impacts of development.
CIL	CIL provides a consistent mechanism for pooling contributions from new	Local Plan Area wide infrastructure – see CIL Regulation 123 list.

## 2 . Approach to Planning Obligations and CIL

Mechanism	Details	Use
	development towards the broader infrastructure needs of the area.	
Section 278 Agreements	Allows developers to fund improvements and alterations to the public highway.	Highways improvements including roundabouts, signalised junctions, right turn lanes or simple priority junctions that provide access into development sites.
Section 38 Agreements	Allows West Sussex County Council to adopt new roads and infrastructure.	Highways improvements most commonly used for the adoption of new residential estate roads. This can include other infrastructure such as a relief road or cycleway that is constructed on a developer's land.

## 3 . Negotiating Planning Obligations in the Chichester Local Plan Area

**3.1** The process for negotiating and securing planning obligations is set within the framework of national legislation and guidance, and local policy and guidance, and other material considerations relevant in each particular case. When carrying out negotiations for planning obligations, the Council must meet the statutory tests set out in the 2010 CIL Regulations (as amended).

### Pre-Application Stage

**3.2** Applicants, agents and developers are encouraged to seek pre-application advice prior to the formal submission of development proposals within the Local Plan area. The pre-application process offers a valuable service for potential developers and allows dialogue to resolve any initial concerns which officers envisage may arise during the formal application stage. The pre-application stage also offers an opportunity for officers to discuss the infrastructure and CIL requirements expected on any given development site.

**3.3** It is essential that housing proposals and the issue of affordable housing are discussed with the Council well in advance of an application being submitted to ensure that the proposals address local housing need and demand for both market and affordable housing and are supported by robust evidence.

**3.4** Applicants should use this SPD alongside an analysis of their proposed development to consider the impacts of the proposed scheme and any planning obligations likely to be required to mitigate the impacts of development.

### Application Stage

**3.5** Applications for new housing should include a Housing Statement confirming the extent to which the proposal meets local need and demand for market and affordable housing and evidence supporting any deviation from policy requirements. Full and reserved matters planning applications must also incorporate a detailed Housing Mix Schedule, including the type, size (Gross Internal Floor Area (GIFA) in square metres) of the market housing and the type, size (GIFA in square metres), tenure and proposed delivery vehicle for the affordable housing (see section 4).

### Viability

**3.6** 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.

**3.7** 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.

## 3 . Negotiating Planning Obligations in the Chichester Local Plan Area

**3.8** 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.

**3.9** 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.

**3.10** 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).

**3.11** 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.

**3.12** RICS guidance, Financial Viability in Planning 2012 provides more detailed guidance on current approaches to viability assessment in the planning context and appropriate methodologies.

## 4 . Standard Obligations & Charges

**4.1** This section sets out how the Council will use s106 planning obligations necessary to make development acceptable. A variety of provisions within each s106 obligation may be necessary, therefore the topics covered below are not exhaustive and each development will be considered on a case by case basis and in line with relevant, available evidence, guidance, or policies.

**4.2** For each obligation the threshold and contribution requirements are provided. These are taken into consideration when determining where a proposed development should be subject to planning obligations and to estimate those obligations likely to be required by the Council.

### **Affordable Housing and Market Housing Mix**

**4.3** One of the roles of the District Council is to enable and coordinate the provision of housing including affordable housing, to meet the needs of the community.

**4.4** The Chichester District Housing Strategy adopted by the Council in September 2013 sets out the aims for the provision of affordable housing. This includes maximising the supply of local homes to meet the needs of local people and ensuring that all new residential development contributes to the supply of homes to meet local needs in terms of size, type and tenure.

**4.5** The Local Plan Viability assessment considered the total level of developer contributions available to meet the Community Infrastructure Levy, and affordable housing contributions to ensure deliverability of the plan. This assessment informed the level of affordable housing contributions as set out in Policy 34 of the Local Plan. The Local Plan Viability assessment demonstrates that small sites are more economically viable, even when the affordable housing contribution and CIL charge is taken into account. In view of the significant need for affordable housing in the rural areas (evidenced by both the Strategic Housing Market Assessment and the Council's Housing Register) the government's lower threshold in respect of planning obligations introduced on 28 November 2014 has been adopted.

**4.6** On all residential development sites 30% affordable housing contribution will be sought where there is a net increase of 11 or more dwellings. In all areas designated as rural under section 157(1) of the Housing Act 1985 (full details and maps are included in the Appendix to this SPD) 30% affordable housing will be sought on all developments with a net increase of between 6 and 10 units. This will be taken in the form of a financial contribution towards affordable housing in the District on completion of the development.

**4.7** The tenure split of the affordable housing should reflect the current Strategic Housing Market Assessment (SHMA) recommendations, currently 30% intermediate, with the remainder being affordable rented or social rented housing. It is however recognised that it may be appropriate to vary the affordable tenure split for site specific reasons or in connection with economic viability.

**4.8** At the District-wide level, the SHMA recommends an appropriate mix, size and type of both market and affordable rented housing required on new development. This will be used as the basis for both market and affordable housing requirements over the Local Plan

## 4 . Standard Obligations & Charges

period. Individual sites will be expected to reflect the needs of the SHMA, subject to site specific circumstances and the character of the local area. Proposals will be required to demonstrate how schemes address local need and demand, and the extent to which development proposals will deliver mixed sustainable communities or a robust justification where such potential has not been optimised. It is recognised that certain sites, especially small or brownfield sites, may be highly constrained whilst others may lend themselves to particular types of development. Again such factors will be taken into consideration as part of the appraisal process, although the primary tests of meeting local need and delivering mixed communities will remain in place.

**4.9** The SHMA’s recommendation will be considered together with information on local housing need, including the Council’s Housing Register, stock turnover and site specific factors to negotiate the provision of affordable housing in new development including the exact tenure, type and size split on each site through pre-application discussions.

SHMA Recommended Market Housing Mix by Size		
1 & 2 bedroom	3 bedroom	4+ bedroom
35%	50%	15%

SHMA Recommended Affordable Rented Housing Mix by Size			
1 bedroom	2 bedroom	3 bedroom	4 bedroom
10-15%	30-35%	35-40%	15-20%

**4.10** The dwelling size and type of the intermediate affordable housing (30% of the total affordable housing) will be negotiated on a site by site basis and assessed on affordability and local need.

**4.11** On sites comprising more than 15 affordable homes, the Council will generally expect up to 10% of the affordable rented housing to be provided as disabled/specially adapted housing, subject to evidence of local need. If there is no evidence of need, these units will be provided as general needs.

**4.12** The Local Plan area has a disproportionate amount of larger, detached, properties, and this exacerbates the affordability issues. The SHMA 2012 advised that there is a need to increase the supply of less expensive properties to improve affordability. It concluded that the mix of market housing should focus to a greater degree on smaller family homes to help retain younger working households, encourage economic growth and enable older people to downsize.

**4.13** Applications will be expected to demonstrate how the proposal meets local housing need and demand, help to provide a better mix of size and type of dwelling than currently available and should be supported by robust evidence.



## 4 . Standard Obligations & Charges

**4.14** The NPPF requires that eligibility for affordable housing is determined with regard to local incomes, and local house prices. Affordable housing must be affordable to local households whose needs are not met by the market.

**4.15** The mismatch between local incomes and local house prices creates an affordability gap. A rule of thumb for estimating affordability for average income households is that house prices should not exceed 4.5 times annual household income, to be known as the affordable salary mortgage multiplier.

**4.16** In the Local Plan area the SHMA found that entry level property prices were 5.71 times typical earnings of young households. The median earnings of a household in the district was £42,260, so the 4.5 multiplier would make an affordable property £190,170. The average house price at June 2013 was £351,261. This evidence clearly points to an affordability gap within the plan area.

**4.17** The Council expects that affordable housing would usually be provided by Registered Providers (RPs) and in most cases by one of its preferred development partners. However, in exceptional circumstances the Council may use its discretion to allow other providers approved by the Council to deliver affordable housing units, subject to affordability and satisfactory management and allocations arrangements being in place. This will, at all times, be strictly in line with the NPPF, Home and Communities Agency (HCA) guidance and the Council's Housing Allocation Scheme requirements.

**4.18** The HCA requires that the affordable housing provision on market sites is delivered with no public subsidy. In line with HCA guidance it should be assumed that for Affordable Rent, the price paid by the Registered Provider, will be no more than the capitalised value of the net rental stream of the homes. For affordable home ownership, the price paid should be based on reasonable assumptions regarding any rent to be charged on any unsold equity, the likely value of the homes and the initial average share to be offered.

**4.19** Sections 300 - 302 of the Housing and Regeneration Act 2008 enabled the Secretary of State to designate "Protected Areas", ensuring shared ownership dwellings are retained as such in areas where they would be difficult to replace. Developers should be aware that all rural parishes within the district are Designated Protected Areas. The Council has the ability to request a waiver from the Homes and Communities Agency, but will usually only do so where such housing is part of a strategic site as identified in the Local Plan.

**4.20** Many RPs are unable to take on single affordable housing units and/or deliver shared ownership housing within Protected Areas. The Council is committed to delivering mixed and sustainable communities and will seek to deliver both affordable rented and intermediate housing on all sites wherever this best meets local needs.

**4.21** If all of the Council's registered provider partners confirm that they are unable to deliver the intermediate dwellings then the owner may dispose of the units to any Council approved provider or purchaser. It is expected that wherever possible the dwellings will be available for occupation as affordable housing at a discounted rate in perpetuity. However, where staircasing to full ownership results in a loss of affordable housing, robust mechanisms will be imposed ensuring that any subsidy is recycled for alternative affordable housing

## 4 . Standard Obligations & Charges

provision in the district. Prior to any sale the Owner or Provider should submit to the Council a Market Valuation of the unit(s) undertaken by an independent RICS valuer. Any such model must be approved by the Council and clauses relating to the mechanisms of discounted sale model will be included in the section 106 agreement

**4.22** The affordability formula (the affordable salary: mortgage multiplier) applied to any scheme is calculated by multiplying the district average household earnings by 4.5, which is then divided by the average unit market value of that particular scheme and converted into a percentage for the discount rate.

### Example

#### (average earnings)

$\text{£}42,260$  (average earnings)  $\times 4.5 = \text{£}190,170$  divided by  $\text{£}351,261$  (average house price of scheme)  $\times 100 = 54\%$  discount rate. This rate remains with the property and will be applied to future sales.

**4.23** In order to prevent social exclusion and to help establish a mixed, balanced and sustainable community within large developments, it is very important that the affordable housing is well integrated and distributed throughout the site. The affordable units should be appropriately clustered in dispersed small groups, no more than 15 units on strategic sites as identified in the local plan and no more than 10 units on all other sites. Affordable housing and its setting should not be externally distinguishable from the market housing in line with Commission for Architecture and the Built Environment (CABE) recommendations.

**4.24** The affordable dwelling units must be designed to meet or exceed the Design and Quality Standards of the Homes and Communities Agency (or replacement standards or equivalent standards published by any replacement, successor body or other government agency), including meeting the minimum gross internal floor areas set out in the Housing Quality Indicators, Building Regulations, Housing Act 1985 part 10 and LACORS Regulation of "Crowding and Space in Residential Premises".

**4.25** To ensure the timely delivery of affordable housing, a s106 will usually include a phasing plan or a clause requiring a number of affordable dwellings to be completed as part of each phase, or to be all completed before the market housing can be occupied.

**4.26** Affordable housing grant funding 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 quota not being deliverable, the developer will be expected to exploit any possibility of securing grant funding to enable delivery of the full affordable housing quota. Where government grant funding is not available the Council will advise as to whether any subsidy requirement to deliver the full or improved affordable housing quota is available from the council (e.g. commuted sum funds, capital grant). If no funding is available delivery of the full affordable housing quota in an alternative mix to that recommended by the SHMA must be considered. Only as a last resort, and usually following an independent viability report, will a reduced affordable housing contribution be accepted.

## 4 . Standard Obligations & Charges

### Affordable Housing Financial Contributions

**4.27** On all residential development sites where there is a net increase of 11 or more dwellings the Council will require affordable housing to be provided on-site, this includes all sheltered, extra-care and assisted living schemes which fall within use class C3. A financial contribution of broadly equivalent value will only be accepted in exceptional circumstances where it can be robustly justified, and the agreed approach contributes to the objective of creating mixed and balanced communities. Where the proportion of affordable housing results in a requirement for a fraction of a unit, the fraction will be sought as a financial contribution (in the form of a commuted sum). In determining whether affordable housing should be provided on a site the Council will consider the suitability of the site in terms of its proximity to services, facilities and public transport as well as viability and any constraints which restrict the layout and ability to provide the full housing requirements on site.

**4.28** Commuted sum payments in lieu of on-site affordable housing provision will be the default requirement for all applicable residential development proposals which result in a net addition of 6-10 dwellings. Also where it can be demonstrated that design constraints or other justifiable factors make it impossible to provide affordable housing onsite.

**4.29** As part of the Local Plan viability testing, Peter Brett Associates (PBA) advised the Council of an appropriate mechanism to calculate off-site financial contributions in lieu of on-site affordable housing.

**4.30** PBA's model broadly aligns with CIL principles being calculated on a square metre basis of Gross Internal Floor Area ("GIFA" as defined by RICS guidance to include internal communal corridors and means of access but excluding non-saleable rooms within special need proposals, e.g. sheltered or extra-care schemes). It secures broadly equivalent financial contributions to the cost of providing onsite affordable housing, provides transparency and ensures financial viability taking account of CIL charges and local standards in the Local Plan.

**4.31** Applying the same tests and development typographies that informed the proposed CIL charging schedule, PBA advised that at baseline viability (equivalent to 30% affordable housing provision 'onsite'), a single 'per square metre' contribution rate should be levied across the local plan area between £300 and £350 of total GIFA.

**4.32** Taking viability and market conditions into consideration, a rate of £350 per square metre has been adopted. The affordable housing financial contribution rate will be kept under review, taking into account the CIL charging schedule and the CIL evidence base.

### Calculating Affordable Housing Financial Contributions

**4.33** Gross financial contributions will be calculated at the rate of £350 per square metre of the total Gross Internal Floor Area of all net additional dwellings (either new-build or conversions).

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### Example

An eligible development comprises 3 x market houses @ 100 square metres GIFA and 3 x market houses @ 85 square metres GIFA.

Total GIFA = 555 Square Metres x £350 = £194,250 financial contribution in lieu of on-site affordable housing.

### Calculating Partial Affordable Housing Financial Contributions

**4.34** A partial financial contribution as well as on-site affordable housing provision will be required in situations where on-site calculations result in less than a whole unit of affordable housing e.g. where a proposal for 11 units is required to provide 30% affordable housing on-site (3.3 units).

The calculation will require two stages:-

#### Stage 1: Calculating the eligible GIFA

Eligible GIFA = Total GIFA x Policy Percentage of Affordable housing

#### Stage 2: Calculating the Affordable Housing GIFA shortfall

GIFA Affordable Housing Shortfall = Eligible GIFA – Total GIFA onsite Affordable Housing

Financial Contribution for GIFA Affordable Housing Shortfall (if greater than zero) = GIFA Affordable Housing Shortfall x £350

### Example

An eligible greenfield development comprises 2 x houses @ 100 square metres, 4 x market houses @ 90 square metres, 2 x market @ 80 square metres GIFA (total 720 square metres) and 1 x affordable housing unit @ 85 square metres, 2 affordable housing units @ 80 square metres (total 245 square metres).

Eligible GIFA (720 + 245) x 30% = 289.5 square metres

GIFA Affordable Housing Shortfall (289.5 - 245) = 44.5 square metres

Financial contribution for GIFA Affordable Housing Shortfall (44.5 x £350) = £15,575.

### Spending Affordable Housing Financial Contributions

**4.35** Off-site financial contributions for affordable housing will be 100% ring-fenced for housing expenditure that results in housing needs being met within the District.

**4.36** The allocation and expenditure of commuted-sum payments will be agreed and authorised by an appropriate Council Committee. As part of the approval process it must be demonstrated that:

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- Value for money will be achieved;
- That any proposed forms of spending will result in preserved subsidised affordable housing in the long-term or,
- Steps will be taken to ensure the recycling of capital subsidy and associated financial gain, should any of the subsidised affordable housing be lost to the open market.

**4.37** Part of the contributions collected may be used to off-set the costs of officer post(s) required to enable the delivery of affordable housing within the plan area.

### Affordable Housing Exception Sites

**4.38** Local Plan: Policy 35 sets out the Council's approach for rural exception sites, aimed at providing affordable housing to meet local needs. Planning applications must be accompanied by satisfactory evidence, which demonstrates that the scale and mix of housing proposed will meet a local need. This should be based on information from the Council's housing register or from an up to date parish housing needs survey that has been produced by or on behalf of the Council and in partnership with the Parish Council.

**4.39** To ensure deliverability, applicants need to provide evidence that their proposals are economically viable. Due to their location, exception sites must be owned and managed by an approved Registered Provider or Community Land Trust.

**4.40** Exception sites must provide affordable housing in perpetuity; consequently, the units must be secured through s106 with an accompanying Nomination Agreement with the Registered Provider that provides the nomination criteria for the homes. This also relates to any intermediate housing, including Shared Ownership and Low Cost Home ownership. Full ownership and future sale of such units on the open market will not be permitted.

**4.41** A particular feature of exception site development is the constrained land value that results from affordable housing usage, when open market land values would render subsidised housing undeliverable and financially unviable. Given the increasing difficulty in securing public subsidy for such schemes, the successful delivery of affordable housing is likely to depend upon very low land values, as close as possible to agricultural values.

**4.42** Only in exceptional circumstances and where no public subsidy is available will an element of market housing be allowed, subject to a robust justification in order to cross-subsidise the affordable housing.

### Transport and Highways

**4.43** The Infrastructure Delivery Plan identifies a package of coordinated transport measures that are needed to mitigate the traffic impacts resulting from housing and other development proposed in the Local Plan. This includes improvements to the local junctions on the A27 Chichester Bypass, targeted improvements to the local road network, improved public transport, cycling and pedestrian routes, and 'Smarter Choices' promotional measures aimed at encouraging behavioural change towards more sustainable modes of travel. It is envisaged that these measures will be funded through a combination of contributions obtained through planning obligations (s106 and s278 agreements) and CIL, as set out in the Regulation 123 list attached to the CIL Charging Schedule.



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**4.44** Most developments generate new transport movements. In the case of many development schemes, specific works and improvements will be required either on-site or off-site to mitigate the direct impact of the development scheme on the transport network and to make the proposed development acceptable, for example improvements to junctions, provision of traffic signals, traffic calming, walking and cycling measures, public transport enhancements, etc. These can be described as development specific transport works and are normally required to be implemented as part of the development scheme.

**4.45** Obligations will be sought where there are requirements to improve non-car accessibility infrastructure in order to access development in a safe and appropriate manner or to mitigate the effects of the development on the transport network.

**4.46** West Sussex County Council is the Local Highway Authority for the Chichester Local Plan area. Chichester District Council consults West Sussex County Council on planning proposals that affect the highway network. West Sussex County Council provides advice on the scope of obligations for transport infrastructure works and measures where it is considered there is a need to mitigate the impact of new development on the transport network. A range of transport measures may be required as a result of individual schemes. The main types of obligations are likely to be:

- Travel Plans - A Travel Plan is a package of measures to reduce car travel to and from a proposed site, and to encourage the promotion of more sustainable forms of transport by increasing the awareness of travel options, such as walking and cycling, and through the provision of facilities to support such options. Travel Plans should include targets for the reduction in travel related impacts and include resources for supporting and maintaining the travel plan. Travel Plans are likely to be secured via planning conditions on most sites, but may require a planning obligation on larger or more complex development proposals;
- Works required to secure safe access and egress from the development site to the adjoining highway network or to mitigate the direct impact of the development on the off-site road network;
- Provision of internal roads to adoptable standard;
- Site-specific pedestrian and cycle facilities;
- Site-specific measures to improve public transport services and facilities;
- The provision, removal or relocation of street furniture; dropped kerbs; pedestrian crossings; traffic lights; signage; or trees;
- Contributions to car clubs; and
- Contributions to low emission vehicle infrastructure.

**4.47** Provision for on-site facilities can be made through planning conditions and a s38 or s278 Agreement under the Highways Act 1980, and they may also be secured through a s106 planning obligation. As mentioned earlier, s278 Agreements are not the responsibility of the District Council as Local Planning Authority, but are the responsibility of West Sussex County Council as the Local Highway Authority, or in the case of a trunk road, Highways England. Further guidance on s278 can be found on their respective websites.

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### Education

**4.48** Education facilities are assessed by West Sussex County Council which provides the necessary information to the District Council as referenced in the Infrastructure Delivery Plan. Education facilities required in respect of the wider growth of the area may be funded in part or in whole through the CIL as specified in the CIL Regulation 123 list. Where the on-site provision of a primary school is required to support a new site allocation the Council will expect the developer to provide the land for the facility and either design and build the provision to the satisfaction of the Council or make a financial contribution to the Council so that it may arrange for the construction and development of the required facility.

	1 Form Entry Cost	2 Form Entry Cost
<b>Primary School (4 to 11 years)</b> (1)	£4.8m - £5.4m	£8.3m - 9.5m

1. Source: WSCC 2015

**4.49** The guideline land requirements for new primary school sites are set out in the table below:

	1 Form Entry	2 Form Entry
<b>Area of land required for Primary School (4 to 11 years)</b> (1)	1.2 to 1.6 ha	2.0 to 2.4 ha

1. Source: WSCC 2015

### Public Open Space and Sport and Recreational Facilities

**4.50** The Local Plan area is deficient in the provision of all types of open space. Policy 54 therefore seeks to retain all open space unless an equivalent replacement can be provided in terms of quantity, quality and accessibility.

**4.51** New and improved public open space is required to continue to serve the growing population of the area. In accordance with the Local Plan: Key Policies, the Council will seek to deliver a network of open space through maximising opportunities for new public accessible open space linking to a network of Green Infrastructure.

**4.52** The Open Space, Sport and Recreation Facilities Study 2012 established new minimum quantity, quality and access standards for different types of open space (as set out in the table below) in the Chichester Local Plan area. It established a local minimum standard open space provision of 3.65 ha per 1,000 people for the main settlements and housing growth areas (as identified in the Local Plan: Key Policies), and 3.55ha per 1,000 people in the other parishes. Any land required for parking, access or built facilities are in addition to the



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standards. Parking for built provision will be calculated based on West Sussex County Council Parking Standards and Transport Contributions Methodology Supplementary Planning Guidance. The standards for each typology are set out below:

### Quantity and access standards for open space

Typology	Minimum Quantity standards (hectares per 1000 population)		Access Standard
	Main settlements & Housing Growth Areas As defined in Local Plan: Key Policies <sup>(1)</sup>	Parishes As defined in Local Plan: Key Policies <sup>(2)</sup>	
Allotments	0.40	0.30	480 metres
Amenity Open Space	0.50	0.50	480 metres
Natural/Semi-Natural Green Space	1.00	1.00	960 metres
Parks, Sport and Recreation Grounds <sup>(3)</sup>	1.60	1.60	600 metres
Equipped Play Space <sup>(4)</sup>	0.15	0.15	Child space: 480 metres Teenage space: 600 metres
<b>Total</b>	<b>3.65</b>	<b>3.55</b>	

1. Southbourne village, Selsey, East Wittering/Bracklesham, Shopwyke, and Strategic Development Areas: West of Chichester City; Westhampnett/North East Chichester, and Tangmere
2. Bosham, Boxgrove, Chichester city (excluding SDA); Chidham & Hambrook, Fishbourne, Oving (excluding SDA), Southbourne (excluding Southbourne village), West Thorney, Westbourne, Westhampnett, Apuldram, Birdham, Donnington, Earnley, Hunston, North Mundham, Sidlesham, West Itchenor, West Wittering, Kirdford, Lynchmere, Loxwood, Plaistow & Ifold, Wisborough Green
3. Playing fields & pitches should be accompanied by small built facilities to accommodate toilets, showers & changing rooms.
4. Please note that this standard does not include any buffers, landscape design or informal play. However, equipped playspace should be provided in accordance with Play England's 'Design for Play' Guidance which recommends designed landscape and buffers around play equipment which will exceed the 0.15ha per thousand standard

**4.53** The table below has made an assumption about the average household size for typical dwelling sizes based on information relating to the area covered by the Local Plan taken from the Census 2011.

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Dwelling size	Average household size
1 bed	1.3
2 bed	1.8
3 bed	2.3
4+ beds	2.7

**4.54** If provision of open space is to be provided off-site, provision will be made via the Community Infrastructure Levy (CIL). The thresholds for determining whether it is to be provided via CIL or through s106 is set out in the table below.

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### Threshold requirement for open space, sport and recreation facilities

Type of Provision	1-9 dwellings	10-49 dwellings	50-199 dwellings	200+ dwellings
Equipped Play Space	*	*	✓	✓
Amenity Open Space capable of use for at least some forms of public recreation	*	✓	✓	✓
Parks, Sport and Recreation Grounds  (Pitches to be provided based on the Council's most up to date Playing Pitch Strategy)	*	*	*	✓
Allotments	*	*	*	✓
Natural Green Space such as woodland, wetland, or meadow	*	*	*	✓

KEY: ✓ on site provision sought; \* Provision through CIL

**4.55** Where facilities are to be provided on-site, the Council will expect the developer to provide the land for the facility and either design and build the provision to the satisfaction of the Council in compliance with National Governing Body, Sport England Guidance or Play England Design for Play Guidance or make a financial contribution to the Council so that it may arrange for the construction and development of the required facility. All housing types are expected to contribute with the exception of housing for the active elderly which is not expected to make provision for equipped play space.

#### Maintenance Contributions for open space

**4.56** Where a development is required to provide open space on-site, the developer is expected to maintain the open space during a defect period of at least 1 year. Developers will then be required to maintain the new provision in perpetuity either directly or through a management company and/or third party.

#### Built facilities

**4.57** Sports fields and pitches should be accompanied by the provision of small built facilities to accommodate toilets, showers and changing rooms, and associated parking and access commensurate with the scale of development proposed.

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**4.58** Where Community Halls are required to be provided on-site the following quantity and access standards will apply:

Facility	Quantity Standard	Access Standard
<p><b>Small community halls</b></p>	<p>There is no 'one size fits all' solution to providing community hall venues. Generally speaking, the larger the local population, the larger and more accommodative a facility needs to be, as larger populations will tend to generate a greater and more diverse level of activities. A modern well-equipped small community hall will be required to provide:</p> <ul style="list-style-type: none"> <li>• A main hall to be used for a variety of recreation and social activities, of at least 18m x 10m.</li> <li>• A small meeting/committee room</li> <li>• Kitchen</li> <li>• Storage</li> <li>• Toilets</li> <li>• Provision for disabled access and use</li> <li>• Car Parking</li> </ul> <p>Overall a total net floor space of 300 sqm will be used as a minimum guide for the building.</p> <p>Each new development generating 500 or more people will be assessed by the Council as to what facilities are required proportionate to the scale of development proposed. However, each new development of 2,500 people will require a new facility.</p> <p>The standard will be applied flexibly to best meet local circumstances. The aim should not be (for example) to create a proliferation of small community venues in areas of growth where fewer larger venues would be more appropriate. Contributions arising from this standard may also be used towards the enlargement/improvement of existing venues (whether on-site or nearby off-site) where appropriate.</p>	<p>600 metres</p>

### Site Specific Historic Environment

**4.59** The requirements will depend on the nature of the development proposal. However, it may be relevant to any listed building, development in a conservation area, or an area of known archaeological potential.

**4.60** Where appropriate the following may be included as s106 planning obligations in relation to heritage assets:

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- Repair, restoration or maintenance of heritage assets.
- Production and implementation of conservation management plans.
- Increased public access and public open days.
- Provision of signage, interpretation panels and accessible information.
- Dissemination of historic environment information.
- Recording of archaeological remains published appropriately and placed on the Historic Environment Record (HER).
- Measures for the preservation in situ of archaeological assets, or in certain circumstances where it is deemed necessary to excavate.

### Site Specific Flood Risk

**4.61** Policy 42 requires all development to ensure that, as a minimum, there is no net increase in surface water run-off. Priority should be given to incorporating Sustainable Drainage Systems (SuDS) to manage surface water drainage, unless it is proven that SuDS are not appropriate. Where SuDS are provided arrangements must be put in place for their whole life management and maintenance. These may be secured through a planning obligation.

**4.62** Where a development is likely to have an impact on flood risk, such development must take account of the South East River Basin Management Plan, relevant Surface Water Management Plans, Catchment Flood Management Plans and related flood defence plans and strategies. Financial contributions may be required where development on a site needs to utilise these measures to mitigate a direct impact of the development.

### Site specific Habitats Regulations Assessment measures

**4.63** Policies 50 and 51 require appropriate avoidance/mitigation measures, for applications within the 5.6km 'zone of influence' of Chichester and Langstone Harbour, and within the 3.5km 'zone of influence' for Pagham Harbour or where required for residential schemes that fall outside the zones where mitigation is deemed necessary as identified in the Local Plan: Key Policies. This is because both sites are statutorily protected Natura 2000 sites, and recreational disturbance is an issue that needs to be addressed.

**4.64** Where planning proposals are required to provide on-site mitigation and management measures, these must be agreed by Natural England.

**4.65** Off-site access management mitigation will be funded from S106. The contribution is £174 per net additional dwelling within the zone of influence of Chichester and Langstone Harbours. The cost of implementing the mitigation measures will rise in line with inflation so the £174 per dwelling contribution figure will be updated on 1 April each year in line with the Retail Price Index. This figure may alter from time to time as determined by the Solent Recreation Mitigation Partnership Project Board in consultation with Natural England. The contribution for Pagham Harbour is set out in the paragraph below. Where these zones of influence overlap, contributions towards the mitigation of both may be sought.

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**4.66** For Pagham Harbour SPA a strategic package of avoidance measures has been agreed with Arun District Council, the RSPB and Natural England to deliver mitigation in the form of on-site wardening and wider education. The contribution is £1,131 per net additional dwelling within the zone of influence of Pagham Harbour. The cost of implementing the mitigation measures will rise in line with inflation, so the £1,131 per dwelling contribution figure will be updated on 1 April each year in line with the Retail Price Index. This figure may alter if the Pagham scheme integrates in the future with the Solent Recreation Mitigation Partnership. (Please note that this figure is a material consideration, but does not have full weight and status as SPD)

**4.67** For Medmerry, compensatory habitat avoidance measures, if required, will have to be identified and secured on a site by site basis. Any on-site works specific to such developments will be secured by a S106 agreement.

### Site Specific Public Services

**4.68** Policy 33 requires proposals for new residential development to take into account the need to promote public safety and deter crime and disorder through careful layout, design and the use of Secured by Design principles and standards. These can include measures to improve public safety or crime reduction such as provision of fire hydrants or CCTV. They will be negotiated on a site by site basis.

## 5 . Monitoring & Implementation

### Trigger Points

**5.1** During the s106 negotiation process, trigger points for each obligation will be agreed upon between the developer and the Council. There are established trigger points which are suitable for s106 agreements and triggers selected in each case will be based on the nature of the obligation and the stage at which mitigation is required. The established trigger points are:

- Upon the date that the agreement is signed;
- Upon or prior to commencement of the development;
- Upon or prior to substantial completion of the development; and
- Upon or prior to first occupation/first use of the development.

For larger scale development it may be appropriate to agree phased infrastructure provision.

**5.2** The Council starts managing and monitoring each s106 Agreement/Unilateral Undertaking from the moment it is signed. This is a complex process with multiple trigger points and obligations. 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.



## 6 . Spending Financial Contributions

**6.1** A corporate s106 Monitoring and Liaison Group meets quarterly to monitor current developments and progress. This group comprises officers from the services responsible for ensuring the implementation of the terms of the agreement, delivering the projects and ensuring the monies are spent appropriately. The relevant Head of Service, in consultation with the cabinet member and nominated Ward member, will agree spend of s106 monies under £50,000. The Cabinet, following consultation with the ward member, will agree spend of s106 monies over £50,000.

**6.2** The council's Corporate Governance and Audit Committee is responsible for ensuring that the s106 Implementation and Monitoring Procedure is effective and that any risks are being managed in ensuring that monies are spent in accordance with the legal agreement and within the required timescales.

### **Interest Bearing Accounts**

**6.3** When a financial contribution is received it will be placed within an interest bearing account from the date of its receipt. The interest accrued will be applied by the Council for the same purposes as the relevant contribution.

## 7 . Complying with Planning Obligations - the Developer's role

### Complying with Financial Obligations

**7.1** Where a s106 agreement contains a financial obligation, details of how to make the payment to the Council are provided. The payment can be made through BACS/CHAPS, cheque or postal order. Once received, the payment will be logged onto the Council's systems. A breakdown of received financial contributions is published on the Planning Obligations webpage on a quarterly basis.

### Enforcement of Obligations

**7.2** If it is evident that a Planning Obligation is not being complied with, officers will consider instigating enforcement action if other measures fail. Planning contributions are enforceable by Chichester District Council:

- In the courts by applications for an injunction or recovering contributions payable;
- By carrying out any operations required by the Planning Obligation and recovering the cost from the person(s) against whom the obligation is enforceable.

### Index-Linking Payments

**7.3** 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.

**7.4** The method of indexation should be specified within the planning obligation and will usually be the Retail Price Index (RPI published by the Department of Trade and Industry (DTI) or the Building Cost Information Service Index (BCIS) published by the Royal Institution of Chartered Surveyors (RICS), depending on the nature of the contribution. In the event that the index shall decrease, the contribution shall not fall below the figure set out in the s106 agreement.

**Affordable Housing:** Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by approved bodies and provided under equivalent rental arrangements to the above, as agreed with the Council or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent should be provided at rents no more than 80% of the local market rent (including service charges, where applicable) or the prevailing Local Housing Allowance, whichever is the lower.

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market sale and rent levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent as approved by the council, but not affordable rented housing.

Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, will not be considered as affordable housing for planning purposes.

**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.

**Development Plan Document (DPD):** Formal plans that set out policies for a particular geographical area. They are subject to public consultation and a Sustainability Appraisal. They must also be considered at independent examination and obtain Council approval before they can be adopted.

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

**Local Plan:** The plan for the future development of the local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. Current core strategies or other planning policies, which under the regulations would be considered to be development plan documents, form part of the Local Plan. The term includes old policies which have been saved under the 2004 Act.

**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.

## 8 . Glossary

**Mitigation Measures:** These are measures requested/carried out in order to limit the damage by a particular development or activity.

**Regulation 123 List:** Under Regulation 123 of the CIL Regulation 2010 (as amended), a Charging Authority is required to provide a regulation 123 List, which sets out the Charging Authority's spending plans including those projects or types of infrastructure that it intends to fund through the Levy.

**Section 38 Agreement:** Where as part of a development, it is proposed to construct a new estate road for residential, industrial or general purpose traffic the normal legal means by which the road becomes a public highway is via an agreement under section 38 of the Highways Act 1980. Once the new estate road construction has been completed and has satisfactorily attained its provisional maintenance period (usually one year from opening for public use) it is adopted by the Local Highway Authority as a public highway. "Adoption" means that the Local Highway Authority takes over all future responsibility for the highway works and that it becomes part of the public highway with all inferred rights.

**Section 106 Agreement:** A legal agreement made under section 106 of the 1990 Town and Country planning Act. They are generally entered into by agreement between the landowner and the Local Planning Authority, although a landowner may also offer a unilateral, "one-sided", Section 106 planning obligation. The planning obligation relates to the land within the planning application, rather than the person or organisation that develops the land. It is therefore recorded as a land charge, and the obligations under it run with the land ownership until they are fully complied with, often indefinitely. Planning obligations are used for three purposes to:

- Prescribe the nature of development to comply with policy (for example, requiring a given portion of housing to be affordable);
- Compensate for loss or damage created by a development (for example, loss of open space), or
- Mitigate a development's impact (for example, through contributions to mitigate against harm to the Special Protection Area).

They must meet the following three legal tests:

- Be necessary to make the development acceptable in planning terms;
- Be directly related to the development, and
- Be fairly and reasonably related in scale and kind to the development.

**Section 278 Agreement:** A legal agreement completed between the developer and the Local Planning Authority, under Section 278 of the Highways Act 1980, where a development requires works to be carried out on the existing adopted highway. These agreements provide a financial mechanism for ensuring delivery of mitigation works identified and determined as necessary for planning permission to be granted.

**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.