



**Vale  
of White Horse**  
*District Council*



*Help us Shape the Future*

# Community Infrastructure Levy (CIL) DRAFT DEVELOPER CONTRIBUTIONS SPD

Your Vale - Your Future

January 2021

## **The need to review the Vale of White Horse Developer Contributions Supplementary Planning Document**

The Council is in the process of reviewing its Community Infrastructure Levy (CIL) Charging Schedule. This is a levy charged on new development in the district that is used to fund infrastructure provision. The review of the charging schedule is necessary as the Council has now adopted Part 2 of the Local Plan 2031 (which includes additional site and sub-area strategy policies, as well as detailed development policies) and there have also been recent changes to the CIL Regulations. The CIL Regulations have removed pooling restrictions for S106 obligations (i.e. the requirement that no more than five S106 obligations can fund a single infrastructure project) and the need for a Regulation 123 list (a list of infrastructure projects to be funded by CIL as opposed to S106). Funds from both CIL and S106 obligations can now be used to fund the same piece of infrastructure.

As a result of the CIL review, the Council's S106 Developer Contributions SPD is also being reviewed and updated. This document is used to seek developer contributions from new development to fund infrastructure alongside CIL.

This SPD will be reviewed in relation to material policy changes, for instance any changes through Government's *Planning for the Future* White Paper or the Oxfordshire Plan 2050.

# **Developer Contributions Supplementary Planning Document – Delivering Infrastructure to Support Development**

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## **Executive Summary**

New development plays an important role in any prosperous community. Whether it is creating new homes, employment or leisure facilities, development is essential to provide for the future. However, new development can have a significant impact on the capacity of local infrastructure such as schools and health facilities and can put additional pressure on local green space and other important community facilities.

There are a number of ways in which councils can seek developer contributions towards the provision of necessary infrastructure to support new development and mitigate impact on the local community.

This Supplementary Planning Document (SPD), relates specifically to planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), which are more commonly known as *S106 Agreements* and are a mechanism used by councils to mitigate the direct impacts of a particular development.

The Community Infrastructure Levy (CIL) is another mechanism which councils can use to raise funds from certain new developments towards the provision of infrastructure throughout the District. However, for sites (such as strategic sites allocated in the Local Plan) that do not make a contribution through CIL, S106 will be the primary mechanism for securing developer contributions towards infrastructure provision. S106 will also be used for securing affordable housing on all sites where there is a net gain of 10 or more dwellings.

In addition to CIL and S106 developer contributions, Oxfordshire County Council can use S278 of the Highways Act to seek contributions from developers for improvements or changes to public roads.

There are different purposes and legislative rules for each of the developer contributions mechanisms. This document gives guidance as to when S106 contributions will be sought, ensuring the provision of sustainable development in line with the policies of the Development Plan and other relevant considerations.

## **1. INTRODUCTION**

### **Purpose of this document**

- 1.1 Supplementary Planning Documents (or SPDs) are documents which add further detail to the policies in a Local Plan. They can be used to provide further guidance for development on specific sites or on particular issues, such as design or developer contributions. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan. Whilst SPDs relate specifically to adopted Local Plan policies, in instances where more recent national planning policy or targets have been published, it is those national policies or targets that will take precedent.
- 1.2 This Supplementary Planning Document (SPD) is relevant to all development proposals including residential, employment and retail. Its purpose is to:
- outline the differences between each of the mechanisms for securing developer contributions and to explain the relevant legislative and planning policy context within which contributions are sought;
  - identify which contributions mechanisms will be used in which circumstances; and
  - explain what is expected of applicants and what the applicant can expect from the Council in relation to securing infrastructure through S106 planning agreements.
- 1.3 This SPD takes effect from the date of adoption by the Council.

### **Developer Contributions**

- 1.4 Developer contributions seek to mitigate the negative impacts of development, address infrastructure needs, contribute towards placemaking and meet Local Plan policy requirements.
- 1.5 There are three main mechanisms used to secure infrastructure funding and provision from developers: The Community Infrastructure Levy (CIL); planning obligations under S106 of the Town and Country Planning Act 1990 (as amended); and under S278 of the Highways Act. In some circumstances, conditions attached to planning permissions may also be used to secure non-financial mitigation, to define timing or apply standards.

### **Community Infrastructure Levy (CIL)**

- 1.6 CIL is charged on certain new development in the District, in accordance with the Council's CIL Charging Schedule and the CIL Regulations 2010 (as amended). The monies received from CIL will be pooled together to help fund infrastructure to support development in the District. CIL has been set at a level that does not threaten the viability and delivery of development identified in the Vale of White Horse Local Plan 2031 Part 1 (LPP1) and Part 2 (LPP2).
- 1.7 The Council has published a CIL Spending Strategy, setting out how the spending of CIL funds will be prioritised and administered. In accordance with

the CIL Regulations, a proportion of the CIL monies is passed to the local town or parish council. The District Council is required to spend CIL on infrastructure and the Council has adopted a Spending Strategy that allocates funds to stakeholders such as Oxfordshire County Council and the Oxfordshire Clinical Commissioning Group. The Spending Strategy will be regularly reviewed.

- 1.8 There are several exemptions and reliefs to CIL that can be applied for to reduce or remove the amount of CIL payable. The Vale of White Horse CIL Charging Schedule and supporting documents can be found on the Council's website.

### **S106 Planning Obligations**

- 1.9 S106 agreements are used to secure the infrastructure required to mitigate the direct impact of a particular development and/or to meet specific planning policy requirements. Developer contributions via S106 can be: financial contributions; affordable housing provision; the provision of land or restriction on the use of land; or the direct delivery of facilities.
- 1.10 As set out in CIL Regulation 122, S106 obligations should only be used to secure infrastructure where:
- necessary to make a development acceptable in planning terms;
  - directly related to a development;
  - fairly and reasonably related in scale and kind to the development.
- 1.11 As set out in Government's Planning Practice Guidance, tariff-style S106 contributions cannot be sought from small-scale, self-build or starter homes developments.
- 1.12 A planning obligation is usually an agreement between interested parties, (e.g. a developer, landowner, the District Council and the County Council). However, it can also be in the form of a unilateral undertaking (where the developer makes an unconditional promise) that is offered to the District Council to make the application acceptable in planning terms.

### **Section 278 Agreements**

- 1.13 An agreement made under S278 of the Highway Act 1980 is a legally binding agreement between the developer and the County Council (as Highway Authority) to fund, or undertake, alterations or improvements to the public highway, where the County Council considers the agreement is of benefit to the public.

### **Planning Conditions**

- 1.14 In addition to developer contributions, planning conditions attached to a planning permission may set out details or required standards/timeframes for works which must be carried out at set stages. Failure to comply with planning conditions can make a development unlawful and un-implementable in its original form.

Planning conditions may not require the payment of money or the transfer of land ownership.

## 2. RELATIONSHIP BETWEEN CIL, S106 PLANNING OBLIGATIONS, S278 AGREEMENTS AND PLANNING CONDITIONS

2.1 Table 1 below summarises the relationship between the three key developer contributions mechanisms (CIL, S106 and S278) and planning conditions.

<b>Table 1: Interaction between CIL, Section 106, Section 278 Agreements and planning conditions</b>		
<b><u>Mechanism</u></b>	<b><u>Purpose</u></b>	<b><u>Use</u></b>
Community Infrastructure Levy	Can be used for any infrastructure needed to support the development of the District.	District-wide and local infrastructure.
Section 106 planning obligation	Can secure on-site infrastructure and contributions towards off-site infrastructure required to make development acceptable in planning terms	To secure planning policy requirements (e.g. affordable housing).  To address/mitigate direct impacts of development, including the provision of infrastructure.
Section 278 Agreements	Allows developers to fund alterations and improvements to the public highway in the public interest.	Highway improvements and alterations to address the impact of new development on the network.
Planning condition	To mitigate the potential adverse effects of the proposed development and ensure compliance with development plan policy. To enable development proposals to proceed where it would otherwise be necessary to refuse planning permission.	To make the development acceptable (where the requirement does not involve the payment of money or the transfer of land ownership).

## 3. POLICY FRAMEWORK

3.1 All development proposals should be determined in accordance with both national and local planning policy and any other material planning considerations (such as the Local Transport Plan, other Council strategies or plans etc.)<sup>1</sup>.

<sup>1</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.



- 3.2 Nationally, policies relating to developer contributions and sustainable development are set out in the National Planning Policy Framework 2019 (NPPF), with additional guidance provided in Government's Planning Practice Guidance.
- 3.3 At a local level, development proposals must also be considered in line with the following:
- Vale of White Horse Local Plan 2031 Part 1 (LPP1);
  - Vale of White Horse Local Plan 2031 Part 2 (LPP2);
  - Any made (adopted) Neighbourhood Plan covering the area in which the development is proposed;
  - Any relevant Supplementary Planning Documents (SPDs); and
  - The Council's Infrastructure Delivery Plan
- 3.4 This SPD supports the delivery of the Vale of White Horse Local Plan 2031 Parts 1 and 2 and is an important material planning consideration in the decision making process of planning applications. The main development plan policy that this document seeks to support is **Core Policy 7: Providing Supporting Infrastructure and Services**, which reads as follows:

*'All new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development. Where appropriate, developers will be expected to collaborate on the provision of infrastructure which is needed to serve more than one site. In ensuring the timely delivery of infrastructure requirements, development proposals must demonstrate that full regard has been paid to the Infrastructure Delivery Plan and all other relevant policies of this plan.*

*If infrastructure requirements could render the development unviable, proposals for major development should be supported by an independent viability assessment on terms agreed by the relevant parties including the Council and County Council and funded by the developer. This will involve an open book approach. Where viability constraints are demonstrated by evidence, the Council will:*

- i. prioritise developer contributions for essential and then other infrastructure in line with the definitions as set out in paragraph 4.42 and the detail of requirements outlined in the IDP, and/or*
- ii. use an appropriate mechanism to defer part of the developer contributions requirement to a later date, or*

*iii. as a last resort, refuse planning permission if the development would be unsustainable without inclusion of the unfunded infrastructure requirements taking into account reasonable contributions from elsewhere including CIL.*

*The Council's Delivering Infrastructure Strategy will include both a CIL Charging Schedule and a Supplementary Planning Document for Section 106 and Section 278 legal agreements that will provide more detail about its approach to securing developer contributions.*

*Upon adoption of the CIL Charging Schedule, CIL will be used to pool developer contributions towards a wide range of new and improved infrastructure necessary to deliver new development.*

*Where not covered by the CIL Charging Schedule, infrastructure and services, including provision for their maintenance, should be delivered directly by the developer through the development management process and in accordance with the Regulation 122 Tests\*.*

*Infrastructure and services will be sought through the negotiation of planning obligations, conditions, levy, undertaking and/or other agreement as secured through the planning permission, to mitigate the direct impacts of development and secure its implementation.'*

3.5 A summary table of other relevant Local Plan policies is set out in Appendix 1.

#### **4. DEVELOPMENT CONTRIBUTIONS**

4.1 The overarching LPP1 core policies relating to the provision of affordable housing and infrastructure are CP4, CP7, CP24, CP37, and CP38. LPP2 then includes additional site and sub-area strategy policies, as well as detailed development policies. In order to achieve sustainable development and deliver high quality places, development proposals need to be consistent with all relevant Local Plan policies, as well as contributing towards identified infrastructure requirements.

4.2 It is essential that all infrastructure requirements are factored into the cost of a potential development when negotiating to buy or take an option on a site and infrastructure provision must be considered an integral part of any development proposal and planning application submission. Developers should read the Council's most recent Infrastructure Delivery Plan for help in identifying the likely infrastructure requirements. Further information (for example, on the costs of delivery of different infrastructure types and the associated financial contributions that will be sought from development) is available on the District Council's website. This information is updated annually to take account of indexation and inflation.

4.3 Section 4 of this SPD sets out the Council's specific S106 requirements by type of development. For ease of reference in this document, each type is given a

DEV reference number and the specific requirements are highlighted in boxes, alongside a cross reference to relevant Local Plan policies. In instances where allocated sites are mentioned, these could be sites in either the Local Plan or any made neighbourhood plan. Additional commentary (e.g. on the rationale behind certain requirements) is also provided, where helpful.

### **Affordable Housing**

- 4.4 The NPPF advises that, where there is an objectively assessed need for affordable housing in a market area, local planning authorities (LPAs) should set policies to meet this need. It refers to the size, type, tenure and range of housing that should reflect local demand.

<b>DEV1 Affordable Housing</b>
<i>Residential</i>
Affordable housing will be sought in accordance with Core Policy 24 and secured through a S106 obligation.
Other relevant Local Plan policies include: (Part 1) CP25

- 4.5 Core Policy 24 of the LPP1 states that 35% affordable housing will be sought, with a tenure mix of 75% affordable rented and 25% intermediate housing, on sites of eleven or more dwellings. However, in line with updated NPPF policy, the Council is now seeking affordable housing on sites of ten or more dwellings, except in designated rural areas (including within the North Wessex Downs Area of Outstanding Natural Beauty), where a threshold of five or fewer dwellings applies.
- 4.6 Core Policy 24 advises that planning permission will be refused for development proposals where it appears that a larger site has been sub-divided into smaller development parcels in order to avoid the requirements of the affordable housing policy. On occasions where it is not apparent that this is the case as part of the initial scheme, any subsequent application for more development on the same land or adjoining land will be treated as an application for planning permission for the wider development and the affordable housing requirement will be applied to the combined sites.
- 4.7 The affordable housing provided should be distributed evenly across the site, in small clusters of up to eight dwellings. On strategic development sites and larger major development sites, such clusters could be up to 15 dwellings. Affordable dwellings located adjacent to each other, but located in a separate perimeter block, will be considered to comprise the same cluster.
- 4.8 Affordable housing should be indistinguishable from market housing in design, layout and landscaping. Arrangements for car parking should also be similar. Where apartments blocks are proposed for affordable housing, this should also be reflected in the market provision.

## Education

- 4.9 As set out in the NPPF, the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Education provision includes nursery, pre-school, primary, secondary, sixth form and special needs education.
- 4.10 The County Council publishes a Pupil Place Plan<sup>2</sup> which sets out how it expects school provision to change over the next few years and explains the issues that the County Council will face in meeting its statutory duties for providing nursery and school places, including those due to new housing.

<b>DEV2 Education</b>
<i>Residential:</i>
Provision or extension of educational facilities relating to particular sites will generally be secured through S106.
Contributions towards land for educational facilities will be secured through S106.

- 4.11 Where a site is due to make an education contribution through S106, a calculation of expected pupil numbers will be made by the County Council so that S106 contributions towards nursery, primary, secondary (including sixth form) and special educational needs can be sought.
- 4.12 Contributions towards educational infrastructure will be calculated by assessing the number of pupils, of the appropriate age, arising from the net increase in dwellings and the cost of providing the infrastructure required to meet the needs of the pupils generated.
- 4.13 The requirement for new provision for planned development has been set out in the Council's Infrastructure Delivery Plan. It will be important to identify the proposed school site at the master planning stage and ensure that it is of a size sufficient to meet the needs arising from the development and allow for expansion of future needs.
- 4.14 Where land is required for educational facilities, detailed discussions will be necessary in order to agree the actual boundaries of the site allocated, including the location of surveys, access and services. Land will need to be provided fully

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<sup>2</sup> More information on OCC's home to school travel policy is available from <https://www.oxfordshire.gov.uk/cms/public-site/travelling-school>

remediated and suitable for educational use and there may be additional payments to cover any abnormal costs associated with the build. Further land may be required where it is necessary to provide additional facilities co-located with the school. Triggers on the transfer of land and payment of contributions will be secured in the S106 agreement.

- 4.15 In circumstances where it is not possible to provide school places within a reasonable walking distance, an additional contribution towards the cost of providing transport for children to school may be required and secured through a S106 planning obligation. The contribution would reflect the cost of providing the transport for a defined period of time<sup>3</sup>.
- 4.16 Additionally CIL monies could be used to fund education facilities in accordance with the CIL Spending Strategy.

### **Transport**

- 4.17 Section 9 of the NPPF requires the planning system to promote sustainable transport. The provision of viable transport infrastructure, necessary to support sustainable development in the District, also makes an important contribution towards Government's wider sustainability and health objectives.
- 4.18 New development in the District will place additional pressure on local transport and highway networks, including public transport infrastructure, bus services and pedestrian and cycle routes. Core Policy 7 of LPP1 states that new development must be served and supported by appropriate on and off-site infrastructure and services. Core Policy 35 also states that new developments, which generate significant amounts of movement, must be supported by a transport assessment and travel plan where appropriate.
- 4.19 Development Policy DP16 (Access) in LPP2 includes requirements for acceptable off-site improvements to the highway infrastructure (including traffic management measures), cycleways, public rights of way and the public transport network.

#### **DEV3 Transport**

##### *All development*

Direct mitigation of individual site transport impacts (including roads, cycleways, footpaths, public rights of way, public transport and the monitoring of travel plans) will be secured through S106. Infrastructure may be delivered through the developer entering into a S278 agreement with the County Council.

Contributions towards strategic transport infrastructure projects will be secured where necessary in accordance with the Local Plan and the Infrastructure Delivery Plan.

Grampian condition(s) may be necessary where off-site measures are required to enable development to come forward.

Relevant Local Plan policies include: (Part 1) CP12, CP17, CP21, CP33, CP35, CP37 and (Part 2) DP16

4.20 New development proposals will be required to provide for appropriate specific works and improvements, both on-site and off-site, to mitigate the direct impact of the development scheme on the transport network, including highways, buses and the rail network. It will be important to identify these in the master planning stage in liaison with the County Council to ensure that the transport proposals adequately meet the needs arising from the development. Discussions with Network Rail and bus operators in the area may also be necessary.

4.21 Site related transport works required as direct mitigation will have been identified in a Transport Assessment and may include: works to footways/cycle ways including public rights-of-way; raised kerbs; new junctions; access roads to and within the site; link roads; Traffic Regulation Orders; traffic lights; pedestrian crossings; signage; public transport on or adjacent to the site; lighting and street furniture.

4.22 S278 Agreements will generally refer to:

- the relevant planning permission and authorisation under which the works are to be carried out;
- schedule and drawings detailing the works;
- the full costs of the works and costs of managing the agreement to be paid by the developer;
- location and amount of land being conveyed to the Highways Authority (County Council);
- details of bonds/surety;
- who will design, manage and undertake the works; and
- details of any commuted sum for future maintenance.

4.23 In addition to the provision of infrastructure improvements, Travel Plans can form an important 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 the Council's sustainable transport objectives (SO8 and SO9 in the Local Plan). Travel Plans will normally be sought via a planning condition, with contributions towards monitoring of the Travel Plan secured through S106.

## **Recreation and Leisure**

### *Outdoor Sports and Recreation*

4.24 The NPPF recognises the contribution that access to sport and recreation facilities can make in promoting the health and well-being of communities.

4.25 Development Policy DP34 requires new housing developments to provide or contribute towards indoor and outdoor leisure facilities in accordance with the standards set out at Appendix K of the Local Plan.

<b>DEV4 Indoor and Outdoor Sports and Recreation</b>
<i>Residential</i>
On site provision of sports and recreation facilities will be secured through S106.
The provision and enhancement of off-site sports and recreation facilities will be funded through S106 or CIL.
Relevant Local Plan policies include: (Part 1) CP37 and (Part 2) DP34, DP32, Appendix K

4.26 Further information on the standards the Council will use as a basis for calculating the levels of contribution sought is set out in Appendix K of the Local Plan Part 2 (and reproduced at Appendix 3 to this document). The Council will liaise with the relevant sporting representative body and town or parish council and local councillors to establish the most appropriate form of provision, taking account of the location, scale and form of the proposed development.

4.27 On allocated sites, especially where several are in close proximity, the Council will seek to cluster the on-site provision of sports facilities, for example by devoting all the outdoor sport provision on a particular site towards a single sport. This will enable the provision of sporting facilities that will attract, and can sustainably be used by, local clubs, with resultant benefits in long term management and maintenance. It will also enable the provision of more niche sports within the District.

4.28 Where development generates a need for on-site provision that cannot be met on site, for instance due to exceptional site constraints, or the Council prefers off-site mitigation to meet a required need, as identified above, off-site mitigation in the form of S106 contributions will be sought.

4.29 The quality and design of sports facilities should reflect current best practice, including design guidance from Sport England and the national governing body.

*Open Space*

4.30 Development Policy DP33 requires developers to provide safe, attractive and publicly accessible public open space, in accordance with the requirements set out in Appendix K of the Local Plan 2031 (see Appendix 3 of this SPD).

<b>DEV5 Open Space</b>
<i>Residential</i>
On site provision and management of open space and landscaping, amenity space and green space will be secured through S106 or conditions.
Where off-site mitigation is required the enhancement of open space and landscaping, and green space will be secured through S106.
Where open space is to be transferred to the District Council, town or parish council or other management body, a commuted sum for sufficient funds for ongoing maintenance is required.
Relevant Local Plan policies include: (Part 2) DP33

- 4.31 The need for open space and informal amenity areas will be assessed on a site by site basis, taking into account: features of the site; the nature of the development; and the accessibility of other provision within the locality. In accordance with Development Policy DP33 we will expect a minimum provision of 15% of the residential area to be laid out as public open space, additional to spaces for landscaping and biodiversity.
- 4.32 Open space is an integral part of creating sustainable places and should be provided as an amenity within a development to promote healthy living, informal areas of play and to create a sustainable, accessible, distinctive and attractive development. All open space should, therefore, be usable and located outside of areas liable to flood, have acceptable noise levels and should not comprise engineered SuDS attenuation infrastructure, noise embankments or landscape buffers.

#### *Play Areas*

- 4.33 Play space for children is vital to their health and development. Consideration must also be given to the need to provide young teenagers with areas to assemble and play, as well as to the provision of play equipment for children with disabilities.
- 4.34 Development Policy DP33 endorses the Fields in Trust (formerly the National Playing Fields Association) standard for children's play space.

<b>DEV6 Play Areas</b>
<i>Residential</i>
On-site delivery of play space is required on sites of 25 and more dwellings and secured through S106.



An on-site NEAP or MUGA or equivalent facility, or a contribution towards off-site facilities, is required in relation to strategic sites, or in locations deficient in such facilities.

Relevant Local Plan policies include: (Part 2) DP33

- 4.35 The District Council will liaise with town/parish councils and local councillors to establish the most appropriate form of provision, taking account of the location, scale and form of the proposed development. Provision should be made taking into account any existing play facilities within the local area, in order to avoid duplicating existing play equipment. Where there is no play equipment within the recommended distances of *Fields in Trust* guidance, on-site provision will be required.
- 4.36 On sites where provision is to be made for young people, developers should work with the District Council and parish councils to carry out consultation with young people in the local area to identify their needs and seek their input into the design of facilities.
- 4.37 The Council endorses the general design principles set out in '*Planning and Design for Outdoor Sport and Play*' (NPFA, Fields in Trust) and further specifications for children's play provision are set out in **Appendix 4**. The following table provides a guide to the types of play area that will be required

<b>Table 3: Provision of Play Areas</b>				
<b>No. of dwellings</b>	<b>LAP</b>	<b>LEAP</b>	<b>NEAP</b>	<b>Provision for young people (e.g. MUGA, skate park, parkour)</b>
25 - 80	√			
81 - 200	√	√		
201 - 500	√	√		
501+	√	√	√	√

### *Allotments*

- 4.38 Development Policy 33 requires the provision of allotments in accordance with the standards set out in Appendix K of LPP2. Allotments are valuable community spaces that provide people with the opportunity to enjoy an active and healthy lifestyle. The Council seeks the provision of 0.4ha allotments per 1000 population, in accordance with Fields in Trust guidance<sup>4</sup> and in the Market Towns 0.23 ha 1,000 population. The Council will liaise with the town and parish councils regarding provision and management of allotments, which will usually be offered to town and parish councils.

<sup>4</sup> Fields in Trust - Guidance for Outdoor Sport and Play Beyond the Six Acre Standard

<b>DEV7 Allotments</b>
<i>Residential</i>
Provision of on-site allotments will be provided on allocated sites where required and on other greenfield sites over 400 dwellings, to be secured through S106. Elsewhere allotments will be sought in accordance with the standards where a local need is identified.
Relevant Local Plan policies include: (Part 2) DP33, Appendix K

### *Social and Community Facilities*

- 4.39 The NPPF sets out the need to take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.
- 4.40 Core Policy 7 seeks to ensure that social and community and facilities are delivered alongside new development.

<b>DEV8 Social and Community Facilities</b>
<i>Residential</i>
Allocated Local Plan sites will provide social and community facilities either on site, where required in the Infrastructure Delivery Plans, or contribute to off-site provision through S106.
For other development, improvements to existing social and community facilities will generally be funded through CIL.
Relevant Local Plan policies include: (Part 2) DP8

- 4.41 Community and social facilities include: community centres/halls; indoor leisure facilities; libraries; museums; adult day care services; adult learning services and indoor youth facilities. These provide for the social, welfare, learning and cultural needs of residents and help to create and maintain sustainable communities.
- 4.42 On large strategic sites, the number of new residents and the need to provide a focus of social activity for the new community may generate a need for a new community building(s) on-site. The need for such facilities is usually identified in the allocation or sometimes the limited capacity and distance from existing facilities warrants a new facility. The Council will liaise with the local community including town and parish councils, local councillors and community groups to identify appropriate provision. A new community development worker to encourage active participation and support community groups, activities and local resident associations may also be required and will be secured by a S106

obligation. It will be necessary to identify responsibilities for management (which will usually be the town or parish council) and ongoing maintenance for new facilities will also be required. In some instances, it may be preferable to secure improvements to existing facilities, provided those facilities are within recommended travelling distances.

## Essential Services

### *Health Care*

- 4.43 Core Policy 7 of the Local Plan 2031 sets out the Council's approach to the delivery of infrastructure to support development, whilst Strategic Objective SO4 of the Plan seeks to improve the health and well-being of Vale residents, as well as seeking to reduce inequality, poverty and social exclusion within the District. The Council will liaise with the Clinical Commissioning Group, town and parish councils and local councillors in respect of new facilities funded through S106.

<b>DEV9 Health Care</b>
<i>Residential</i>
New or increased capacity of health facilities will be sought through S106 from development on allocated sites exempt from CIL.
Development contributions for healthcare will be sought through S106 from extra care, nursing and care home developments.
For other residential development, the provision and enhancement and/or extension of healthcare facilities will generally be funded by CIL.
Relevant Local Plan policies include: (Part 1) CP26

### *Fire & Rescue*

- 4.44 Any new development can increase demands on the fire and rescue service, both by extending an area of fire risk and increasing the level of fire risk in an area. The demands placed on the fire and rescue service manifest themselves in a variety of forms depending on the scale and nature of the proposed development.

<b>DEV10 Fire &amp; Rescue</b>
<i>All development</i>
Improvements to the fire and rescue services can be funded through S106 or CIL.

- 4.45 It will generally be a requirement that external fire hydrants are provided to the satisfaction of the Oxfordshire Fire & Rescue Service. This will usually be dealt with by planning condition.

#### *Cemeteries*

- 4.46 Increased population within the District will require the provision/expansion of cemeteries. Cemeteries are managed by parish and town councils who would need to undertake future responsibility secured through the S106, together with appropriate maintenance.

<b>DEV11 Cemeteries</b>
<i>Residential</i>
Where allocated sites identify a need for cemetery space (including Neighbourhood Plan sites) this will be secured through S106.

#### **Placemaking and Public Realm**

- 4.47 The NPPF states that the Government attaches great importance to the design of the built environment. It is important to plan positively for high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development proposals. This includes responding to a site's heritage context and local character.
- 4.48 Development Policy 20 requires that for all major development proposals (as defined by the Development Management Order 2010) and sites larger than 0.5 hectares, the provision of public art will be sought that makes a significant contribution towards the appearance of the scheme or the character of the area or which benefits the local community. Contributions towards the provision of public art will be sought through S106 planning obligations. Guidance is contained in the *Vale of White Horse Design Guide 2015 SPD* and the leaflet '*Public Art Commissioning in Oxfordshire*'.

<b>DEV12 Public Realm, including Public Art</b>
On all major developments and sites over 0.5ha, developers should incorporate public art into their development (in partnership with the District Council) or in the local area through, for example, the design of spaces and buildings. Where public art remains in private ownership the provision will be secured by condition. If the land is to be transferred into public ownership the provision, including management will be secured through S106.
Where appropriate, site related provision or enhancement of the public realm, including enhancement of the historic environment will be secured through S106.

On major development sites, strategic public realm improvements, including town centre improvements to increase accessibility for people with disabilities, may be sought through S106.

Relevant Local Plan policies include: (Part 1) CP37, (Part 2) DP2

- 4.49 Public art integrated into developments will assist in delivering buildings and spaces that provide visual interest and a sense of identity. The involvement of the local community alongside professional artists in the design and commissioning of bespoke public art is important in creating a unique sense of place.
- 4.50 The Council's Arts Officer should be involved in the master planning of major schemes at an early stage. A written public art statement, setting out the commissioning process, location, budget, artist briefs and, is expected to be in place prior to the commencement of the development. Timescales for delivery of public art should also be secured.
- 4.51 The Public Art budget / contribution is based on the Vale of White Horse Design Guide 2015 SPD and the leaflet 'Public Art Commissioning in Oxfordshire'. The costs are reviewed annually and set out in the schedule of fees on the Council's website. The budget / contribution for each development will be based on the public impact, visibility and profile of the development.

### **Employment, skills and training**

- 4.52 The NPPF supports economic growth to create jobs and prosperity. It is important that local people are able to access the benefits of such growth in the District.
- 4.53 Core Policy 38 of the LPP1 requires major development to provide access to education and training facilities to meet the needs of the community.

#### **DEV13 Employment, Skills and Training**

Non-residential development over 1,000 sqm /1 hectare

Residential development of 500 houses or more

Contributions towards employment, skills and training development initiatives, including Community Employment Plans (CEPs) will be secured through S106.

Relevant Local Plan policies include: (Part 2) DP11

- 4.54 Community Employment Plans are employer led initiatives which seek to mitigate the impacts of development through ensuring that local people can better access job opportunities arising from the development. Outcomes contained within

CEPs should relate to outcomes flowing from the ‘construction’ phase and ‘end user’ phase and are likely to include apprenticeships, employment/training programs for all ages, and best endeavours to maximise local labour.

## **Environmental Impacts**

### *Biodiversity and Green Infrastructure*

- 4.55 Green infrastructure comprises parks and gardens, accessible natural and semi natural green space, green links, watercourses and canals, ecological networks, and nationally and locally designated nature conservation sites. These provide important informal recreation facilities and a biodiversity resource.
- 4.56 The NPPF highlights the role that planning plays in the protection, enhancement and management of biodiversity networks. The *Biodiversity 2020 Strategy*<sup>5</sup> sets out Government’s objectives to conserve enhance and restore the diversity of England’s wildlife and to contribute to rural renewal and urban renaissance, by enhancing biodiversity in green spaces among developments. Biodiversity enhancements will generally be secured by restrictive conditions through the Biodiversity Offsetting Scheme, requiring a certificate confirming the agreement of an Offsetting Provider to deliver a Biodiversity Offsetting Scheme. The details of biodiversity enhancements shall be documented by the Offset Provider and issued to the Council for their records.
- 4.57 In some circumstances where specific mitigation or compensation is required to make a development scheme acceptable, a separate planning obligation through S106 may also be required.
- 4.58 Core Policy 45 of the LPP1 requires each new development site to demonstrate that it will provide a net gain in green infrastructure. The South and Vale Green Infrastructure Strategy (October 2017) identifies the level of provision for all of the major settlements and areas of need.
- 4.59 Core Policy 46 of the LPP1 and the NPPF both require a net gain in biodiversity. This can either be through on-site provision or, where this is not possible, contributions may be sought toward the provision of new off-site biodiversity resources.
- 4.60 Policy DP31 of LPP2 also states that the Council will actively seek opportunities to improve the accessibility and the addition of new connections and status upgrades to the existing rights of way network, including National Trails.

<b>DEV14 Biodiversity and Green Infrastructure</b>
<i>All development</i>
Biodiversity mitigation and enhancements will be secured through conditions or S106. This can include off-site mitigation and enhancement measures for

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<sup>5</sup> Biodiversity 2020: A strategy for England’s wildlife and ecosystem services, Department for Environment, Food and Rural Affairs, August 2011

both the direct and indirect impacts of a development scheme. All development should aim to deliver at least 10% net gain in biodiversity.

Strategic habitat creation, enhancement and restoration would most appropriately be funded through CIL.

Relevant Local Plan policies include: (Part 1) CP37, CP45, CP46 and (Part 2) DP30, DP31

### *Waste & Recycling*

- 4.61 Development Policy DP28 requires development to make adequate provision for the management of waste in new developments.

#### **DEV15 Waste & Recycling**

##### *Residential:*

Site related provision of household recycling and waste bins will be secured through S106.

Improvements to or provision of Household Waste & Recycling Centres may be secured through S106.

Relevant Local Plan policies include: (Part 1) CP43 and (Part 2) DP28

- 4.62 New development will require the provision of new waste and recycling bins. The Council will seek a financial contribution towards the provision of bins to new properties on sites of 11 or more units through Section 106. On smaller sites of 10 or fewer units, the Council will issue an invoice to the applicant.

### *Air Quality*

- 4.63 Core Policy 43 of the LPP1 requires new development to have regard to air quality and any Air Quality Management Areas. Development Policy 26 of LPP2 also requires new development to minimise the impact on air quality through design of mitigation measures.
- 4.64 There are three Air Quality Management Areas (in Botley, Abingdon and Marcham) where, due to traffic issues, air pollution exceeds the levels set by European and UK regulations. In Abingdon, an action plan has been put into place to alter the movement of traffic in the town centre. At Botley, the designation is due to high levels of traffic on the A34. At Marcham, the AQMA follows both sides of the A415, as it passes through the built up area.



## **DEV16 Air Quality**

### *All development*

Mitigation measures (required directly as a result of a specific development and cumulative impacts) and wider Air Quality Measures associated with development will be secured through S106.

Relevant Local Plan policies include: (Part 1) CP43 and (Part 2) DP26

- 4.65 For developments which are likely to have an impact on air quality, an air quality assessment will need to be submitted as part of the planning application. It will need to consider cumulative impacts upon air quality. The overall aim of an air quality assessment is to determine whether the development will have a significant impact on air quality or whether the existing air quality environment is unacceptable for the proposed development. It will identify likely impacts on air quality and the need for additional monitoring.
- 4.66 The Council has published an Air Quality Action Plan 2015 and aims to increase the provision of electric vehicle charging points in new development and in Council owned car parks. Planning conditions will be used to secure the provision of electric vehicle charging points. Electric vehicle charging points will be required for all dwellings with on-plot parking and communal charging facilities will be required for flats / apartments. For commercial development, at least one electric vehicle charging point will be required per 1,000m<sup>2</sup> of floorspace.

### *Flood Protection and Water Management*

- 4.67 Section 14 of the NPPF deals with the challenges of climate change, flooding and coastal change. It states that planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations.
- 4.68 Core Policy 42 of the LPP1 requires new development over 1 hectare in flood zone 1, plus all new development in flood zones 2 and 3, to provide a site specific flood risk assessment. All development will be required to provide a drainage strategy.

## **DEV17 Flood Protection**

### *All development*

Provision and maintenance of off-site flood protection and water management, i.e. Sustainable Drainage Systems (SUDs), will be secured through conditions and S106.

Relevant Local Plan policies include: (Part 1) CP42



- 4.69 The flood risk measures required to mitigate a development proposal should be managed on-site by way of planning obligation or condition. In some circumstances, a Section 106 agreement may be needed for on and/or off-site measures. These may cover design and maintenance of sustainable drainage systems or flood management features. The Council will expect any flood management measures to be in place prior to occupation of the development.
- 4.70 Potential flooding and pollution risks from surface water can be decreased by reducing the volume and rate of water entering the sewerage system and watercourses. SUDs seek to manage surface water as close to its source as possible and mimic surface water flows arising from a site prior to its development.
- 4.71 The use of SUDs is required for all new development, where appropriate, and should be carefully designed as a structural feature of the development. SUDs are often integral to a development and cannot easily be accommodated within a site once a layout has been planned. Developers should, therefore, liaise with the County Council (as lead local flood defence authority) and the District Council at an early stage to discuss options for an appropriate and sustainable approach to site drainage. Full details of the proposed SUDs and/or how the proposed development meets the County Council's Flood Risk Management Strategy is required as part of the planning application.
- 4.72 When planning a sustainable drainage system, developers need to ensure their design allows for maintenance of the system, so that it continues to provide effective drainage for the development. A poorly maintained system can increase flood risk rather than reduce it. Developers need to make arrangements for the future maintenance of sustainable drainage systems. SUDs associated with adopted highway provision will be dealt with under S278 and S38 of the Highways Act provisions.
- 4.73 All drainage should be designed in accordance with Oxfordshire County Council and District Council local standards as well as comply with the non-statutory technical standards for sustainable drainage and Sewerage Sector Guidance approved documents. To secure suitable future maintenance arrangements, all drainage eligible for adoption, must be offered for adoption under S104 of the Water Industry Act to the statutory water authority covering the District, with a suitable proposed S104 agreement plan provided prior to commencement of the development. A copy of the associated technical approval certificate and signed adoption agreement should be provided to the District Council prior to first occupation.

#### *Waste Water*

- 4.74 Core Policy 7 requires all new development to provide the necessary on-site infrastructure. This includes demonstrating that there is adequate water supply, surface water drainage, foul drainage and sewerage treatment capacity both on and off-site to service the development.
- 4.75 There are known capacity issues with waste water treatment in the District as evidenced in the Water Cycle Study 2015 and the Addendum to the Water Cycle

Study (2018)<sup>6</sup>. The Infrastructure Delivery Plan identifies those strategic sites where Thames Water have indicated that works are required to facilitate development.

- 4.76 Necessary improvements to sewerage water treatment infrastructure will be programmed by the water companies and need to be completed prior to occupation of the development. To ensure timely housing delivery, developers will be expected to contribute towards the payment of interest, to enable Thames Water to take out loans and bring forward the provision of waste water treatment infrastructure ahead of schedule. Any such agreements should be made directly between the developer and Thames Water.

### Utilities

- 4.77 With regard to utilities such as gas, electricity, water supply, water quality and waste water treatment, the developer will need to work closely with relevant providers to ensure adequate capacity to serve the development. Some site specific requirements for larger sites may involve the provision of new electric substations, water pumping stations, supply pipe work etc., depending on their scale, location and nature. The Council will want assurance that the developer and utility providers have put in place arrangements for the delivery of this type of infrastructure and that its provision has been planned for at the early the stages of the development. The developer should liaise with utility providers at an early stage (pre-application) to identify any capacity issues and how to overcome these.

### Street Naming

- 4.78 Vale of White Horse District Council is the Street Naming and Numbering authority for this District and carries out these functions under the provisions of the Oxfordshire Act 1985. For new development of 11 dwellings and above, that requires new street names and street nameplates, the Council will seek financial contributions for street naming and the provision of street nameplates through Section 106.

<b>DEV18 Street Naming</b>
<i>Residential</i>
Contributions towards street naming and numbering will be funded through S106.
Relevant Local Plan policies include: (Part 1) CP7

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<http://www.whitehorsedc.gov.uk/java/support/Main.jsp?MODULE=FolderView&ID=627990642&CODE=5B5E037FB8EDDB17AA1EFFC78D0AE00A&NAME=WWF01.1+Vale+of+White+Horse+District+Council+Water+Cycle+Study+%28September+2015%29&REF=Local%20Plan%202031%20Part%201%20Examination%20Library>

## **5. MANAGEMENT AND MAINTENANCE OF ON-SITE INFRASTRUCTURE**

### *Open Space*

- 5.1 On-site infrastructure may comprise open space, play areas, green infrastructure, allotments, public art and community centre/halls etc. The laying out and maintenance and management of the infrastructure is the responsibility of the developer, who will be required to demonstrate that satisfactory provision for indefinite future maintenance has been made.
- 5.2 Where the Council or local parish council has expressed an interest in managing the open space and other facilities, the Council will explore this option with the applicant and parish council, to ensure that satisfactory long term maintenance is met and provided for, including a commuted sum for the long term maintenance. In the case of open space, this should cover a 20 year period. In these instances, the S106 agreement will allow for the parish council to be offered the option of taking the land or facility and to have a set period in which to consider, usually 3 months. If the parish council accepts the transfer, there must be opportunity for the parish council to inspect the ongoing works. Once open space is completed, the parish council will be expected to check the completed works, involving relevant expertise, before accepting the transfer. If necessary, the developer should fund the procurement of the relevant expertise. The land or facility should be transferred upon completion, together with the commuted sum. The Council will consider the merits of each case as to whether a direct transfer and payment to the parish council can be made or should come to the District Council initially. If the transfer / payment is direct to the parish, the developer shall provide evidence of the transfer and payment to the Council within 1 week of the transactions.
- 5.3 If the land is not to be transferred to a third party management body, the applicant will need to demonstrate how the open space will be managed and funded, usually through the creation of a management company including the allocation of funds to the management company to cover a 20 year maintenance and management period. The developer may need to consider service charges for new residents. However, affordable housing will be exempt from such charges (or charges shall be capped) and this will be specified in the S106 agreement. The principal objective of the Management Company shall be providing for the maintenance of the Public Open Space / Facility. The management company shall also be limited by shares or by guarantee and membership shall be restricted, for instance to the Owner, the Developer, the transferees or lessees of General Market Housing Units and Shared Ownership Units, the Registered Provider and Parish Council. The District Council and parish council shall be advised of the contact details of the management company and these details also displayed at the site. Any change in ownership

/ contact details shall be notified to the District Council and the sign / parish council updated.

### *Buildings*

- 5.4 Where community buildings are part of a new development and are coming into the ownership of the Council, the Council will require certain safeguards to ensure the building is built in accordance with relevant standards. The buildings will often need to be provided to a specification beyond usual building control standards, e.g. in accordance with Sport England or other governing bodies standards. Sufficient funds will be secured through the S106 for the Council to employ a relevant expert with liability insurance to advise on these matters. The Council will liaise with relevant services including Infrastructure and Development and Active Communities to ascertain requirements. The Council will seek the following type of information:
- a detailed specification (based on an outline specification to be attached to the S106 agreement) to a standard agreed by the Council;
  - details of the identity of the contractor and the terms of the construction contract;
  - details of the identity of the professional team including the architect/designer, structural engineer, M&E consultant, and sub-contractors with design input into the target building, together with copies of the terms upon which each is appointed;
  - the build programme;
  - access to the Council's nominated representative to inspect the construction at all reasonable times on reasonable notice together with an obligation to take into consideration points made by the nominated representative;
  - a commitment that all defects and omissions are remedied within an agreed timescale;
  - collateral warranties in favour of the Council or at the nomination of the council in favour of a third party from the contractor and from all members of the professional team and from all sub-contractors which have design input into the target building.
- 5.5 In addition, the Council will normally require a bond or another form of guarantee to ensure the facility is implemented as agreed. Should it be determined that the Council is required to undertake this function, sufficient funds should be secured in the S106 agreement to cover the costs of appointing external expertise with the necessary insurances in place.
- 5.6 The Council will require specifications as part of the S106 and planning process and the Infrastructure and Development team will be part of any discussions around including community facilities in new agreements.

### *Public Art*

- 5.7 Where the ownership of on-site art features is to pass to anyone other than the site owner/developer we will require a commuted sum. This will represent 7% of the value of the works to cover the costs associated with monitoring, repairs and maintenance over a 15-year period.

### *Equipped Play Areas*

- 5.8 Post installation equipped play areas will be subject to a post installation RoSPA inspection, which must be supplied to the Council. An inspection regime must be incorporated in the management and maintenance plan.
- 5.9 A detailed maintenance schedule and management plan for 15 years maintenance will be submitted with detailed / reserved matter applications to be approved by condition. The maintenance and management must address safety inspections including weekly visual inspections and 3 monthly RoSPA inspections. The management shall include arrangements for litter picking, dog waste clearance, dog waste and general waste collection.

### *Pitches*

- 5.10 Where new pitches are to be provided on site, the Council will require a detailed specification, including drainage works and where appropriate services, to be submitted at full or reserved matters stages. A programme of works and funding for an agronomist who will check the specification, inspect site works and inspect and agree practical completion will be secured by S106 agreement. The developer will also be required to remedy defects arising within the first year of use.

## **6. NEGOTIATION AND ADMINISTRATION OF PLANNING OBLIGATIONS**

### **Approach to Negotiating Planning Obligations**

- 6.1 Applicants will be expected to enter into pre application discussions prior to submitting planning applications. The provision of infrastructure and affordable housing and the mechanisms to secure infrastructure will be part of these discussions. These pre-application discussions should help to identify any issues and assist in ensuring that the Council can determine applications without unnecessary delays. We encourage developers to discuss their proposals with the local community and parish council and engage with utility providers and stakeholders.
- 6.2 Following these discussions, the planning application submission should clearly set out how the policies of the development plan will be addressed, including the provision of infrastructure and affordable housing. 'Heads of Terms' for the S106 agreement must be agreed prior to recommendation on the planning application. Further information on the Council's approach to negotiating planning obligations assessing the need for infrastructure, and authorising the final agreement is set out in **Appendix 2**.

### **Viability and Deliverability**

- 6.3 The Council expects development to be delivered in accordance with the policies of the Development Plan, including the policies for affordable housing, infrastructure and place making requirements. The growth objectives and policies to create sustainable developments set out in the LPP1, LPP2 and the Community Infrastructure Levy have been tested for viability and deliverability. This is a strong foundation for delivering plan led growth in the Vale of White Horse District.
- 6.4 Infrastructure provision, including affordable housing provision, is a necessary cost that needs to be factored into overall development costs. Similarly, clear up costs arising from previous uses need to be included in development cost calculations. For those sites allocated in the Local Plan, viability will have already been considered through the formal Local Plan preparation process and associated infrastructure requirements will have been included in the Council's Infrastructure Delivery Plan. It is, therefore, expected that identified affordable housing and infrastructure requirements will not be challenged once development proposals reach the stage of a planning application. Government's Planning Practice Guidance (PPG) states that viability assessments should not normally be required for individual development schemes. However, any viability assessment undertaken will need to be based on the requirements of the NPPF and PPG. In all cases, land value should reflect policy, S106 and CIL (in accordance with RICS guidance), provide a competitive return to willing developers and land owners and be informed by comparable, market-based evidence, wherever possible (but where transacted bids are significantly above the market norm they should not be used).

## **Definition of Site Value**

- 6.5 Site Value, either as an input into a scheme specific appraisal or as a benchmark, is defined in the RICS guidance note as follows:

*‘Site Value should equate to the market value subject to the following assumption: that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan.’<sup>7</sup>*

- 6.6 For major development sites where there are exceptional circumstances, abnormal costs which could not reasonably have been foreseen and where the applicant considers that the proposed development cannot viably support the Council’s policy requirements and other identified needs, the Council will require the applicant to submit a viability assessment (Core Policy 7 of the LPP1). The viability assessment should clearly explain why the development cannot bear the requirements of the Development Plan, which has been viability tested, and specify what has changed since the plan was adopted. It should identify and justify what affordable housing and infrastructure can be delivered as part of the development and when. The Council will need to independently assess the viability assessment and the developer will fund the costs of this independent review.

### *Open Book Approach*

- 6.7 In accordance with Policy CP7 of the LPP1, the assessment will be an ‘open book’ viability assessment. The developer will be required to pay for the District and County Councils’ independent review of the viability assessment. The results of this review will then be considered as a material consideration in the assessment of the development proposal. Where it has been demonstrated that infrastructure requirements could render the development unviable, the Council will first prioritise developer contributions for essential infrastructure and/or use an appropriate mechanism to defer part of the developer’s required contribution to a later date. In accordance with Core Policy 7 and as a last resort, if the development cannot meet policy requirements for affordable housing or provide the necessary infrastructure to ensure a sustainable development in line with the wider objectives of the Local Plan, planning permission will be refused.

## **Legal, Administration and Monitoring**

- 6.8 The District and County Councils will require their legal costs of preparing a planning obligation to be borne by the developer/ applicant. These costs will depend upon the form and complexity of the obligation and the amount of work necessary to settle the draft and proceed to completion. Developers will need to meet reasonable legal fees even if the planning obligation is not completed. Both councils’ solicitors will negotiate legal fees on a case by case basis.

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<sup>7</sup> Financial viability in planning RICS guidance note - 1st edition (GN 94/2012) August 2012

- 6.9 The Council also needs to administer and monitor the provisions of a planning obligation and will require the applicant/developer to bear the cost of monitoring S106 agreements. There will be no charge where the applicant pays upfront all the contributions with a unilateral undertaking. The County Council will similarly require its administration and monitoring costs of developments to be met by the applicant/developer. Costs are available on the Council's website.

#### **Interest on late payment and enforcement**

- 6.10 Trigger points, including triggers for payments, will vary for each individual obligation within the Section 106 agreement. The developer is bound in each Section 106 agreement to notify the District and County Councils of certain trigger points, including commencement of the development. Where the councils are not notified and obligations become overdue, they will seek to enforce the obligation and will activate the default interest clause. A clause included in the Section 106 agreement will encourage prompt payment by inserting a provision for payment of interest at a default rate where payments are overdue. Non-financial obligations are also legally binding. As a final recourse, where obligations are not subsequently enforced, the District Council and/or the County Council will take legal action against those in breach of a Section 106 agreement.

#### **Indexation**

- 6.11 Financial contributions are based upon the costs of infrastructure. Financial contributions will be indexed to ensure that they retain their original 'real value'. The base date of the indexation will be stipulated when costs are prepared. An appropriate index will be used for the type of infrastructure sought.



# **APPENDICES**

## **Appendix 1 - Summary Table of Relevant Planning Policies**

	<b>Local Plan 2031 Part 1</b>	<b>Local Plan 2031 Part 2</b>
Infrastructure provision	<p>CP7 (Providing Supporting Infrastructure &amp; Services)</p> <p>CP4 (Meeting Our Housing Needs)</p> <p>CP8 (Spatial Strategy for Abingdon-On-Thames and Oxford Fringe Sub-Area)</p> <p>CP15 (Spatial Strategy for South East Vale Sub-Area)</p> <p>CP20 (Spatial Strategy for Western Vale Sub-Area)</p> <p>Appendix A (Site Development Templates)</p> <p>CP38 (Design Strategies for Strategic and Major Development Sites)</p>	<p>CP4a (Meeting Our Housing Needs)</p> <p>CP8a (Additional Site Allocations for Abingdon-On-Thames and Oxford Fringe Sub-Area)</p> <p>CP8b (Dalton Barracks Strategic Allocation)</p> <p>CP15a (Additional Site Allocations for South East Vale Sub-Area)</p> <p>CP15c (Grove Comprehensive Development Framework)</p>
Affordable housing	<p>CP24 (Affordable Housing)</p> <p>CP25 (Rural Exception Sites)</p>	
Education	CP30 (Further and Higher Education)	
Transport	<p>CP12 (Safeguarding of Land for Strategic Highway Improvements within the Abingdon-On-Thames and Oxford Fringe Sub-Area)</p> <p>CP17 (Delivery of Strategic Highway Improvements within the South East Vale Sub-Area)</p> <p>CP21 (Safeguarding of Land for Strategic Highway Improvements within the Western Vale Sub-Area)</p> <p>CP33 (Promoting Sustainable Transport and Accessibility)</p> <p>CP35 (Promoting Public Transport, Cycling and Walking)</p> <p>CP37 (Design and Local Distinctiveness)</p>	DP16 (Access)
Indoor and outdoor recreation and sports facilities	CP37 (Design and Local Distinctiveness)	DP32 (The Wilts and Berkshire Canal)

		DP34 (Leisure and Sports Facilities)
Open space		DP33 (Open Space)
Play areas		DP33 (Open Space)
Allotments		DP33 (Open Space)
Social and community facilities		DP8 (Community Services and Facilities)
Health care	CP26 (Accommodating Current and Future Needs of the Ageing Population)	
Public realm (including public art & community safety)	CP37 (Design and Local Distinctiveness)	DP20 (Public Art)
Employment, skills & training		DP11 (Community Employment Plans)
Biodiversity & green infrastructure	CP37 (Design and Local Distinctiveness) CP45 (Green Infrastructure) CP46 (Conservation and Improvement of Biodiversity)	DP30 (Watercourses) DP31 (Protection of Public Rights of Way, National Trails and Open Access Areas)
Waste & recycling facilities	CP43 (Natural Resources)	DP28 (Waste Collection and Recycling)
Air Quality	CP43 (Natural Resources)	DP26 (Air Quality)
Flood protection & sustainable drainage systems	CP42 (Flood Risk)	

## **Appendix 2 – Approach to Negotiating Planning Obligations**

The Council will negotiate planning obligations on the following basis:

1. Developers of large or complex sites will enter into pre-application discussions with the District Council and infrastructure providers. This will include draft S106/S278 agreements or detailed Heads of Terms addressing the requirements that cannot reasonably be addressed by the submission or conditions. The Council highlight the need to engage with all parties involved at an early stage
2. The District Council and /or the County Council, for large or complex sites, will seek to enter into a planning performance agreement with the applicant.
3. The District Council will, in co-operation with the County Council and other bodies, identify the impacts expected to arise from development proposals on infrastructure such as transportation, highway works, schools and libraries. The need for planning obligations should be identified as early in the application process as possible.
4. On sites where social and community facilities will be secured through Section 106, the District Council will discuss with internal services, relevant sporting bodies, the local parish or town council and councillors on the need and type of infrastructure, relating to outdoor recreation and sports facilities, play areas and community facilities. Neighbourhood Plans and Community Led Plans will help identify the need for necessary infrastructure.
5. Where the need arises for provision and/or contributions for services not administered by the District Council, it will work with the County Council and other agencies.
6. Where the applicant considers that the proposed development cannot viably support the identified infrastructure requirements, they will submit a viability assessment at the earliest possible opportunity (preferably pre-application) in accordance with LPP1 Core Policy 7.
7. Where an application is made that is part of a wider development area then master planning for the wider site must also be shown, with appropriate landowner agreements shown to be in place, so that infrastructure needs are planned in for the wider area.
8. The developer must demonstrate that they have the necessary control of the land subject to the S106 agreement. Legal fees will be paid by the developer.
9. Detailed draft 'Heads of Terms' for a S106 should be agreed before a planning application is referred to Planning Committee, who will be asked to agree those heads of terms.
10. All parties will need to act efficiently, effectively and reasonably to secure the timely completion of agreements prior to the issuing of any planning permission. If there has been a material change in circumstances (e.g. viability) or infrastructure requirements in the period from resolution to the final draft agreement, the applications and heads of terms may be referred back to the Planning Committee for agreement.

11. The S106 will be prepared and finalised in accordance with the Council's constitution. Where applications have been considered by Committee the Chairman of Planning Committee will authorise the final agreement and conditions.
12. The legal agreement must be signed before the issue of a planning permission. The absence of a necessary planning obligation may be sufficient for the Council to refuse permission.

### **Appendix 3 – Standards for Indoor and Outdoor Sport**

<b>Sport</b>	<b>Provision Standards</b>	<b>Distance Standards</b>
<b>Squash courts</b>	0.1 squash court per 1,000 people.	The whole population within 20 minutes' drive of the nearest court.
<b>Sports Halls</b>	0.29 badminton courts per 1,000 people	The whole population within 20 minutes driving time of the closest hall.
<b>Swimming pool</b>	11.36 sqm of indoor swimming pool per 1,000 people. The new replacement pool at the proposed Wantage/Grove leisure centre should have: <ul style="list-style-type: none"> <li>• 25 m x 6 lane main swimming pool</li> <li>• Teaching pool with moveable floor</li> </ul>	The whole population within 20 minutes' drive of the nearest pool.
<b>Artificial grass pitches</b>	0.03 large size AGP per 1,000 population The whole population within 20 minutes' drive of the nearest AGP.	
<b>Athletics tracks</b>	The retention of one outdoor track for community use at Tilsley Park. In Faringdon, the provision of a small outdoor athletics training facility (subject to feasibility study).	The whole population within 30 minutes driving time of nearest facility.
<b>Health and Fitness</b>	5.64 stations per 1,000 population. The area for each indoor fitness station is taken to be an average of 5 sq m. It is appropriate that developers should be asked for a contribution towards the building cost for the health and fitness space, but not the equipment which is often supplied on a contract basis. The cost of the building space is currently estimated to be £16,400 per station, or £2733.33 per sq m	
<b>Indoor bowls</b>	0.08 rinks per 1,000 population.	The whole population within 15 minutes driving time of nearest facility.
<b>Outdoor tennis</b>	0.39 courts per 1,000 population.	
<b>Multi Use Games Areas (MUGAs)</b>	0.3ha MUGA per 1,000 population.	The whole population within 10 minutes walking catchment in

Sport	Provision Standards	Distance Standards
		urban areas and 15 minutes driving time in rural areas.
<b>Grass playing pitches - football, cricket and rugby</b>	<p>1.16ha sports pitches per 1,000 population.</p> <p><u>Football</u></p> <p>52% of pitches should be football pitches.</p> <p><u>Cricket</u></p> <p>27% of pitches should be cricket pitches.</p> <p><u>Rugby</u></p> <p>21% of pitches should be rugby pitches.</p> <p>All grass playing field sites used by the community require no or minimum informal use and should be fenced.</p> <p>There is also a requirement for developers to contribute towards the cost of clubhouses/pavilions and ancillary facilities at playing field sites. This requirement is based on the following assumption:</p> <ul style="list-style-type: none"> <li>• Football: 1 x 4-team changing room pavilion for 3 ha pitch space</li> <li>• Cricket: 1 x clubhouse per 2 ha ground</li> <li>• Rugby: 1 x 4 team changing room clubhouse for 4 ha pitch space</li> </ul>	<p><u>Football</u></p> <p>The whole population within 10 minutes walking catchment or 15 minutes driving time.</p> <p><u>Cricket</u></p> <p>The whole population within 15 minutes driving time.</p> <p><u>Rugby</u></p> <p>The whole population within 20 minutes driving time.</p>

## **Appendix 4 - Specifications for Children's Play Provision**

A detailed specification must be submitted with a full application or at Reserved Matters stage and will be subject to community consultation.

<b>Type</b>	<b>Minimum Size</b>	<b>Equipment/Facilities</b>	<b>Design Considerations</b>	<b>Distance from dwellings</b>	<b>Boundary Treatment</b>	<b>Management</b>
LAP	100 sqm	A designed space for natural play, using changes in level, natural features such as boulders, logs or small dips, and planting with a range of textures, scents and colours.  Creating a space that will stimulate senses and enable young children to claim the space as their own.  Provision of seating.	<ul style="list-style-type: none"> <li>• Appropriate to community needs</li> <li>• Unique to the development</li> <li>• Taking into account natural features</li> </ul>	5m for boundary	Incorporated within open space, planting may be used to indicate boundaries. Perimeter fencing is <b>not</b> appropriate.  The open space itself may be fenced from roads if appropriate.	Arrangements for graffiti removal, litter picking, dog waste clearance, dog waste and general waste collection.
LEAP	400 sqm	At least 5 types of play equipment, providing a range of activities <sup>8</sup> , avoiding duplication of nearby play facilities.  Planting to provide a range of textures, scents and colours.  Seating in sun and shade. Litter bins.	<ul style="list-style-type: none"> <li>• Integrated within the open space</li> <li>• Accessible to children with disabilities</li> <li>• Good natural surveillance</li> </ul>	20m from facade	Recognisable by either fencing or landscaping. Perimeter fencing is generally inappropriate although the site may be fenced from adjoining roads and other hazards.	In addition to LEAP requirements –  Post installation RoSPA inspection.  Inspection regime incorporated in management and maintenance plan.  Weekly visual inspections.  3 monthly inspections to a recognised standard.
NEAP	1000 sqm	In addition to LEAP requirements - minimum activity zone of 1,000m <sup>2</sup> , with play equipment and structures.  Hard surfaced area of 465sqm for five a side football and other games.  Separation of more adventurous play.	<ul style="list-style-type: none"> <li>• Safer surfacing</li> <li>• Generous use of planting</li> </ul>	30m from boundary		

<sup>8</sup> Running, balancing, sliding, climbing, swinging, crawling and jumping, socialising, playing ball games and being generally active.



**Children's Play - further reading**

- Vale of White Horse Design Guide SPD
- Guidance for Outdoor Sport and Play - Beyond the Six Acre Standard (Fields in Trust, 2015)
- Design for Play: A guide to creating successful play spaces (Play England, 2008)
- ROSPA's guidance on accessible play areas (<http://www.rospa.com/play-safety/inspections/disabled-people/>)

## **Glossary**

**Air Quality Assessment:** An assessment of the impact of a development on the levels of certain pollutants in the local area.

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

In accordance with the NPPF affordable housing is to be met on-site unless: a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities. Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).

**Community Infrastructure Levy (CIL):** The Community Infrastructure Levy (CIL) is a charge which can be levied by local authorities on new development in their area to help fund supporting infrastructure. CIL can only be applied in areas where, firstly, a local authority has identified a funding gap to deliver the necessary infrastructure and, secondly, where it has consulted on (and approved) a charging schedule which sets out its CIL charging rates and has published the schedule on its website.

**CIL Regulations:** CIL Regulations came into force in 2010 and have been amended several times. On the 1st September 2019, the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 came into force, removing the requirement for a Regulation 123 List.

<https://www.gov.uk/guidance/community-infrastructure-levy>

**CIL Charging Schedule:** The current Vale of White Horse CIL Charging Schedule was adopted in September 2017 and sets out the charging rates for development types in three defined zones across the District. The 2017 Charging Schedule is currently under review.

**Development Plan:** Is defined in section 38 of the Planning and Compulsory Purchase Act 2004, and includes adopted local plans, neighbourhood plans that have been made and published spatial development strategies, together with any regional strategy policies that remain in force. Neighbourhood plans that have been approved at referendum are also part of the development plan, unless the local planning authority decides that the neighbourhood plan should not be made.

**Infrastructure:** Service provision, physical infrastructure and amenity.

**Intermediate Housing:** Homes for sale and rent provided at a cost above social rent, but below market levels, subject to the criteria under the Affordable Housing definition in Annex 2 of the NPPF. These can include shared equity (shared ownership and equity loans) and other low cost homes for sale and intermediate rent, but not affordable rented housing.

**Local Area for Play (LAP):** a small area of unsupervised open space specifically designated for young children for play activities close to where they live

**Local Equipped Area for Play (LEAP):** an unsupervised play area equipped for children of early school age

**Local Plan:** A plan for the future development of a local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. A local plan can consist of either strategic or non-strategic policies, or a combination of both.

**MUGA (Multi Use Games Area):** An unsupervised area where a number of games can be played by children or adults

**NEAP (Neighbourhood Area for Play):** An unsupervised site serving a substantial residential area, equipped mainly for older children but with opportunities for play for younger children.

**Planning condition:** Requirement attached to a planning permission to limit or direct the manner in which a development is carried out.

**Planning contributions (also known as developer or Section 106 contributions):** Contributions which are, prior to the determination of a planning application, considered necessary to be paid to the local planning authorities in order to mitigate the impacts of development and to make the development acceptable in planning terms.

**Planning obligation:** Legal agreement between a planning authority and a developer, or undertaking offered unilaterally by a developer, which ensures that planning contributions and/or works related to a development are undertaken (for example, the provision of highways). Sometimes called Section 106 agreements.

**Residential:** For the purposes of this document, the term 'residential' includes student accommodation, houses in multiple occupation (HMOs), age restricted and sheltered housing, extra-care, nursing and care homes

**Section 106 (Legal) agreement:** A legal agreement under Section 106 of the 1990 Town and Country Planning Act. Section 106 agreements are legal agreements between a planning authority and a developer/landowner, or undertakings offered unilaterally by a developer (see planning obligation).

**Section 278 (Legal) agreement:** A legal agreement made with Oxfordshire County Council (or occasionally, in the case of strategic highways, the Highways Agency) regarding improvements to the public highway.

**Supplementary Planning Document (SPD):** Provides supplementary information in respect of the policies in Development Plan Documents. It can constitute a material planning consideration but does not form part of the development plan and is not subject to independent examination.

**Sustainable transport modes:** Any efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra low emission vehicles, car sharing and public transport.

**Unilateral undertaking:** A type of planning obligation distinct from an agreement, in which only one party makes an express promise or undertakes a performance, without first securing a reciprocal agreement from the other party.

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