

Planning Obligations for Infrastructure Draft Supplementary Planning Document

Public Consultation
May 2017



Basingstoke
and Deane

CONSULTATION

The Adopted Basingstoke and Deane Local Plan 2011-2029 sets out the development strategy for the borough. It establishes the principle that new development will need to be supported by infrastructure. There are two main ways of delivering and funding infrastructure that relates to planning applications and these are the Community Infrastructure Levy (CIL) and planning obligations.

The council is currently in the process of implementing a CIL charging schedule to enable the council to collect the levy from developments. CIL income will be spent on the infrastructure set out in the Draft Regulation 123 list. CIL will not be able to fully replace planning obligations and there is still a need for planning obligations to provide affordable housing and infrastructure to support some planning applications.

This consultation draft Planning Obligations for Infrastructure Supplementary Planning Document (SPD) has been produced to support the delivery of the Local Plan. It sets out the approach that Basingstoke and Deane Borough Council intends to take in seeking planning obligations after the CIL Charging Schedule has come into effect.

This Draft Planning Obligations SPD is available for public consultation in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. It is published for a period of six weeks between **15 May and 26 June 2017**.

Comments can be submitted:

- By using the online form at: <http://www.basingstoke.gov.uk>
- By email to: deit@basingstoke.gov.uk
- Or by post to:
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If you have any queries, please either email deit@basingstoke.gov.uk or call 01256 845469 or 01256 845750.

Please note the comments received during this consultation cannot be treated as confidential. Responses will be published on the council's website and this will include the name and/or organisation of the respondent.

When the consultation has ended, the council will prepare a statement setting out who was consulted, a summary of the main issues raised and how the council has addressed these issues.

The council intends to adopt the Planning Obligations for Infrastructure SPD at the same time as the CIL Charging Schedule, which is anticipated to be in autumn 2017 and begin charging CIL in late 2017.

CONTENTS

1. Introduction	2
2. Policy Framework	3
3. Interaction between planning obligations and CIL	7
4. Strategic Sites	9
5. Planning Obligations for Infrastructure	11
Education	11
Transport	11
Green Infrastructure	13
Sport and Recreation	16
Community Infrastructure	16
Cultural Infrastructure	17
Flood Protection and Water Management	17
Employment and Skills	18
6. Implementation and Monitoring	20
Glossary	22

1 INTRODUCTION

- 1.1 Planning obligations provide a means to enable development proposals to meet the needs of the local community by securing developer contributions towards the provision of affordable housing, community infrastructure, and services. Planning obligations are secured by deed in accordance with section 106 of the Town and Country Planning Act 1990 (hence why they are often referred to as S106 agreements). They are made between local authorities, developers and any other persons with a legal interest in the land. They are used to make development acceptable which would otherwise be unacceptable in planning terms.
- 1.2 The Basingstoke and Deane Local Plan provides the strategic planning policy framework for development in the borough up to 2029, allocating land for development. Local Plan policy CN6 establishes that new development must be supported by the timely delivery of social, environmental and economic infrastructure for development to be sustainable.
- 1.3 In accordance with the Community Infrastructure Levy Regulations 2010 (CIL Regulations) the council is introducing a Community Infrastructure Levy (CIL) Charging Schedule in order to secure funding from development for infrastructure.
- 1.4 The purpose of this Supplementary Planning Document (SPD) is to set out the borough council's approach towards seeking planning obligations, after the council's CIL Charging Schedule has come into effect.
- 1.5 This SPD will support the Local Plan by clarifying the likely type and scale of community infrastructure that will be sought through planning obligations. It identifies where planning obligations may be required to support planning applications and outlines the borough council's approach to securing them. It is a general guide and development proposals will continue to be assessed against the relevant standards on a case-by-case basis with the individual circumstances of each site being taken into consideration.
- 1.6 This SPD, alongside the borough council's CIL Charging Schedule and Regulation 123 list, aims to provide a clear guide to developers, landowners and stakeholders, on which mechanism will be employed to deliver different types of infrastructure. This will help to ensure that planning obligations are not sought for infrastructure that is intended to be funded through CIL. The council will seek affordable housing through planning obligations in accordance with Local Plan policy CN1. Further guidance on this will be provided in a future SPD on Housing.
- 1.7 A Supplementary Planning Document may be taken into account as a material consideration which will carry significant weight in the process of making decisions on planning applications. This document will help policies within the Local Plan to be understood and applied effectively.
- 1.8 This SPD will replace the adopted guidance "S106 Planning Obligations & Community Infrastructure", July 2005 (Revised April 2015).

2 POLICY FRAMEWORK

National Context

- 2.1 Legislation and national planning policy provide the tools for local authorities to secure developer contributions through the planning system for infrastructure and affordable housing to meet the needs of their area. The main ways of doing this are through the use of planning conditions, planning obligations or community infrastructure levy.
- 2.2 The National Planning Policy Framework (NPPF) states in paragraph 203 that *“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”* In contrast, the collection of community infrastructure levy from a development could not make an unacceptable development become acceptable.

Planning Conditions

- 2.3 Sections 70 and 72 of the Town and Country Planning Act 1990 allow local planning authorities to attach conditions to the granting of planning permission. The Planning Practice Guidance states that *“conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development.”*
- 2.4 When imposing planning conditions, local planning authorities are required to ensure that they meet the six tests as set out in paragraph 206 of the NPPF:
- necessary;
 - relevant to planning;
 - relevant to the development to be permitted;
 - enforceable;
 - precise; and
 - reasonable in all other respects.
- 2.5 Planning conditions cannot be used to secure financial contributions.

Planning Obligations

- 2.6 The statutory framework for planning obligations is set out in section 106 of the Town and Country Planning Act 1990 (as amended). Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and paragraphs 203 to 205 of the National Planning Policy Framework (NPPF) March 2012 set out the Government's policy on planning obligations.
- 2.7 Planning obligations are legally binding and run with the land. They enable the local authority to secure the provision of infrastructure or services, or contributions towards them, in order to support the new development.

- 2.8 Paragraph 204 of the NPPF and Reg 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) state that planning obligations should only be sought where they meet all of the following tests:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
- 2.9 As of 6 April 2015 the CIL regulations¹ restrict the pooling of planning obligations for infrastructure. This means that a maximum of five separate planning obligations (entered into on or after 6 April 2010) can be used to fund any particular piece of infrastructure.

Community Infrastructure Levy (CIL)

- 2.10 The Community Infrastructure Levy will partially replace planning obligations in the way that infrastructure is funded. CIL enables local authorities to set a charge on new development and the money that is collected can be spent on infrastructure needed to support the development of their area.
- 2.11 The CIL Regulations place restrictions on the use of planning obligations. Regulation 122 reiterates the tests for planning obligations that are set out in the NPPF and above at paragraph 2.8. Regulation 123 places a limit on the number of S106 planning obligations that can be entered into to fund a specific infrastructure project or type of infrastructure. The council is only permitted to pool a maximum of five planning obligations to pay for a specific infrastructure project or infrastructure type. Unlike planning obligations, CIL receipts can be pooled and there are no limits on how many can be used to deliver infrastructure needed to support the development of the area, so it is particularly useful for funding strategic infrastructure.
- 2.12 The council must list the infrastructure that it intends to fund through CIL on its website and this list is called a 'Regulation 123 list' (R123 list). The planning authority cannot seek planning obligations for any item that is placed on its R123 list.² This ensures that CIL and section 106 are not sought from developers to fund the same item of infrastructure.
- 2.13 The CIL regulations allow for the charging authority to, at its discretion, accept land and/or infrastructure from the person liable, instead of money to satisfy the charge arising from the levy as follows:
- Reg 73(1) Payment in Kind: A charging authority may accept one or more land payments in satisfaction of the whole or part of the CIL due in respect of a chargeable development; and,
 - Reg 73A(2) Infrastructure Payments: An infrastructure payment is the provision of one or more items of infrastructure by a person who would be liable to pay CIL in respect of a chargeable development on commencement of that development.
- 2.14 It may therefore be appropriate for the council to establish a 'Payments in Kind' policy to allow payments in the form of land or infrastructure in lieu of CIL

¹ Reg 123 Community Infrastructure Levy Regulations 2010 (as amended)

² Basingstoke & Deane Borough Council Regulation 123 List available at <https://www.basingstoke.gov.uk/RDCS>

funds, subject to the provision being over and above what is required to ensure an acceptable development. The council would retain discretion as to whether it accepts 'payment in kind' of land or infrastructure in lieu of financial payments.

- 2.15 The borough council's CIL Draft Charging Schedule will be the subject of a public examination. Following adoption of the Charging Schedule, CIL will be levied against all chargeable development. CIL liability on a development is non-negotiable.

Section 278 Agreements

- 2.16 Section 278 (S278) agreements enable the funding or undertaking of works on the public highway network that are necessary to mitigate the impact of development. They are made between site landowners or developers and the Highway Authority under the Highways Act 1980. The developer can either undertake the work themselves or pay the Highway Authority to do it.
- 2.17 Hampshire County Council is the Highway Authority for the Basingstoke and Deane administrative area. Any S278 works would need to be secured by planning condition or section 106 agreement.
- 2.18 The pooling restriction on planning obligations does not apply to section 278 agreements which means that S278 agreements will continue to be made for highways works and they will not be replaced by CIL. As any number of S278 agreements can contribute towards a particular highway improvement scheme, there is unlikely to be any change in the way in which they are employed.
- 2.19 However, the CIL Amendment Regulations 2014 have brought S278 agreements within the restrictions imposed by regulation 123 which means that CIL cannot be spent on a highway scheme for which a S278 agreement has been made. This ensures that there is no overlap between the highway infrastructure funded through CIL and that funded by section 278. This means that where a highways improvement scheme is listed on the R123 list, it will not be possible to enter into a S278 agreement for that scheme.

Local Policy

Basingstoke and Deane Local Plan 2011-2029

- 2.20 This SPD supports and supplements the council's Adopted Local Plan, and is an important material planning consideration in the decision making process of planning applications. Policy 'CN6 – Infrastructure' of the Local Plan provides the local policy context for the guidance in this document
- 2.21 Local Plan policies which allocate strategic sites (SS3.1-SS3.12) provide the justification for seeking planning obligations for community infrastructure which is required to serve those developments. Further information on the approach to infrastructure provision at strategic sites is in chapter 4 of this SPD.
- 2.22 A number of other policies within the Local Plan also provide specific and detailed justification for various types of planning obligations that will be required, including:
- CN1 – Affordable Housing

- CN2 – Rural Exceptions for Affordable Housing
- CN7 – Essential Facilities and Services
- CN8 – Community, Leisure and Cultural Facilities
- CN9 – Transport
- EM1 – Landscape
- EM3 – Thames Basin Heaths Special Protection Area
- EM4 – Biodiversity, Geodiversity and Nature Conservation
- EM5 – Green Infrastructure
- EM7 – Managing Flood Risk
- EP1 – Economic Growth and Investment

2.23 This SPD provides further detail on the approach to planning obligations for community infrastructure. Further information on affordable housing planning obligations will be provided in a subsequent Housing SPD.

Infrastructure Delivery Plan

2.24 The council has prepared an Infrastructure Delivery Plan (IDP) in consultation with infrastructure service providers that sets out particular infrastructure projects required to support development in the Local Plan. The IDP lists specific projects and how they relate to particular developments. The IDP is a live document and is reviewed regularly as infrastructure projects are delivered and as new infrastructure requirements emerge.

3 INTERACTION BETWEEN PLANNING OBLIGATIONS AND CIL

- 3.1 Once the Basingstoke and Deane Charging Schedule has come into effect, CIL will be the main source of infrastructure funding through the grant of planning permissions, beyond the immediate needs of the development site. Planning obligations will continue to operate alongside CIL and will be collected for affordable housing provision, which is outside the remit of CIL, and for site specific infrastructure requirements as set out in this SPD. Each planning obligation must meet the tests set out in the NPPF and CIL Regulation 122 (see paragraph 2.8).
- 3.2 The council has produced a draft regulation 123 list that sets out the infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL receipts. After the adoption of the CIL charging schedule and when the regulation 123 list is published on the website, it will not be permitted to fund those infrastructure types or projects on the list through planning obligations. This is to avoid any developer or landowner contributing towards the same infrastructure through both CIL and a planning obligation.
- 3.3 There will be occasions when a development will be liable for CIL as well as planning obligations that are necessary to make the proposed development acceptable. Such obligations will relate to site specific requirements while adhering to the provisions of Regulations 122 and 123 of the CIL Regulations.
- 3.4 Table 1 offers a guide to what infrastructure types will be covered by planning obligations and what will be covered by CIL when it is operational in the borough. It should be noted that this is a guide only. The draft Regulation 123 List gives further details on the projects to be funded by CIL and any specific exclusions, which in most cases will be sought as planning obligations.

Table 1: Guide to funding mechanisms for different infrastructure types

Infrastructure Type	CIL	S106
Affordable housing		√
Education		
Primary school places at existing schools	√	
Secondary school places at existing schools	√	
New schools on strategic sites		√
Transport		
Strategic transport improvements	√	
Site related transport improvements		√
Travel plan measures		√
Green Infrastructure		

Infrastructure Type	CIL	S106
Local multifunctional green space, local equipped play areas and local allotments directly serving the development		√
Strategic open space (including strategic and neighbourhood parks and green spaces, strategic and neighbourhood play areas and strategic allotments)	√	
On-site or off-site habitat creation, restoration and management to mitigate or compensate biodiversity impacts		√
Strategic habitat creation and restoration	√	
Sport and Recreation		
Provision, improvements and management of strategic and local sports and recreational facilities	√	
Provision, improvements and management of sports and recreational facilities that directly serve a development		√
Community Infrastructure		
New community facilities to serve strategic sites		√
Enhancements to existing community facilities	√	
Library improvements	√	
Community work initiatives		√
Cultural Infrastructure		
Public art in new developments		√
Other public realm improvements	√	
Flood Protection and Water Management		
Site related flood and water management		√
Strategic off-site flood and water management	√	
Strategic water quality improvement projects	√	
Employment and Skills Training		
		√

- 3.5 It is important to note that outside of S106 planning obligations and CIL, there are other sources of funding available for the provision, improvement and maintenance of various forms of infrastructure. These are not affected by the CIL regulations and will continue to be utilised where relevant. Examples include the funding of education and primary healthcare by central Government and utilities infrastructure by the utilities companies and their regulators.

4 STRATEGIC SITES

4.1 The Basingstoke and Deane Local Plan (2011-2029) allocates a number of strategic sites for development. As the scale of development on these sites is of strategic importance to the borough, the council will seek to secure community infrastructure on-site to enable residents' needs to be met close to where they live.

4.2 The following types of infrastructure are likely to be secured through planning obligations and in most cases will be provided on site:

- Schools
- Nursery / pre-school
- Community facilities
- Sport facilities
- Transport including pedestrian and cycle links
- Bus service
- Green space
- Employment and training initiatives

4.3 As a result of the greater planning obligation burden on strategic sites, the council's viability evidence has identified that a lower CIL rate is viable on these sites.

4.4 On sites where a joint masterplanning approach has been required through the Local Plan, a joint approach to infrastructure planning and provision will be required. The applicant must demonstrate that the full infrastructure requirements will be provided in a comprehensive manner through preparation of an 'Infrastructure Delivery Statement' taking into account future management and maintenance issues.

4.5 An Infrastructure Delivery Statement is defined in the Basingstoke and Deane Local Plan 2011-2029 as follows:

Document to be provided with outline or full planning applications on relevant sites (where specified in the policies) that sets out an overarching framework for infrastructure delivery and provides suitable assurances that infrastructure is being jointly and comprehensively planned. The document can form the basis of future Section 106 agreements for relevant forms of infrastructure.

The Strategy should demonstrate that the development would:

- contribute towards a comprehensive infrastructure plan for the wider area;
- mitigate its own impacts (as required by law); and
- not prejudice and, in fact, facilitate the delivery of future development in the allocated sites.

The Strategy should include:

- A list of the area-wide infrastructure requirements;
- Details of how and where that infrastructure would be delivered or funded (including costs, levels of funding and timings); and
- A high-level infrastructure phasing strategy.

The Strategy will cover those elements of infrastructure:

- *to be provided solely by one development site to meet their own needs (for example, on-site amenity open space);*
- *to be delivered on one site but serve the entire development area or a wider area (for example, outdoor sports pitches);*
- *to be delivered on site but to be funded by an alternative means (for example, CIL);*
- *to be delivered off site (for example, off-site highway improvements);*
- *included on the Reg 123 list, that may be delivered off-site by CIL.*

5 PLANNING OBLIGATIONS FOR INFRASTRUCTURE

- 5.1 The following section looks in further detail at some of the more common types of planning obligations the council will seek to secure via a legal agreement. It is important to note that this is not an exhaustive list and the exact requirements for planning obligations will be decided on a case-by-case basis.

Education

- 5.2 A number of new primary schools are required to support development of strategic sites in the Local Plan, including two at Manydown, one at Hounsome Fields, and one at either East of Basingstoke or Upper Cufaude Farm (depending on the view of the Local Education Authority). Planning obligations will be used to secure provision of these schools and appropriate school travel plans. It will be important to identify the site at the masterplanning stage and ensure that it is of a size sufficient to meet the needs arising from the development.
- 5.3 A secondary school will be required to support the development of Manydown so land and an appropriate financial contribution will be secured through planning obligations, along with a school travel plan.
- 5.4 The council will liaise with Hampshire County Council (HCC) as the local education authority to establish the level of planning obligation that is required. Guidance on how contributions are calculated is available in the HCC published developer contributions guide.³
- 5.5 Funding opportunities will be sought for the provision of additional places at existing primary and secondary schools and this includes funding from central government as well as through CIL.
- 5.6 The council will expect early years education to be provided on strategic sites. Childcare facilities should either be located within community facilities or primary school sites. Where separate dedicated space for early years provision is planned, it should be alongside community facilities or a primary school. Guidance on the number of places and associated amount of space required is available in the HCC published early years planning document.⁴

Transport

- 5.7 Sustainable transport infrastructure is necessary to support new development and is important in facilitating efficient, safe and healthy travel. Local Plan policy 'CN9 – Transport' sets out the justification for obligations concerning transport and access in connection with new development in the borough.

³ [Developer's Contributions towards Children's Services Facilities](#) (Hampshire County Council, November 2016)

⁴ [Early Years requirements in major new developments](#) (Hampshire County Council, 2015)

- 5.8 In considering planning applications for new development, the impact on the transport network will be assessed and consideration will be given to how the impact could be overcome with the use of planning conditions or planning obligations. Where strategic transport infrastructure works are required, which are not required directly as a result of a particular development site; they will be delivered through CIL and other mechanisms.
- 5.9 Hampshire County Council (HCC) is the local highway authority for the area so the borough council consults the county council on planning proposals that affect the highway network. Proposals need to accord with the policies set out in the Local Transport Plan⁵ and successive strategies such as the Basingstoke Town Access Plan and the Strategic Transport Infrastructure Plan.
- 5.10 Planning obligations will be sought to mitigate the direct impact of development on the highways network. The scale of the planning obligation, or works required, will relate to the likely transport demands created and the character and volume of traffic likely to be generated. In order to mitigate their own impact, development proposals may need to provide the following types of mitigation:
- The provision of and/or works to footpaths and cycleways
 - Raised kerbs
 - New junctions and/or junction improvements
 - Access roads to and within the site
 - Link roads
 - Traffic Regulation Orders (e.g. to impose waiting restrictions, to extinguish or divert public highways)
 - Traffic lights
 - Pedestrian crossings
 - Signage
 - Parking
 - Traffic calming measures
 - Lighting
 - Bus stops
 - Associated landscaping
 - Drainage
- 5.11 Highway works may be delivered by the developer entering into a S278 agreement or S278 licence with HCC. The developer is required to implement the agreed highway infrastructure works to a standard that can be adopted by the highway authority. In general, the developer is obliged to submit suitable detailed engineering drawings to the highway authority for their approval prior to commencement of development on site.
- 5.12 Where appropriate, the borough council will seek contributions through payment or delivery towards off-site improvements which are required directly as a result of development and are necessary to make it acceptable in planning terms. This could include (but is not restricted to) new and improved road infrastructure, traffic calming, public transport improvements, car clubs, cycleways, footpaths, lighting, drainage and associated landscaping.

⁵ [Hampshire Local Transport Plan 2011-2031](#)

- 5.13 In appropriate circumstances the council may also seek ongoing revenue contributions to fund the running of a bus service which is necessary directly as a result of the development.
- 5.14 The cumulative impacts of development on the borough's transport and highways network, which cannot be directly linked to a specific development, will not be mitigated using planning obligations. Instead, the council will support these through the use of CIL receipts, and other funds such as the local growth deal in partnership with HCC and the Local Enterprise Partnership. Infrastructure projects as identified in the borough's regulation 123 List will not be the subject of planning obligations.

Travel Plans

- 5.15 Alongside the provision of transport infrastructure improvements, travel plans can help to mitigate the transport impact of a development proposal by reducing car usage and increasing the use of public transport, walking and cycling. The NPPF states that travel plans should be submitted alongside planning applications that are likely to generate significant amounts of movement. The council will seek travel plans for residential, commercial and school developments as appropriate.
- 5.16 Travel plans can be secured by condition but would normally be secured via a S106 agreement due to the nature of the on-going monitoring of the travel plan. Where a fee is charged for approval and monitoring of the travel plan, this will be secured through a S106 agreement. Normally travel plans will be monitored by the local highway authority, although developers may be required to collect and submit relevant data.

Broadband

- 5.17 To ensure that new developments are fit for the 21st century and assist with reducing the need to travel, developers are encouraged to ensure that all dwellings, commercial and community buildings and schools have access to fibre broadband services. Ducting for the provision of a broadband service should be installed as part of the construction of buildings and as part of highway works to minimise disruption at a later date.

Green Infrastructure

- 5.18 Green infrastructure is a network of green spaces and other environmental features which provides a multi-functional green space resource, and can take many forms. In the context of this SPD it includes:
- multifunctional green space (i.e. parks, amenity space for kickabout, accessible natural green space)
 - equipped play areas
 - allotments
 - habitats that support biodiversity
- 5.19 Local Plan policies 'EM3 – Thames Basin Heaths Special Protection Area,' 'EM4 – Biodiversity, Geodiversity and Nature Conservation,' and 'EM5 – Green Infrastructure' provide the justification for obligations in connection with green infrastructure. They reflect the aims of the council's adopted Green

Infrastructure Strategy⁶ and the council’s natural environment strategy – ‘Living Landscapes’⁷ as well as setting the local policy context for developments which affect or must provide green infrastructure within Basingstoke and Deane.

- 5.20 The council’s adopted green space standards ([Appendix 4 of the Adopted Local Plan](#)) set out what a development must provide in respect of multi-functional green space, equipped play areas and allotments. It includes a quantity standard which all new developments will normally provide, distance thresholds and a minimum acceptable size for different types of green space. There are no standards for habitat creation/restoration as each site is assessed on a case by case basis. It is recognised, however, that the provision of other forms of green infrastructure can contribute towards conserving and enhancing biodiversity.
- 5.21 The vast majority of development proposals within the borough will need to be supported by the provision or enhancement of green infrastructure in order to make the development acceptable. In new residential development areas, provision of on-site green space will be sought wherever feasible, otherwise contributions in lieu will be sought to enhance existing facilities and mitigate against the increased pressure of use. Planning obligations will be used to secure the necessary green infrastructure either on-site or within the distance thresholds set out in the green space standards ([Appendix 4 of the Adopted Local Plan](#)).
- 5.22 Mitigation for impacts on biodiversity will be sought on-site in the first instance. Where this is not possible, off-site compensation will be required within an agreed distance and at an appropriate location. Planning conditions and/or planning obligations will be used to secure the necessary biodiversity mitigation or compensation measures.
- 5.23 Where a proposed development is located within the 5km buffer zone surrounding the Thames Basin Heaths Special Protection Area, or if a proposal is for over 50 new dwellings within the 7km buffer zone; mitigation will be secured through planning obligations. Mitigation may take the form of Suitable Accessible Natural Green Space (SANGS) and contributions towards Strategic Access Management and Monitoring (SAMM).
- 5.24 In assessing the likely demand for green space arising from a new housing development, an estimate of the likely occupancy and therefore additional population is used. The following occupancy rates for different dwelling sizes are used:

Table 2: Average household occupancy by number of bedrooms

Number of bedrooms	Number of occupants
1	1.5
2	1.7
3	2.3
4	3.0
4+	3.5

⁶ [Green Infrastructure Strategy for Basingstoke and Deane](#) (July 2013)

⁷ [Living Landscapes](#) Strategy 2014

- 5.25 The resultant population is then used to calculate the overall green space requirement by reference to the current green space standards ([Appendix 4 of the Adopted Local Plan](#)).
- 5.26 Planning obligations will be used to ensure the provision of adequate green infrastructure in accordance with:
- green space standards
 - biodiversity assessments
- Obligations will also ensure appropriate phasing to support the requirements of the development.
- 5.27 Where provision and/or mitigation is delivered on-site, developers will be expected to lay out the green infrastructure as part of the development and undertake the initial maintenance of the green spaces and/or habitats. Where biodiversity compensation is off-site, developers will similarly be expected to layout the green infrastructure and undertake initial maintenance.
- 5.28 Consideration will be given to an off-site financial contribution towards the enhancement of existing green space facilities, in the following two scenarios, in accordance with policy EM5:
- a. If the quantity of green space calculated for a particular development does not equate to at least the minimum size standard for a particular type of green space (as set out in the Green Space Standards) then consideration will be given to an off-site financial contribution. For example, the minimum size for a new multifunctional green space is 0.2ha (2000 square metres). As the quantity standard for multifunctional green space in Basingstoke is 65 square metres per person, a development would have to give provide for a population of at least 30 before enough multifunctional green space was required to provide a new green space that meets the minimum size.
 - b. Alternatively, an off-site financial contribution may be acceptable if it can be demonstrated that the needs of new residents can be met in this way without adversely impacting on the needs of existing residents. For example, if there is a surplus of multifunctional green space and/or play provision within the distance thresholds, and/or the capacity of existing open space within the distance thresholds can be increased through enhancement.
- 5.29 Where off-site provision is agreed, a planning obligation will be employed to ensure that the financial contribution is paid at an appropriate time so that the council can ensure the green infrastructure is provided in time to support the development.
- 5.30 Proposals must be approved by the council and must be implemented in accordance with the council's Landscape Specification for Developers or an agreed landscape/habitat management plan. The council will need to be satisfied that suitable arrangements have been made for long-term maintenance of green infrastructure and where this is to be adopted by the council, the developer will be expected to provide commuted sums for subsequent maintenance through a planning obligation. Guidance on commuted sums for maintenance is set out in the council's [Section 106 Fees](#)

[and Charges Schedule](#), which is updated annually and published on the council's website.

- 5.31 With the introduction of CIL, green infrastructure of a strategic nature which serves a wider population than just the immediate development site may be delivered using accumulated CIL funds. This includes strategic parks and green spaces, neighbourhood parks and green spaces, strategic allotments, strategic and neighbourhood play areas. CIL may be used to fund the strategic creation, restoration and/or management of habitat infrastructure to off-set cumulative residual impacts of development on biodiversity. Provision to remedy existing deficiencies in the green infrastructure network may also be funded through CIL.

Sport and Recreation

- 5.32 The Local Plan seeks to protect and enhance the sports and recreation offer of the borough through policy 'CN8 – Community, Leisure and Cultural Facilities.' This reflects the aims of the borough council's Strategic Plan for Sport and Recreation 2012 - 2025⁸ which identifies that sports facilities are essential to the health and well-being of local communities.
- 5.33 The council has set standards ([Appendix 4 of the Adopted Local Plan](#)) to help establish the minimum sport and recreation facility requirements when assessing the impact of new development. This includes the provision of outdoor and indoor sports facilities, including pitches for football, cricket and rugby, artificial turf pitches, tennis and netball courts, bowling greens and floodlit multi-use games areas, indoor sports halls and swimming pools.
- 5.34 Planning obligations will be used to secure new sports facilities associated with specific development schemes, which generate the need for new facilities. The scale of facilities sought will be calculated on a case by case basis, based on needs identified in the Adopted Built Sports Facilities Strategy (October 2015) and the Adopted Playing Pitches Strategy (October 2015)⁹ and provision standards set out in [Appendix 4 of the Adopted Local Plan](#). These facilities may be provided on-site, however in some circumstances it may be appropriate to secure provision off-site, for example, where it links better with existing sports provision.
- 5.35 In some instances developers may be required to provide land to enable the delivery of sports facilities to serve the site. In such instances the provision of land will be secured through a section 106 Legal Agreement.
- 5.36 The provision and enhancement of other sports and recreation facilities will be funded through CIL.

Community Infrastructure

- 5.37 Community infrastructure is important in terms of providing basic services and facilities and to help develop new communities. The key policies in the Local Plan relating to the provision of community facilities are 'CN7 – Essential

⁸ [Strategic Plan for Sport and Recreation 2012-2025](#)

⁹ Built Sports Facilities Strategy and Playing Pitch Strategy available at <http://www.basingstoke.gov.uk/rte.aspx?id=695>

Facilities and Services’ and ‘CN8 – Community, Leisure and Cultural Facilities.’ These policies seek to ensure that new development is supported by appropriate community infrastructure and to protect existing communities from the loss of essential services and community, leisure and cultural facilities.

- 5.38 Where new community buildings are required to support new development, including at the strategic sites allocated in the Local Plan, they will be secured through planning obligations. The scale of the proposed development at Manydown will give rise to the need for a new library on-site and this will be secured through planning obligations.
- 5.39 In certain circumstances, it may be appropriate for new developments to fund start-up staffing for community facilities and initiatives and these would be sought as a financial contribution via a S106 agreement.
- 5.40 Improvements to existing community buildings and all other community infrastructure that have been identified in the council’s IDP will be funded through CIL and other sources of funding. This includes healthcare facilities, improvements to existing libraries and cemetery provision. Further information is available in the council’s Community Buildings Strategy.¹⁰

Cultural Infrastructure

- 5.41 The borough council recognises the role that cultural infrastructure in the public realm such as public art can play in improving the quality of the environment and the overall design in new development proposals. This can contribute to the creation of a sense of place and local identity. In appropriate circumstances, the borough council will seek to secure the provision of public art by way of a planning condition or via a section 106 agreement.
- 5.42 The commissioning of public art work should involve professional art organisations, and include stakeholder and community engagement. A written public art statement, with the commissioning process, artist briefs and budget is usually expected to be in place prior to the commencement of the development. The completion date for public art will vary dependant on the nature of the development and the location of the art work, but will usually be expected to be completed prior to first occupation of a development.

Flood Protection and Water Management

- 5.43 There are a number of water-related issues affecting the borough including protecting water quality, managing surface water drainage and flood risk, the provision of adequate water supply and waste water treatment infrastructure and ensuring sustainable levels of water consumption in new developments. Policies ‘CN6 – Infrastructure,’ ‘EM6 – Water Quality,’ ‘EM7 – Managing Flood Risk’ and ‘EM9 – Sustainable Water Use’ of the Local Plan require developers to address these issues.
- 5.44 Developers will be expected to work with utilities companies to demonstrate that there is adequate water supply, surface water drainage and foul drainage both on and off site to serve the development. A drainage strategy may be

¹⁰ Community Buildings Strategy for Basingstoke and Deane Borough Council (January 2014) available at <https://www.basingstoke.gov.uk/rte.aspx?id=1674>

required to identify any additional sewerage infrastructure or network upgrades that are necessary to accommodate flows from the development. The submission of the drainage strategy and completion of works prior to occupation of the development is usually secured through planning conditions. Improvements to sewage treatment infrastructure will be programmed and delivered by the water companies to meet the demands of projected population growth.

- 5.45 Development will not usually be permitted in areas that are at risk of flooding and proposals will only be acceptable if it is demonstrated that there are no suitable available alternative sites. Policy 'EM7 – Managing Flood Risk' sets out the requirements for developments proposed in areas at risk of flooding. If flood risk cannot be managed on site or by way of condition, then a section 106 agreement may be needed to agree either an appropriate financial contribution or provision of flood defence works or mitigation measures. Where on site measures are required, the type and location of the works should be justified and agreed with the Environment Agency and/or Hampshire County Council, in its role as the Lead Local Flood Authority, prior to implementation. These may cover sustainable drainage systems or other flood management features. The council will expect any flood management measures to be in place prior to occupation of the development.
- 5.46 CIL may be used to fund more strategic flood management measures that are not required as a direct result of a particular development. This represents an opportunity to potentially combine funding sources with other authorities for strategic schemes. This could include providing open space in areas known to experience groundwater or surface water flooding or supporting specific projects identified in the Surface Water Management Plan.
- 5.47 CIL may also be used to fund Water Framework Directive projects that help to improve water quality and/or the ecological status of waterbodies and associated habitats.

Employment and Skills

- 5.48 The Local Plan sets out a clear economic strategy which positively encourages sustainable economic growth and recognises the need to support programmes of skills development to assist the local workforce. Policy 'EP1 – Economic Growth and Investment' provides the planning policy framework for encouraging inward investment and the growth and retention of existing businesses. Investment in employment and skills training is important in enabling Basingstoke to achieve sustainable economic development.
- 5.49 The council will assess the need for a development to provide local employment, skills training and enterprise benefits for local residents on a case-by-case basis. Planning obligations will be used to secure quality employment, training and apprenticeship opportunities for local residents and to increase awareness of construction industry roles and opportunities. These obligations will reflect the scale of the development and are only likely to be necessary on major developments or significant employment sites.
- 5.50 There are two key areas of employment, skills and training for which planning obligations will be sought. The first is the construction phase for developments. In particular, there is potential for strategic sites to provide opportunities for

training and employment in construction because of the scale of construction work being undertaken. Developers should prepare employment and training plans to demonstrate how local people will be able to participate in construction skills training and be employed in the construction of the site. This should relate to the full range of development proposed on strategic sites including homes, non-residential buildings and infrastructure and landscaping works. For non-residential developments, employment and training plans should seek to provide opportunities for local people when the development is complete and operational.

- 5.51 The second key area will focus on the development of specific skills and training development initiatives aimed at improving the level of employability skills of the local workforce. These initiatives can be of a general nature and aimed at people in education to help them be better prepared to enter the labour market; or can be sector specific to enable the existing or future workforce to access local employment opportunities, particularly in the Science, Technology, Engineering and Mathematics (STEM) sector. For this type of initiative, a financial contribution will be sought to enable the development of specific awareness raising or training initiatives in partnership with local education and training providers. The level of contributions will be determined based on the size and nature of the development.

6 IMPLEMENTATION AND MONITORING

Pre-Application Stage

- 6.1 Before submitting a planning application, developers and landowners are encouraged to make use of the council's formal pre-application process in order that any site specific requirements are discussed at an early stage. Early and informal discussions with the various infrastructure service providers are encouraged, particularly for large scale developments or those where significant planning obligations are required.

Application Stage

- 6.2 The council is keen to ensure that planning obligations are completed as quickly and effectively as possible. The council will assess each application individually to determine whether an obligation is needed, and what matters it should address, and will justify the reasons for seeking an obligation.
- 6.3 The council has clear internal procedures and checklists for assessing and determining planning obligations generated by planning applications. It is intended that planning applications will not be approved by delegated authority or submitted to the Development Control Committee unless the draft S106 agreement has been agreed in principle. Where agreement cannot be reached on the S106, the planning application may be recommended for refusal.
- 6.4 The phasing of infrastructure provision or the timing of the payment of financial contributions required within a planning obligation will be negotiated separately as part of the S106 agreement. The delivery of infrastructure will be required to be provided in line with the needs of the development as set out in policy CN6. Normally financial contributions will be paid on commencement of the development or in certain circumstances through phased payments as the development proceeds.

Viability

- 6.5 Planning obligations, like CIL, are a necessary cost of development so the likely cost of obligations, including requirements for affordable housing provision, should be factored into the land acquisition and development costs from an early stage. The council has undertaken viability assessments of the Basingstoke and Deane Local Plan (2011-2029) policies and the CIL rates. These assessments made allowances for the full costs of providing affordable housing in accordance with Local Plan policy CN1, as well as other costs such as achieving 'accessible and adaptable dwellings' and meeting water efficiency requirements, and other site specific policy requirements.
- 6.6 If it is not viable for a development proposal to fully meet the council's planning obligation requirements, including affordable housing, the applicant will be required to submit an open book viability assessment to the council for consideration. An independent review will be undertaken and the cost of this will be met by the applicant, in accordance with policy CN1. Where the council is satisfied that there are genuine viability issues in delivering the affordable housing and/or infrastructure elements, the council may review the range and

nature of obligations required but will need to be satisfied that any changes to the infrastructure provision and/or affordable housing are still sufficient to make the development acceptable in planning terms.

Index linking

- 6.7 The financial contributions will be index linked within the planning obligation in order to allow for the fluctuation of prices from the date of the agreement to the date of receipt. Contributions are indexed in accordance with the Building Cost Information Service Index (BCIS) published by the Royal Institution of Chartered Surveyors. The additional amount paid on top of the financial contribution adjusts the contribution in accordance with inflation. In the event that the index shall decrease, the contribution shall not fall below the figure set out in the S106 agreement. Interest sums will apply where payments are made later than the date due as set out in the agreement.
- 6.8 In the case of outline planning applications where the number and mix of dwellings or the number of employees/visitors is unknown, a legal agreement will be drawn up to ensure that payments are phased and the level of contribution towards infrastructure provision may be assessed when the subsequent details of the development are known at the 'reserved matter' stage.

Monitoring

- 6.9 The council will monitor planning obligations to ensure they are complied with. Payment of financial contributions and the provision of infrastructure will be set out in the S106 agreement. Enforcement action will be considered, and taken in appropriate circumstances, where planning conditions or planning obligations are not complied with.
- 6.10 Travel plans will be monitored by the local highway authority.
- 6.11 The expenditure of any contributions received from developers is carefully monitored by the council in a transparent and accountable way. The council will look to achieve this in the planning process:
- Reports to the Development Control Committee on planning applications will clearly identify the 'Heads of Terms' of any S106 agreement in the recommendation.
 - A copy of each S106 agreement will be placed on the public planning register together with the planning decision notice.
 - Ensuring the sums due in accordance with the S106 agreement are paid on time.
 - Ensuring the sums once paid are earmarked for the specific project identified in the S106 agreement
 - If after ten years any unspent sums remain, upon written request, they shall be paid back to the person who paid the contribution.

GLOSSARY

Affordable housing	Affordable housing refers to particular products outside the main housing market, as defined within national guidance.
Community Infrastructure Levy (CIL)	A levy that local authorities can charge on new developments in their area. The charges are based on formulae relating to the size and type of the new development and money can be used to support development by funding infrastructure that the council, local community and neighbourhoods want.
Commuted sum payment	A one-off payment associated with the transfer of ownership of an asset (such as open space) to the local authority, as a contribution towards its future maintenance.
Infrastructure	The set of services and facilities necessary for a development to function. Infrastructure includes transport, education, leisure and health facilities, as well as open space and utilities such as water and sewerage.
Infrastructure Delivery Plan	The Infrastructure and Delivery Plan (IDP) forms part of the evidence base for the Local Plan. It assesses the infrastructure capacity and needs of the borough and provides an overview of the way infrastructure is planned and the agencies involved in its delivery. It also looks at costs and likely funding mechanisms for infrastructure, and forms the basis for assessing contributions that would be sought to meet the needs of new development.
National Planning Policy Framework (NPPF)	The NPPF sets out the Government's planning policies for England and how these are expected to be applied at the local level.
Residual value	The residual value is the total revenue of a scheme less its costs. This is then compared with a benchmark land value and a scheme is said to be viable if the residual value exceeds the benchmark.
Travel Plan	A long-term management strategy for an organisation or site that seeks to deliver sustainable transport objectives through action and is articulated in a document that is regularly reviewed.
Viable	When a development scheme will provide competitive returns to a willing landowner and willing developer to enable the development to be deliverable when taking account of the costs of any requirements likely to be applied to the development such as affordable housing and infrastructure.
Viability appraisal	A financial appraisal of the profit or loss arising from a proposed development, taking into account the estimated value of a scheme when completed and the building cost and other development costs incurred in delivering a scheme.

www.basingstoke.gov.uk/planning-obligations

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