



*Basingstoke  
and Deane*



**Section 106  
Planning Obligations  
& Community Infrastructure**

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# Foreword

Planning obligations provide a means through Section 106 agreements to enable development proposals to meet the needs of the local community by securing developer contributions towards the provision of community infrastructure, affordable housing and services. The council will seek to secure planning obligations that are fairly and reasonably related in scale and kind to the proposed development and are necessary to mitigate the impact of development in order to meet the needs of residents of the new development and to remedy the adverse affects of new development upon existing facilities.

This Interim Planning Guidance provides additional information on the legal and policy basis for negotiating planning obligations in respect of Policy C1 of the Local Plan. It also:

- Sets out the relevance of the council's 3 Year Plan and the Community Strategy in the context of the identification and provision of facilities and community infrastructure in considering development proposals;
- Provides the necessary guidance and support for the proposed type and level of contributions that will be sought through planning obligations in support of the development proposals;
- Provides the context for the principle of negotiating planning obligations and aims to promote greater transparency, predictability and accountability, and minimise uncertainty and time spent negotiating S106 agreements on individual planning applications.

The Government has published guidance on Planning Obligations in ODPM Circular 05/2005. It is also considering more fundamental changes to planning obligation policy, in the introduction of the Community Infrastructure Levy (CIL).

This Interim Planning Guidance will be replaced by Supplementary Planning Document (SPD) as part of the Local Development Framework (LDF), which will inform any work on a CIL should the council choose to introduce it. This document is a material consideration in the determination of planning applications.

Further more detailed information on the application of the revised Circular 05/2005 is available in Planning Obligations: Practice Guidance (August 2006).



# 1. Background

## Purpose of the Document

### 1.1

The purpose of the guidance is to explain how Basingstoke and Deane Borough Council will seek to secure community infrastructure, affordable housing and planning objectives in accordance with corporate priorities identified in the Council Plan. It is therefore necessary to set out the procedures that will enable these objectives to be secured from development proposals in an open and transparent way, whether it be housing, retail or commercial development, where existing infrastructure is judged to be inadequate.

## Status of the Document

### 1.2

This guidance has regard to the adopted policies of the Local Plan. The interim guidance reflects the provisions of the Planning and Compulsory Purchase Act 2004 and the transitional arrangements regarding the status of the adopted Local Plan and the Local Development Framework.

### 1.3

Supplementary planning documents 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 should be regarded as representing Interim Planning Guidance in supporting and amplifying policies in the Local Plan. Such guidance must be consistent with national planning policy guidance and the adopted Local Plan. It will help policies to be understood and to be effectively applied in clarifying what the council expects from physical development and may also be taken into account as a material consideration in regard to a planning application.

### 1.4

Whilst the weight to be attached to the Interim Planning Guidance, as a material consideration in determining planning applications will not be as high as a Supplementary Planning Document, the guidance and Sustainability Appraisal have been subject to extensive public consultation between February 2005 and April 2005. The response from the consultation exercise was reported to the council's Cabinet in June 2005 and the guidance was subsequently adopted by the council in July 2005.

### 1.5

This guidance is seen as an interim document until such time as the more fundamental changes are introduced as part of the LDF suite of documents and will be revised as a Supplementary Planning Document (SPD) to accord with the new guidance as and when it is published. The guidance will form part of the council's Best Practice Note on the 'Planning Application Process'. The Best Practice Note, is quoted as an example of good practice in the Audit Commission Report 'Development Control and Planning' 2002 and is cited as "a way of bringing certainty to the developer and consistency to the process".

# 2. Council Plan and Corporate Priorities

## 2.1

The Government suggests a transparent process for developer contributions based on achieving the policy priorities for the area. The Interim Planning Guidance reflects the council's priorities.

## 2.2

Consideration on the weight to be given to the provision of infrastructure or use of contributions should therefore be linked closely to the council's main priorities, the Community Strategy and the aspirations of partners in the Local Strategic Partnership (LSP). The Community Strategy was developed by the LSP and sets out a medium to long term vision for the Borough having been informed by extensive consultation with local communities, local businesses, the cultural community, public sector providers and the voluntary and community sector. The Strategy sets out how a range of partnerships can work together to help ensure the overall economic, social and environmental well-being of the borough.

### Basis for Negotiating Planning Obligations

## 2.3

The guidance will apply to most forms of development. In the interest of fairness, consistency and openness, negotiations on planning obligations will be based on agreed standards or infrastructure payments as set out in Government guidance, and this document.

## 2.4

Although this document provides guidance to be followed in considering development proposals, the council will retain flexibility in negotiations regarding the type, size and location of development on which

a planning obligation would be necessary and the infrastructure / contributions it would entail. It is also likely that the requirements of a planning obligation will differ for particular sizes and types of development depending on the capacity of infrastructure in the vicinity of the development and the requirement for on-site infrastructure and contributions towards enhancing off-site infrastructure.

## 2.5

It is the council's aim to carry out negotiations on planning obligations and through the council's Scoping Process will look to agree draft S106 agreements prior to consideration by the Development Control Committee. The council will commence negotiations as soon as it is apparent that an agreement will be sought. It is important to stress the necessity of entering into these negotiations at the earliest possible opportunity, at pre-application stage. A Self Service agreement can also be completed where appropriate. Further information is contained in Appendix D.

## 2.6

The methodology for negotiating affordable housing and community infrastructure will be based upon the viability of the scheme and the impact on the developments residual land value (RLV). Further details are contained at Appendix A. Further information on the drafting and completion of S106 agreements is contained at Appendix D.

## 2.7

Whilst most development proposals will have essential infrastructure requirements such as affordable housing,

transport improvements, community facilities and water and wastewater infrastructure to enable the needs of the new community to be met, there may be the opportunity to seek additional support towards local initiatives or strategic priorities where the existing local facilities are currently over subscribed.

## 2.8

In the absence of a Development Brief for a site, the council will review any development proposal and the provision of infrastructure on its merits. This would be carried out through the council's Scoping Process, involving officers from a number of the council's Business Units.

## Development Viability

### 2.9

On occasions the requirement for developer contributions or the provision of infrastructure may be greater than the development is able to bear. Where the outcome is judged to have a significant impact on RLV's and the financial viability is raised as a concern because of a planning obligation requirement the submission of a Financial Appraisal of the proposed development scheme will be required to substantiate the issue.

### 2.10

A scenario may arise whereby the financial appraisal shows that little or no infrastructure could be provided. The potential for a planning refusal in these circumstances must be balanced against the benefit of bringing a site forward for development.

## Area Based Strategies

### 2.11

The provision of community infrastructure is currently based upon a hierarchy of facilities covering borough, District and Local Neighbourhoods, whereby the

needs of new development will be supported by the pooling of contributions to enable improved facilities to be provided in a particular area. New commercial or residential developments in the Central Area of the town will be required to contribute towards improved facilities and the environment within the Town Centre. The Basingstoke Central Area Action Plan has three key objectives in which new development can contribute towards town centre initiatives by:

- adding value to the public realm;
- creating a balanced, vibrant and safe central area;
- providing easier, more convenient and safer routes for pedestrians and cyclists.

### 2.12

Community infrastructure provision or use of contributions will need to take into consideration the geographical location of development proposals where the pooling of contributions may be needed to ensure that contributions in particular areas are targeted to address particular local needs.

### 2.13

In the interest of comprehensive development, the council will seek where necessary, the collective provision of new infrastructure from development proposals and the phasing of development to ensure the satisfactory achievement of objectives. This will apply to the council's strategic objectives in relation to the urban area and in the rural areas where it is demonstrated that the best interests of the community can be met by the provision of facilities in recognised geographical areas. Further guidance on these requirements will also be set out in specific Development Briefs or Action Plans.

## 2.14

In the rural area, contributions from development in a particular village or parish can be taken to address the priorities identified in the Rural Strategy, by local residents or the Parish Council. In this respect, Parish Council's and other community interests will be requested to respond on the likely requirements for community infrastructure where development sites are known to be coming forward in rural areas. Appropriate regard will be taken of Village Design Statements (VDS's). Parish Councils' views will also be sought at the time they are consulted on planning applications for development proposals in their area. Further information on the monitoring of S106 Agreements and use of contributions is contained at Appendix D.

# 3. Provision of Infrastructure and Contributions

## 3.1

The Council Plan identifies particular objectives through the three priority themes:

- **Economy**

We want to drive economic prosperity by supporting business to innovate and create new jobs whilst encouraging residents to develop their skills.

- **Community**

We want our communities to be strong, safe and active and enjoy high quality of life including access to homes that are affordable and to community / leisure facilities.

- **Environment**

We want to protect and enhance our natural and built environment by involving our communities in planning for our future including reducing our overall carbon footprint and regenerating residential and business areas in Basingstoke.

The following information is included as a guide to the likely physical and social infrastructure requirements of any development in relation to these themes:

- ➔ Affordable Housing
- ➔ Sustainable Communities
- ➔ Travel and Transport Infrastructure
- ➔ Leisure Provision and Open Space

## 3.2

Detailed guidance on the level of infrastructure or financial contributions that will form the basis of any

negotiations involving a S106 agreement is set out at Appendix A. Other issues may arise through discussion and consultation on the development proposals.

## Affordable Housing

### 3.3

A key objective for the Government and the council is to ensure that everyone has the opportunity of a decent home. To help meet this objective, the planning system is expected to provide housing that is genuinely affordable to a wide range of people. Planning Policy Statement 3 on Housing, makes it clear that a mix of housing both market and affordable, particularly in terms of tenure and price, is needed to support a wide variety of households in all areas, both urban and rural housing. Additionally, there is an expectation that new residential schemes should help to create sustainable, mixed and inclusive communities in all areas. The council's Housing Mix Policy seeks between 30% and 50% of market dwellings are small units (2 bedrooms or less) in order to provide greater housing choice and to improve the supply of smaller low-cost market housing. It is expected that many residents will continue to be unable to afford their own home, either to buy or rent privately. As such, a range of affordable / subsidised housing options will be required.

## The Need for Affordable Housing

### 3.4

Achieving housing opportunities that are safe, secure and affordable for all its residents is a key priority objective of the council. The Housing Market Assessment (HMA) estimates that 59% of households in the borough have insufficient income to access

market housing. The Housing Strategy 2008 – 2011 includes the following action points:

- deliver at least 300 new affordable housing units each year
- provides a mix of tenures on development sites and ensures at least 195 (65%) of the affordable homes are for social rent.
- encourages the provision of intermediate rented properties as part of the broad tenure mix.
- increases the amount of rural provision from 10% to 15%.
- ensures allocations deliver sustainable communities
- working with the council's registered housing providers to deliver a mix of homes that meet identified need.
- Work with the Rural Housing Enabler to develop and deliver at least three rural exception schemes every two years

### 3.5

In negotiations to secure Affordable Housing, the aim is to achieve a housing mix which meets the needs of different sections of the community and encompasses sustainable communities. The SHMA confirms that the borough council should continue to require 40% of all new housing to be affordable, with 25% for social rent and 15% intermediate homes, albeit the council is considering an interim position in regard to the government initiatives on the affordable rent model and the definition of affordable housing as defined in PPS3 Housing (June 2011).

## Defining Affordable Housing

### 3.6

The council's Affordable Housing SPD (2007) has the following definition of affordable housing within the Borough:

*"Affordable housing is that provided, with subsidy, for people who are unable to resolve their housing needs in the general housing market because of the relationship between housing costs and incomes."*

### 3.7

The types of affordable housing which comply with this definition: "units for rent (the main group), shared ownership with subsidy or shared equity where land value is retained to provide housing for sale at below market levels and where control of the 'equity discount' can be retained in perpetuity. Subsidy includes not only public funding, but also the provision of serviced land by developers for free or at a discount.

### 3.8

The council's Affordable Housing SPD seeks provision of an element of affordable housing on housing sites above the Local Plan thresholds. The level of affordable housing provision may vary depending on the specifics of the site; however, the council's intended starting point for negotiations will be 40%.

### 3.9

Specifically, affordable housing provided through the planning process is expected to meet the following categories in order of priority:

- Affordable housing for rent / social – general needs or intermediate rented, normally in conjunction with a registered social providers and within the HCA rent level guidelines. (Intermediate rented is at 80% local market rents / household incomes less than £60k / commitment to enter low cost ownership within 5 years / registered with the Zone Agents for the North Hants area.
- Affordable housing for shared ownership which is expected to be provided in partnership with a

registered social landlord. Typically the normal starting levels are 40% or 50% ownership with the shared owner paying an affordable mortgage and proportionate rent payments.

- Affordable Housing for Shared Equity - a percentage of the equity normally 25% or 30% to be retained in perpetuity by the owner/developer, Trust or a registered social landlord.

## Funding of Affordable Housing

### 3.10

The presumption is that affordable housing, where provided, will primarily be for rent and should form part of the development proposal, including the provision of serviced land at no cost. In the absence of any grant funding, it is anticipated that the affordable housing will be provided as part of the development scheme without the need for public subsidy, or, in certain circumstances, a financial contribution will be sought which reduces the level of public funding required.

### 3.11

The council will adopt the following approach in order of priority:

- Secure the provision of land and affordable housing, mainly for social rent, without the need for public subsidy;
- Securing the transfer of the land required for the affordable housing provision to a housing association and a financial contribution towards the cost of provision. This would have the affect of reducing the amount of public subsidy required per unit, with the hope that this would make the scheme more attractive to the HCA in the event that grant funding is reduced.
- Secure the transfer of free land to a housing association. This would require a 100% grant from the

HCA, or funding from a different source, in order to enable the provision of affordable housing to proceed.

- In the event that there is still a shortfall in funding, the council will consider an alternative type / mix / percentage for the affordable housing provision

### 3.12

In appropriate circumstances, a contribution will also be sought from development proposals falling below the minimum thresholds to enable off-site provision of affordable housing elsewhere in the borough. This will be set following a general small sites viability assessment.

### 3.13

A financial contribution made in lieu of on-site provision may also be acceptable in limited circumstances, where off-site provision of affordable housing is considered as part of a wider strategy to promote housing choice and encourage better social mix. Further information on affordable housing provision is set out at Appendix A.

## Sustainable Communities

### 3.14

The council Plan identifies the need to improve access to the right types of housing in the right places to meet local needs within planned, attractive and sustainable communities. The appropriate provision of decent homes and community facilities will help ensure the overall wellbeing of the borough. The planning process enables the council to support the objectives associated with sustainable communities through the Local Plan, Rural Strategy, Housing Strategy, regeneration initiatives, action plans, sustainable transport schemes and health and social care.

### 3.15

The following issues identify where it is considered the council is able to secure appropriate planning obligations which will enhance development through improved services and greater opportunities for residents.

## Regeneration Initiatives and Neighbourhood Renewal

### 3.16

The council Plan refers to the need to regenerate and improve areas of the borough to meet community and business needs and enhance community wellbeing.

### 3.17

New development proposals involving redevelopment of existing residential areas will be expected to contribute towards the regeneration of the existing environment through, for example, physical refurbishment, environmental improvements, facility provision or training. Further information on Neighbourhood Renewal can be accessed via the council's website.

### 3.18

Redevelopment of some of the older areas in the borough will provide the opportunity to implement regeneration proposals that will assist in creating more sustainable communities in the overall scheme by providing new community infrastructure and important transport links and improved public transport initiatives. There is a clear link and justification between the ability of the council as local planning authority to secure comprehensive community and infrastructure facilities and the ability of the council through use of its well being powers to provide an effective holistic approach to regeneration.

## Education, Child Care and Early Years Provision

### 3.19

The Council Plan aims to promote improved educational provision and attainment and the development of skills to meet local needs.

### 3.20

Provision of education infrastructure is an integral part of new residential development and is an important element in achieving sustainable communities. It will be a requirement of any development to make an appropriate contribution towards enhancing existing education facilities where there is insufficient capacity to support the development. This is likely to include contributions towards Schools, Child Care and Early Years where appropriate or the allocation of land to enable provision to be made. Further information can be found at Appendix A.

## Training and Employment

### 3.21

The Council Plan seeks the promotion of quality employment, creative learning and effective skills support.

### 3.22

Contributions may be sought as part of regeneration schemes in partnership with Learning and Skills council and local colleges for the provision of training facilities or community workers where the need can be identified as forming an essential component of the proposed development.

## Social Services, Health Care and Emergency

### Services

#### 3.23

The Council Plan identifies the need to engage with local health providers, re-establish a local health partnership and develop an action plan working towards improved health services targeted at local need.

#### 3.24

Generally Health and Social Care Services are provided by the statutory and private sectors and includes GP Practices, dental surgeries, day centres and residential homes. However, land can be made available in new development schemes for the provision or improvement of facilities which is then acquired for the purpose.

#### 3.25

Land for Emergency Services Provision for new facilities or enhancement of existing facilities will also be sought in consultation with the emergency services and HCC.

## Sustainable Development

#### 3.26

The Council Plan aims to address climate change , including the carbon footprint of the whole borough as well as the council, and with an appropriate balance between reducing carbon emissions and mitigating / adapting to the impacts of extreme weather events.

#### 3.27

This guidance seeks to incorporate and promote the principle of sustainable development by identifying the potential impacts of new developments on the physical and social infrastructure of the borough and by seeking to mitigate the identified impacts of new

developments through adopting a sustainable approach to the expenditure of any contributions received through the planning obligation system, for example supporting transport measures by means other than the private car.

#### 3.28

The council will seek to ensure that development proposals accord with its Sustainability Policies and that the potential impacts are identified and supported through planning obligations or conditions and developer contributions. The council has also adopted SPD on Design and Sustainability (Sep 2008) to enable new development to have regard to sustainable development practices. Wherever possible, development proposals should incorporate sustainable drainage systems (SUDS) to reduce water run-off from impermeable surfaces. Advice on landscape biodiversity can be found in the council's SPD on landscape and biodiversity (June 2008)

## Community Safety

#### 3.29

The Council Plan aims for residents and visitors to feel and are safe in their homes, at work, in our streets, roads and rural lanes and countryside

#### 3.30

In addition to on site provision of CCTV in commercial development and Secure by Design initiatives in housing schemes, appropriate contributions will be sought where enhancement or provision of such facilities in an area would improve community safety.

## Waste Management and Recycling

### 3.31

The Council Plan aims to protect and improve the environment, through promoting biodiversity and landscape quality, waste reduction and recycling

### 3.32

The responsibility for determining the requirement for major Recycling Centres. Recycling lies with HCC and the provision of waste collection points are normally required as part of new development. However, the council will take into account the need to increase the re-use, recycling and recovery and disposal of waste in development proposals in accordance with national, regional and local policy objectives.

### 3.33

New development proposals are likely to give rise to the need for further waste management activity. Additional water and waste water infrastructure and facilities, source separation and storage of different types of waste for collection and facilities for the public to recycle waste may be required. Consideration will also be given to other aspects of sustainable development and recycling by for example the encouragement/requirement for developers to provide home composters, grey water recycling and rain water harvesting.

## Information Technology

### 3.34

In line with the Council Plan and the ICT strategy to enhance productivity and improve information access for enterprise and for all sections of the community, the council will seek the provision of appropriate cabling in new development to facilitate IT connections in line with emerging technology, Broadband, including

any sharing of facilities such as satellite receivers and other TV connections. With regard to the provision of telecommunications equipment, including the siting of communications masts, the council has published SPG "Planning and Telecommunications" (2004).

## Travel and Transport Infrastructure

### 3.35

The Council Plan aims to continue working with HCC and other transport partners to maximise access to key services and different types of transport.

### 3.36

Whilst historic travel demands in Basingstoke have primarily been met by providing good car-based access through-out the town and enhancement of the road network, this has now given way to the development of a more balanced and integrated approach. The council's local transport strategy identifies the following objectives under the Basingstoke Environmental Strategy for Transport (BEST):

- To improve transport choice for all, regardless of age, income and mobility;
- To reduce the need to travel by providing local facilities and employment opportunities;
- To reduce the harmful environmental effects of traffic and transport, particularly pollution, noise and visual effects;
- To enable people to be less dependent on cars for their travel needs;
- To improve safety and personal security for all travellers;
- To protect and promote Basingstoke's position as an attractive location for business and investment.

- Ensure that investment is properly co-ordinated to mitigate the impact of new development and to meet the transport needs of existing communities.

### 3.37

New development proposals will be required to provide for specific works and improvements either on-site or off-site to mitigate the direct impact of the development scheme on the transport network. To ensure a co-ordinated approach to land use planning and transportation, new infrastructure and developer contributions will be sought towards supporting proposals that accord with the policies set out in the North Hants Transport Strategy (NHTS), Local Transport Plan (LTP), BEST and successive strategies such as the Basingstoke Town Access Plan (TAP).

### 3.38

The rates sought by the planning authority are based on contributions that are considered necessary to provide transport improvements to help mitigate the impact of development and have been consistently secured from the different development types across the Borough. These are set out in Appendix A.

## Highway Authority

### 3.39

The council is required to discuss development proposals with Hampshire County Council in their role as the local Highway Authority. The County Council will often be joint or sole parties to the planning agreement, particularly where applications are likely to have a significant impact on the transport network in order to agree and secure an appropriate level of contribution and package of works that will be of most benefit to the long-term sustainability of the development. Currently

the threshold above which the County Council is likely to have involvement is typically for any development greater than 100 dwellings and for commercial schemes requiring a Transport Assessment.

### 3.40

Hampshire County Council has produced a County-wide Transport Contributions Policy (2007) to assessing contributions. This approach ensures a consistent means to securing contributions, particularly where the need arises for joint negotiations on some schemes. The guidance introduces an approach based upon the transport impact of each new development and the multi-modal trip rates generated to calculate the level of contributions sought.

## Leisure Provision and Open Space

### 3.41

The Council Plan aims to improve provision of local leisure, cultural and community facilities and encourage and facilitate their use by local people and visitors.

### 3.42

Leisure provision relates to social, recreational and sporting facilities, provided that such facilities relate directly to the development proposal. The council will normally require the provision of community infrastructure and public open space in accordance with the minimum standards set out in this guidance, together with associated facilities and equipment, or financial contributions to acquire or enhance off-site recreational land in the vicinity.

### 3.43

The provision of facilities within the borough needs to keep pace with population growth as well as cater for the increasing demand for recreation. Where appropriate planning priorities are to retain and enhance existing leisure and recreational facilities and to provide new facilities to meet the needs of new housing proposals and where, opportunities exist, to resolve deficiencies.

## Defining Recreation Requirements and Open Space Provision

### 3.44

The basic principle underlying the council's proposed provision standards is a leisure facilities hierarchy, reflecting the advice outlined in PPG17 Planning for Open Space, Sport and Recreation and the Companion Guide 'Assessing needs and Opportunities'. This council proposes:

- **Facilities of borough-wide significance:** these are strategically important facilities which attract users from throughout the borough and possibly also wider afield.
- **Facilities of District significance:** these are facilities which attract a significant proportion of their users from particular parts of the borough e.g. from at least two wards or parishes.
- **Facilities of Neighbourhood significance:** these are relatively small local facilities which attract almost all of their users from a small area of the Borough such as a particular ward or parish.

### 3.45

The council will seek to negotiate financial contributions towards the enhancement of existing facilities in accordance with this hierarchy where the location and scope of facilities make a significant contribution to meeting the needs of the proposed development. Collective contributions from more than one development site may be identified to enable the provision of facilities identified through leisure needs analysis. The current methodology for calculating infrastructure costs is contained at Appendix A. Information on commuted sums for maintenance of open space transferred to the council is contained at Appendix B.



# Appendix A

## Summary of Contributions / Infrastructure Currently Sought

### 1.1

The following summary provides details of contributions and infrastructure currently sought as a starting point in any negotiations, including the methodology used in calculating the level of infrastructure and financial payments. The level of contribution sought is based upon the council's experience of current costs associated with the provision of infrastructure and is reviewed on an annual basis.

### 1.2

The likely demand arising from a new housing development is currently based on an estimate of the likely occupancy using the following conversion figures to estimate the population:

Number of bedrooms	Number of persons
1	1.5
2	1.7
3	2.3
4	3.0

### 1.3

In addition the likely occupancy levels for 4+ bedroom dwellings will be based on 3.5 persons occupancy.

### 1.4

The resultant population is then used to calculate the overall infrastructure provision by reference to the general standards applying. If the housing mix or size of the dwellings is not known then the general standard

of 2.4 persons per dwelling is used. However, the council will take into account any property that is to be demolished, location of existing facilities, housing mix and likely occupiers and also make allowances in the case of sheltered housing or rest homes, nursing homes and most other institutional uses.

### 1.5

Occupancy levels will continue to be revised in new homes to enable a more refined approach to be made in calculating the need for community infrastructure.

## Affordable Housing

### 1.6

Policy C2 of the Local Plan ensures that for all new sites being developed, a realistic level of affordable housing will be secured in relation to the pattern and scale of need identified.

### 1.7

Until such time as the council has reviewed its housing policy to reflect the government affordable rent initiative and changes to the definition of affordable housing under PPS 3 (June 2011), the council's intended starting point for the negotiation of affordable housing provision will be 40% on sites above the following minimum thresholds:

- within the settlement policy boundary of Basingstoke town, settlements of at least 3000 population, the minimum threshold is 15 or more dwellings, or 1.0 hectare;

- within settlements with fewer than 3000 population, the minimum threshold is 7 dwellings, or 0.2 hectare.

\*Those settlements of at least 3000 population outside Basingstoke town area comprise:

- Bramley
- Kingsclere
- Oakley
- Old Basing
- Overton
- Tadley/Baughurst/Pamber Heath
- Whitchurch

## 1.8

Policy D8 of the Local Plan permits development on rural exception sites which meets a genuine local need, such as affordable housing, where the site does not exceed 0.4ha except in the larger identified settlements in the policy, where in general, a site should not exceed 0.8ha.

## 1.9

Policy D9 of the Local Plan also sets out the policy criteria for the provision of residential proposals as an exception to normal planning policies on development in the countryside involving the proposals for the use of brownfield sites in sustainable locations outside settlement policy boundaries:

- the site must be accessible to employment, education, retail, and other facilities by a choice of attractive means of transport other than the private car;

- an element of affordable housing will be sought on the same basis as set in policy C2;
- opportunities to include a mix of uses on the site, including employment, must be fully explored.

## 1.10

The council normally requires a developer to provide affordable housing with free serviced land with or without grant subsidy from the HCA.

## 1.11

It is anticipated that the majority of affordable housing will normally be provided in the form of accommodation as 25% rented from Registered Social Landlords (RSL's), including up to 15% intermediate housing.

## 1.12

Should it be appropriate to secure the off-site provision of affordable housing in lieu of on-site provision, the council will normally expect the overall provision to meet both the off-site and on-site requirement provided the combined affordable housing element does not exceed 50%.

## 1.13

Should it be appropriate to secure an off-site contribution in lieu of on-site provision of affordable housing, the contribution will be calculated using average HCA grant rates relevant to the type and size of homes needed to meet local housing requirements or the cost difference between housing association offers and open market value.

## 1.14

Where the financial viability of the development proposals is raised as a concern because of the planning obligation requirements and there cannot be

a negotiated settlement, the submission of a financial appraisal to substantiate the issue will be required.

### 1.15

In most cases, the affordable housing provision will be made in those schemes where there is a policy requirement. If, however, there are justifiable planning, site and community reasons for not providing affordable housing on a particular site, then the developer should enter into discussions with the Local Planning Authority at the earliest convenient date. A financial contribution will only be acceptable in lieu of on site provision if both the developer and Local Planning Authority agree that this is the preferred approach to providing affordable housing for a particular community.

### 1.16

The affordable housing should be well distributed amongst open market housing so that it is not possible to distinguish the tenure of the property and be complementary to the overall scheme in terms of design, siting and appearance and consideration given to the likely grouping(s) and housing mix in the detailed layout to enable satisfactory provision to be made. They should also comply with the HCA Design and Quality Standards (April 2007); The Code for Sustainable Homes; Housing Quality Indicators; Buildings for Life and the council's best practice guidance.

## Travel and Transport Infrastructure

### 1.17

The appropriate amounts for developer contributions towards transport improvements are assessed on the basis of the number of dwellings and bedrooms for residential development and floorspace for small

commercial development and trip generation for larger sites. The obligation is normally secured through a S106 Agreement (Town and Country Planning Act, 1990) in accordance with an agreed protocol with HCC. The provision of highway works directly associated with the development is normally implemented through an S278 Agreement with HCC.

### 1.18

The transport network across Basingstoke and the rest of Hampshire is under substantial and consistent pressure. It is important that contributions are sought at a level that will go towards funding a package of measures that will mitigate the transport impact of the proposed development. These will assist maintaining the attractiveness of the borough's location and improve its economic competitiveness, while enhancing quality of life for residents.

## Residential Development

### 1.19

The council will look to seek a contribution towards transport and highways using a scoping figure per residential dwelling, which will take into account the guidance in HCC Transport Contributions Policy and the value of any highway works to be undertaken directly by the developer and a specific package of works to be funded from the contribution.

**BEST** in terms of residential developments, a guide figure per dwelling will be sought as a contribution towards transport infrastructure improvements as follows:

1 bed dwelling	£1908
2-3 bed dwellings	£3745
4+ bed dwelling	£5457

## 1.20

Standard wording within the S106 Agreement will be used to ensure that the contribution can only be spent by the authority in the vicinity of the site, or in the transport corridor in which the development is situated.

### Commercial Development

## 1.21

The level of contribution to be sought from commercial development across the borough is set out in a similar way to that adopted for residential development and will be required to take into account Hampshire County Council's Contributions Policy. The base contribution will be assessed upon the scale of development and for small scale developments this can be measured on the basis of floorspace. The levels of contribution required for larger proposals will be based upon trip generation via a Transport Assessment and may vary according to the planning use-class being proposed. This reflects the diversity and range of impacts on the transport network generated across the spectrum of commercial development.

The level of contributions to be sought from commercial development will vary according to the planning use-class and are based upon levels that have been consistently secured from different development types as follows:

Planning Use-Classes	Rate/100m2
B1 (Business)	£4301
B2 (Industrial)	£1725
B8 (Warehousing/ Distribution)	£2162

It is envisaged that the above rates will address the majority of developments across the borough. Developments which fall outside of these planning use-class, will be subject to the same requirements as those planning applications seeking a negotiated contribution.

Depending on the scale of development and to ensure fairness and transparency, where developers seek to enter into a negotiated agreement (as at present) it will be a requirement that the applicant submit a full Transport Assessment (TA) to be used as the basis for negotiations. The TA would need to set out a full package of works to meet the transport needs of the site taking full account of all modes of transport, in accordance with Hampshire County Council's Transport Contributions Policy.

### Travel Plans

## 1.22

In addition to the provision of infrastructure improvements, Travel Plans can be an effective way of promoting sustainable communities and co-ordinating travel by means other than relying on the private car.

Travel Plans can form part of a planning application proposal with the aim of reducing car usage and increasing the use of public transport, walking and cycling in support of sustainable transport objectives or would normally be sought via a S106 agreement.

### 1.23

The Department of Transport has produced good practice guidance: Delivering Travel Plans through the Planning System (April 2009)

### 1.24

Travel plans will normally be required for the following categories and scale of development, including housing proposals likely to have significant transport implications:

- All major developments comprising employment or services (2500m<sup>2</sup> gross floor space or above), retail (1000m<sup>2</sup> gross floor space or above), leisure (1000m<sup>2</sup> gross floor space or above 1500 seats).
- Smaller employment, retail, leisure and service development, which would generate significant amounts of travel.
- New and expanded school development.
- Where a travel plan would help address a particular local traffic problem associated with a planning application, which might otherwise have to be refused permission on local traffic grounds.

### 1.25

It should also be noted that, in addition to the requirements for larger developments to submit a Travel Plan illustrating how travel impact is to be reduced, local plan policy A1 requires that Travel Plans will be required for all commercial developments above 500 square metres.

## Parking Standards

### 1.26

The council's Residential Parking Standards (SPD) (July 2008) – provides guidance on parking standards for housing development according to how accessible the site is. Further information on commercial standards can be found in the document 'Hampshire Parking Strategy and Standards' (February 2002) or by contacting the council's Transport Strategy Team for further advice.

## Leisure Provision and Open Space

### 1.27

The principles for the provision and management of public open space, playing fields and play areas are set out in the council's Leisure strategy (2006-10).

A robust quantitative and qualitative audit of all existing public open space was carried out in 1998/99 and updated in 2008

### 1.28

It is recognised that most of the borough is well provided with both the various form of greenspace and sport and recreation facilities, although some areas of open space within the urban areas are not fulfilling their potential to meet the needs of residents and the main need is to enhance the quality of space and facilities.

### 1.29

Where on-site facilities are to be provided, these will normally be provided directly by the developer, except in the case of community buildings where the preferred approach is for the council to provide the facility on receipt of contributions from the developer. It is considered that it may also be appropriate for some revenue costs to be met from contributions e.g. for start up or community worker, training initiatives, depending on the merits of the development proposed.

PPG 17: Planning for Open Space, Sport and

Recreation notes that:

*“Planning obligations should be used as a means to remedy local deficiencies in the quantity or quality of open space and recreational provision. Local authorities will be justified in seeking planning obligations where the quantity or quality of provision is inadequate or under threat, or where new development increases local needs”* (PPG 17 paragraph 33).

While PPS3: Housing states that:

*“New housing developments should provide or enable good access to open amenity and recreational space, including private gardens, play areas and informal space”*

### 1.30

The appropriate contribution is calculated by reference to the likely occupancy of the development and applying the appropriate costs of providing the facility plus commuted sums for maintenance where necessary.

### 1.31

These figures reflect rates for 2011/12 and are reviewed on an annual basis to reflect changes in capital costs of provision. Where contributions are sought for the expansion or improvement of existing facilities then the costs applying to the proposed improvements will apply.

#### **Community Buildings:** From council

experience, the provision standard for community buildings is based on a figure of 0.75 sq.m floor space per dwelling. Where a financial payment is made towards existing facilities it is calculated on the basis of a build cost of £1,520 per sq.m of floor space. As a starting point, this amounts to the following cost /sq.m per dwelling:

1 bed dwelling	£940.00	0.47 sq.m
2 bed dwelling	£1060.00	0.53 sq.m
3 bed dwelling	£1440.00	0.72 sq.m
4 bed dwelling	£1880.00	0.94 sq.m
5 bed dwelling	£2180.00	1.09 sq.m

### 1.32

Where it is to the advantage of the community for the facility to be provided early in the development programme, the council will consider advance funding to enable this to take place.

#### **Open Space, Playing Fields and Equipped Play Areas**

### 1.33

In order to establish a range of facilities which meet the recreational needs of borough residents, the Council requires the provision of open space at a standard of 2.8ha per 1000 population. This figure is derived from a combination of national standards and an assessment of local need. The open space and associated on-site facilities and equipment will be required, or alternatively financial contributions would be sought to acquire or enhance off-site recreational land in the vicinity. This covers the provision of Playing Fields, Parks, Kickabout Areas, Equipped Children’s Play Areas and Accessible Natural Green Space.

**Playing Fields** at 1.0ha per 1000 persons or a contribution as follows Including the provision of pavilion / changing rooms:

1 bed dwelling	£291.30	15 sq.m
2 bed dwelling	£330.14	17 sq.m
3 bed dwelling	£446.66	23 sq.m
4 bed dwelling	£582.60	30 sq.m
5 bed dwelling	£679.70	35 sq.m

**Parks** at 0.4ha per 1000 persons or contribution as follows:

1 bed dwelling	£121.02	6 sq.m
2 bed dwelling	£137.16	6.80 sq.m
3 bed dwelling	£185.56	9.20 sq.m
4 bed dwelling	£242.04	12 sq.m
5 bed dwelling	£282.38	14 sq.m

### 1.34

A kickabout area is an open space provided for informal ball games of a minimum 3600 sq.m., including a buffer of minimum 10m to adjacent dwellings, with a level playing surface of not less than 1600 sq.m. and maximum 1:40 gradient. Such areas should be located away from roads or a barrier should be provided to prevent balls escaping onto the carriageway.

**Kickabout Areas** at 0.8ha per 1000 persons or contribution as follows:

1 bed dwelling	£131.88	12 sq.m
2 bed dwelling	£149.46	13.60 sq.m
3 bed dwelling	£202.22	18.40 sq.m
4 bed dwelling	£263.76	24 sq.m
5 bed dwelling	£307.72	28 sq.m

### 1.35

On small developments it may be considered appropriate to apply the total open space requirement of 2.8 ha/1000 population in order to achieve a single area of open space on site which is of sufficient size to be of recreational value or alternatively, whether it would be of greater benefit to the residents of the new development for off-site contributions to be used to enhance existing facilities within the locality. The council will, in applying the standards, consider the type of dwellings being proposed and the likely requirements of the eventual occupants. For example, it would not normally be appropriate to seek contributions towards equipped children's play areas from a scheme solely consisting of one bedroom units.

### 1.36

Currently, the level of on-site provision or contribution towards off-site facilities reflects the proposed housing mix and the capacity of existing facilities in the area. Contributions are calculated on the basis of the cost of implementation with commuted sums for ongoing maintenance.

### 1.37

Structure planting on the boundaries of a site and landscaped areas within have a different function to recreational open space and will not normally be considered as contributing to the open space requirement of a development. However a commuted sum would still be required for maintenance if the land is to be transferred to the council.

### 1.38

The provision of allotments will be considered on larger development sites and based on the need and the standard of 0.25 ha per 800 dwellings. The requirement will be either for on-site provision or for a financial

contribution towards additional or enhanced provision within the locality of the development. The requirement for allotments will be included in the development brief for the site.

The following standards will apply in assessing the provision of facilities:

### 1.39

**Landscaped Areas for Play (LAP)** are small areas of open space specifically designated and laid out for pre-school children to play close to where they live. Located within a walking time of one minute from home the LAP provides essential play activities for young children in safe locations. The LAP would include demonstrative features (e.g. footprint trail/ model of an animal), for toddlers and usually a seat for an adult. The activity zone should be a minimum of 100 m<sup>2</sup> in area with a buffer zone around it of a minimum of 5 metres depth.

### 1.40

**Local Equipped Areas for Play (LEAP)** are areas of open space designated and equipped for children of 0-10 years. Such areas need to be within five minutes walking time from home (maximum 150m). The activity zone should be a minimum of 400m<sup>2</sup> in area and have a buffer zone of approximately 20 metres to the nearest dwelling.

**Local Equipped Area Play** a contribution per dwelling based on implementation costs. An off-site contribution relates to the implementation and design costs per sq.m of providing or improving a play area at 0.2ha per 1000 persons:

1 bed dwelling	£869.31	3 sq.m
2 bed dwelling	£985.22	3.40 sq.m
3 bed dwelling	£1332.94	4.60 sq.m
4 bed dwelling	£1738.62	6 sq.m
5 bed dwelling	£2028.39	7 sq.m

### 1.41

**Neighbourhood Equipped Areas for Play (NEAP)** are sites that include equipment for older children. They include playground equipment and hard surfaced areas for games such as skateboarding, football and basketball. They are located within 15 minutes walking time from home (maximum 400m). A NEAP is the largest of the three types of play space being a minimum of 1000m<sup>2</sup> with a buffer zone of 30 metres depth.

**Neighbourhood Equipped Area Play** a contribution per dwelling:

1 bed dwelling	£1043.22	3 sq.m
2 bed dwelling	£1182.32	3.4 sq.m
3 bed dwelling	£1599.60	4.6 sq.m
4 bed dwelling	£2086.44	6 sq.m
5 bed dwelling	£2434.18	7 sq.m

Off-site contributions relate to the implementation and design costs per sq.m of providing or improving an equipped play area at 0.2ha per 1000 persons.

### 1.42

Depending on the type of development and the needs of the area the borough council may request the

provision of facilities specifically for teenage children as part of the play and/or open space provision.

Accessible Natural Green Space 0.4ha per 1000 persons or contribution of £102.32 per person based upon implementation costs of £25.58 sq.m.

### 1.43

Accessible natural green spaces should be provided within 300m of each dwelling and be designed to provide the experience of nature within a safe and accessible environment.

#### **Accessible Natural Green Space 0.4ha per**

1000 persons or contribution as follows:

1 bed dwelling	£66.78	6 sq.m
2 bed dwelling	£75.68	6.80 sq.m
3 bed dwelling	£102.40	9.20 sq.m
4 bed dwelling	£133.56	12 sq.m
5 bed dwelling	£155.82	14 sq.m

### 1.44

The laying out and initial maintenance of on-site open space will be the responsibility of the developer. Proposals will require the approval of council representatives and must be implemented in accordance with the council's Landscape Specification for Developers. Where the open space is principally of benefit to the development itself the developer will be expected to provide commuted sums for subsequent maintenance as set out at Appendix B (Committed Sums).

### 1.45

The borough council recognises the role of art in improving the quality of the environment and the overall design in new development proposals which can contribute to the creation of a sense of place and local identity in public buildings, commercial developments, housing, streets and parks. In appropriate

circumstances the borough council will seek to secure the provision of Public Art or contributions towards the Public Art that meets an acknowledged strategy, including the improvement of the public realm in the town centre.

## Education

### 1.46

Contributions will be required to be made in line with the planning obligation and the developer will be expected to notify the Local Planning Authority of any "trigger" dates that are agreed in the S106 Agreement.

- Payment is normally required when development starts or on occupation of a given number of houses (as specified in the S106).
- Payment may be phased but is expected in full prior to the occupation of three-quarters of the development. Provision will be made in the agreement for payment to be made directly to the County Council as Education Authority.

### 1.47

Provision of land or contribution per dwelling will be sought in new housing development towards Secondary and Primary schools. Contributions are currently based upon the assessment of need carried out by Hampshire County Council. Hampshire County Council published a policy paper in March 2003 on "Developers Contributions towards Education Facilities" (Revised September 2010).

The need or otherwise for the provision of land or contributions towards schools is negotiated on the basis of existing capacity and local need at:

Primary Education:

where a new 1 form entry school is required -  
£7,738 per eligible dwelling

where a new 2 form entry school is required -  
£6,080 per eligible dwelling

where an existing school needs to be extended -  
£5,733 per eligible dwelling

Secondary Education, for extensions - £6,040  
per eligible dwelling

These figures will be discounted where not all of the additional demand can be met within existing capacity of schools in the locality.

## 1.50

In the case of smaller developments, the measurable effect on the demands for educational services will be minimal and other developments are likely to have no effect at all (e.g. sheltered housing for elderly people and 1 bedroom flats). Where the local schools have insufficient capacity to accommodate children likely to arise from a proposed housing development, contributions will be sought through planning obligations towards the costs of providing the necessary capital infrastructure. The council will also consider the cumulative impact of small development proposals where appropriate.

## 1.48

The council will liaise with the Hampshire County Council as Education Authority to establish the level of contribution required.

## 1.49

In relation to proposals for large scale housing developments, where education needs cannot be accommodated through the improvement of existing schools, the Local Planning Authority will seek to negotiate with landowners and developers to provide a combination of land and/or funds for new primary schools as well as appropriate contributions towards the costs of facilities for secondary education.

A requirement for land will usually be made explicit in the Local Plan and reserved in S106 agreements where it is related to an allocated site for housing development.



# Appendix B

## Commuted Sums for Open Space Maintenance

### 1.1

Government guidance on community infrastructure states the costs of subsequent maintenance and other recurrent expenditure should normally be borne by the authority in which the asset is to be vested. These revenue costs are currently met by the council. Often the level of revenue that would be required as a commuted sum to maintain and run a community facility may often exceed the capital cost of the project.

### 1.2

However, in the case of small areas of open space, recreational facilities, children's play space etc. the guidance states exceptions may be made where the provision of facilities are predominately for benefit of the users of the associated development itself, rather than the wider public. The laying out and initial maintenance of open space is the responsibility of the developer and the developer will be expected to provide commuted sums for subsequent maintenance. Commuted sums are calculated on the basis of the sum received being invested and the interest used for ongoing maintenance. These costs are reviewed annually by the council in the case of landscaping, open space and play areas.

### 1.3

These sums are invested with the interest accrued credited annually to Committee budgets to fund maintenance costs. The calculation of the commuted sum payable is based on the current cost of maintenance and long-term interest rates. The

proposed fee reflects the increase in long-term interest rates and changes in contract costs that have taken place since last year. The combination of these factors means that there has not been a straightforward 2.5% increase across the board.

Type of Labour	2011/2012 £
Grass Areas (cut with cylinder)	39,958.68/HA
Grass Sports Pitch	34,209.39/Pitch
Rough Grass Area	24,967.05/HA
Ornamental Shrub Area	11.78/m <sup>2</sup>
Thicket Planting	46.31/m <sup>2</sup>
Hedges	23.29/lin.M
Newly Planted Tree	24.41/tree
Newly Planted Woodland	40,421.49/HA
Woodland	54,076.37/HA
Play Areas	25,679.31/Site
Winter work - fine grass areas	6,371.39/HA
Footpath - Tarmac	2.55/m <sup>2</sup>
Footpath - Gravel	4.28/m <sup>2</sup>
Block Paving	21.43/m <sup>2</sup>
Mature Trees	2,413.56/tree

### 1.4

All these figures are indicative, and reviewed and revised on a regular basis. These contributions are not subject to VAT.

## Landscape Bond Fees

### 1.5

In the past some developers have gone into receivership and failed to fulfil their objectives with regard to the landscaping and a minimum 12 months maintenance of Section 106 (Open Space) areas. Developers are obliged to provide a bond before commencement covering Section 106 (Open Space Area) developments. This is in-line with the bond provided within Section 38 (Highway) Agreements. The only landscaping costs which have changed over the last 12 months are for grass seeding and the rates reflect this.

Type of Labour	2011/2012 £
Grass Seeding	3.00/m <sup>2</sup>
Ornamental Shrubs	25.00/m <sup>2</sup>
Structure Planting	14.00/m <sup>2</sup>
Native Hedging	20.00/lin.m
Selected Standard Trees	250.00 each
Stockproof Fence	17.20/lin.m
Path (1.8m wide macadam)	150.00/lin.m

## Play Area Bond Fees

### 1.6

It is common practice now for developers to make contributions for play areas. However, where the play area is still installed by the developer, bond fees will be payable. These have been introduced in-line with the landscape bond fees. They ensure that play area installation obligations are fulfilled, even in the event that the developer goes into receivership. The sums (per site) have been amended to m<sup>2</sup> to the surface area covered by the play area. LAPs no longer apply since they are not equipped sites.

Scheme Cost	2011/2012 £
LEAP - Medium Play Area (Toddler and Junior)	196.15/m <sup>2</sup>
NEAP - Large Play Area (Toddler and Teens)	246.56/m <sup>2</sup>

Note: To the above play area figures will be added a design and implementation fee of 15 per cent of the scheme cost when assessing the bond figures and contributions by the developer to the council. Fees are exclusive of VAT.

# Appendix C

## Legislative and Planning Background

### 1.1

Developer contributions will be negotiated and secured through Section 106 Agreements between the local authority and the developer. Contributions will be sought on the major Local Plan allocations where the range of contributions required will usually be determined in advance of the planning application, and may be included in a Development Brief. Other sites involving redevelopment or windfall development will also be required to make contributions in accordance with council policy.

### 1.2

The Government has since published revised guidance ODPM Circular 05/2005. A list of the relevant planning policy guidance is attached at appendix D.

#### Circular 05/2005 Planning Obligations

### 1.3

Circular 05/2005 is the current key source of government guidance on the use of planning obligations. Planning obligations may be negotiated to provide on and off-site physical and social infrastructure subject to complying with the tests of the Circular and the Community Infrastructure Levy Regulations 122.

### 1.4

Annex B5 of the Circular sets out the tests that the Secretary of State expects to be met when entering into planning obligations and these will be respected by the Local Planning Authority. Obligations should be:

- relevant to planning;
- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development;
- fairly and reasonably related in scale and kind to the proposed development; and
- reasonable in all other aspects.

### 1.5

Developers should, in general terms, not be expected to pay for facilities which are needed solely to resolve existing deficiencies unless this would otherwise prevent the development from proceeding. However, as stated in PPG17 (2002), as part of a development scheme, planning obligations should be used as a means to remedy local deficiencies in the quantity and quality of open space, sport and recreational provision which have been identified through detailed needs assessments.

### 1.6

The Local Planning Authority will continue to expect a high standard of layout, design, external appearance, landscaping and means of access irrespective of the level of developer contributions sought for other services and facilities. Sound planning principles will apply at all times - obligations will not be sought simply to extract "planning gain" but to meet the adverse impact imposed on the community and to meet the needs of the new development. Where the infrastructure requirements for a particular

development have been clearly identified in Local Plans, Development Briefs or Guidance Notes then developers or landowners will be expected to make the necessary contributions. The Council Plan and Community Strategy provide the evidence of community need. In circumstances whereby choices have to be made in respect of contributions, both the Council Plan and Community Strategy objectives can be used to inform the priorities.

## Community Infrastructure Levy (CIL)

### 1.7

In April 2010 the Community Infrastructure Levy (CIL) was introduced by the Government. CIL will enable Local Authorities to charge a levy against most types of new developments, the proceeds of which will help fund off-site infrastructure such as schools, hospitals, roads, parks and leisure centres.

### 1.8

CIL and Section 106 planning obligations are to operate alongside one another, however reforms have been introduced to restrict the future use of section 106 planning obligations after April 2014 to mainly on-site infrastructure including affordable housing. CIL Regulations 122 now sets out that if planning obligations are to be a reason for granting planning permission the obligation must meet the following three 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

### 1.9

Should the council decide to introduce the Levy it will be a requirement to draw up a charging schedule

setting out the rates, and this schedule must undergo full consultation and public examination before it can be formally adopted. It is expected that the CIL charging schedule will need to be formalised once the council's Core Strategy has been adopted, and will need to be in place by April 2014.

## Planning Policy

### 1.10

This guidance supplements the objective Chapter 14 (Social/Community) of the current Local Plan. Details of these policies are contained in the Best Practice Note - including a brief overview of the policies, procedures and practice associated with community infrastructure and agreements under S106 of the Town and Country Planning Act 1990 and the relevant development control procedures.

Policy C1 of the Local Plan refers:

*"Development will be permitted only where there are, or will be, adequate infrastructure and community facilities. Where provision is inadequate, developers will be required to provide the infrastructure and community facilities necessary to allow the development to proceed. The council will negotiate to secure planning obligations to ensure that such infrastructure and facilities are provided in time to meet the needs arising from the development."*

### 1.11

Due to local circumstances it may be necessary in some cases to view individual applications collectively in assessing off-site infrastructure requirements. The infrastructure provision made in respect of each particular development will be limited to what is fairly and reasonably related in scale and kind to that development only.

# Appendix D

## The Drafting and Completion of S106 Agreements

### 1.1

The completion of S106 Agreements is often perceived as a lengthy and time-consuming process that adds delay to the implementation of developments. This council is keen to ensure that planning obligations are completed as quickly and effectively as possible. A planning condition may also be used to secure certain infrastructure provisions in appropriate circumstances.

### 1.2

The council has clear internal procedures and checklists for assessing and determining planning obligations generated by planning applications as set out in the Best Practice Note. It is intended that planning applications will not be submitted to the Development Control Committee unless the draft S106 Agreement has been agreed. Further information is to be made available in the council's Pre Application Service and Protocol which will be made available on the council's website once it has been adopted

### 1.3

If a planning obligation is not completed within the relevant time period, the planning application will be reviewed. If the council believes that there has been an unreasonable delay in completing the planning obligation, a report will be taken to Development Control Committee to consider whether planning permission should be refused in the absence of a completed planning obligation.

### 1.4

In each case, the applicant will be informed of the time period within which it is intended to complete the planning obligation and advised that the case will be reviewed if not completed within the specified period.

### Phasing of Infrastructure and Timing of Payments

### 1.5

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. Normally financial contributions will be paid on commencement of the development or through phased payments as the development proceeds. The financial contributions will be index linked within the planning obligation to take into account changes in the retail price index.

### 1.6

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 of Planning Obligations and Use of Contributions

### 1.7

It is important that the negotiation of planning obligations and subsequent expenditure of any contributions received from developers are carefully monitored 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.
- Produce an annual report to the Development Control Committee providing details on planning obligations negotiated in the previous year; extant planning obligations where development has not yet commenced; details of expenditure from planning obligations in the previous year; and details of expenditure planned for the coming year.

## Indexing and Interest Payments on Planning Obligations

### 1.8

There is a requirement to index and monitor general costs associated with the provision of community infrastructure. Where S106 Agreements require contributions to be paid in phased payments, the receipt of money is to be indexed from the date of the agreement to the date of receipt. Contributions are indexed in accordance with the RICS Index published by the Royal Institution of Chartered Surveyors Building Cost Information Services or such replacement index

as agreed between the parties. Interest sums will apply where payments are made later than the date due as set out in the agreement.

## Self Service Legal Agreements

### 1.9

The council has developed a self service Section 106 agreement option to accompany developments of between 1 to 9 dwellings or commercial developments in use classes B1, B2, B8 of 100sq metres to 999 sq metres only.

The self service agreements are not suitable for unregistered land, or land held in trust or for developments which require an affordable housing contribution. The agreement cannot be amended and this process will allow no negotiation on the levels of contribution required. If you do not wish to use this service you can ask for your application to be scoped in order for a bilateral agreement to be formed between yourself and the council. You should be aware that bespoke agreements will result in higher legal and administration and compliance charges.

# Appendix E

## Questions and Answers

### What is a Planning Agreement?

A planning agreement is a legal agreement entered into by the planning authority and the developer or applicant which outlines the details of a planning obligation. This may include details of new community facilities or the amount and type of open space that would be required in a new housing scheme. Planning Agreements run with the land so will bind successive owners. If the applicant does not own the land the landowner will need to be party to the agreement.

### What is a Unilateral Undertaking?

This is an undertaking made by the applicant to the authority to cover any planning issues before the granting of planning permission and may be offered at any point in the application process - but normally where agreement has not been reached. The undertaking does not require any agreement by the local planning authority and may therefore have no legal input into the drafting of such agreements. However, local authorities do not have to accept unilateral undertakings offered by the developers if they do not feel they deal with all the issues in granting planning permission. An applicant may offer a unilateral undertaking at a planning appeal against refusal to overcome the local authority's objections. It will then be for the Inspector to decide its suitability or otherwise.

### Do I need a solicitor to complete the S106 Agreement?

You do not necessarily need a solicitor but it may be advisable because legal agreements and undertakings can restrict the use of the property in the future. Alternatively, some applicants may choose to use their

agent or planning consultant. However a Solicitor will be required to confirm title to the land concerned.

### Can a legal agreement cover more than one obligation?

A legal agreement may contain any number of planning obligations depending on the complexity and scale of the development and what would be necessary in order to grant planning permission. Where an obligation is very straightforward it may be contained in an undertaking which tends to be a short and simple document.

### How long will it take to complete a legal agreement or undertaking?

This will depend on a number of issues including the complexity and size of the proposed development, the negotiations between the parties and progress made before the application is submitted or goes before the Development Control Committee. It is the council's aim to carry out as much as possible of this work prior to consideration by Committee. Straightforward agreements on noncomplex sites should normally be completed shortly after a favorable resolution. The council will look to commence negotiations with the applicant as soon as it is apparent that an agreement will be sought.

### When does infrastructure or financial contributions need to be paid?

In order that the needs and impacts arising from new developments are addressed as soon as possible the council will generally aim to achieve the provision of infrastructure or payment of financial

contributions on the commencement of development. In the case of outline planning permission and major phased developments, contributions may be paid in installments on the commencement of each phase. The phasing of payments will be set out in the S106 agreement agreed by the applicant and the council.

### Why are financial contributions Index Linked?

In order to maintain the value of contributions from the date of the planning consent until the time development is commenced, they will be index linked to reflect changes in, for example, the RICS Index or Retail Price Index. Delayed payment of financial contributions will incur interest at a rate 4% above Base Rate. This is to ensure that the projects and works for which the contributions are earmarked are not unduly delayed or if delay occurs there is a contingency which may help negate the costs associated with delay.

### How do I make payments to the council?

It is the applicant's responsibility to be aware of when payments are due and to ensure that they are made on time. Payments can be made by cheque, made payable to "Basingstoke and Deane Borough Council" and sent to the Council Offices at PO Box 191, Civic Offices, London Road, Basingstoke, Hants RG21 7EA or through the BACS transfer system. Payments must specify the S106 reference number and site address in order to identify the relevant legal agreement and site.

### What will happen to the payments?

When payments are received they will be recorded and noted against the relevant agreement and included in the council's Capital Programme for spending. Progress with particular obligations and expenditure in general will be reported regularly as part of the Annual Report.

### How long will a S106 obligation run for?

Some requirements of a S106 obligation are of an ongoing nature, for example the maintenance of a facility or the community use of a building and so the obligation will continue for so long as development implemented under the associated planning permission continues. S106A of the Town and Country Planning Act 1990 also provides a procedure by which an applicant can apply for the formal modification or discharge of planning obligations.

# Appendix F

## Relevant Government Planning Policy Guidance Notes (PPG's) and Planning Policy Statements (PPS's)

Regard must be had to Government statements of planning policy and the guidance contained within them on the provision of infrastructure. The most relevant are considered to be:

- PPS1: Delivering Sustainable Development (2005)
- PPS3: Housing (2011)
- PPS4: Planning for Sustainable Economic Growth (2009)
- PPS7: Sustainable Development in Rural Areas (2004)
- PPG9: Nature Conservation (2005)
- PPS12: Local Spatial Planning (2008)
- PPG13: Transport (2011)
- PPG17: Planning for Open Space and Leisure (2002)
- PPS 22: Renewable Energy (2004)
- PPS 23: Planning and Pollution Control (2004)



