

FAREHAM

BOROUGH COUNCIL

Planning Obligations and Affordable
Housing Supplementary Planning
Document for the Borough of Fareham
(Excluding Welborne)

DRAFT

May 2014

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Consultation

- i Fareham Borough Council is now consulting on the Planning Obligations and Affordable Housing (excluding Welborne) Supplementary Planning Document (SPD). This document has been produced as supplementary guidance to support the Council's preparation of the Local Plan and the review of the current Fareham CIL Charging Schedule, which came into effect on 1 May 2013.
- ii All comments received in response to this consultation will be fully considered before the final version of the Planning Obligations and Affordable Housing SPD is produced. The Council's intention is to adopt the final version of this SPD in late 2014 or early 2015.
- iii The Planning Obligations and Affordable Housing SPD is available for consultation between the 25th June and 6th August 2014. All comments should be received in writing by **5pm on 6th August** when the consultation will close. For further information on this SPD and to submit comments on the document please visit the Council's website at:
www.fareham.gov.uk/planning
- iv Alternatively, comments can be submitted via e-mail to planningpolicy@fareham.gov.uk or by post to:

Planning Policy
Fareham Borough Council
Civic Offices
Civic Way
Fareham
PO16 7AZ.

Comments may also be delivered by hand to the Council's reception at the Civic Offices. For any queries please call 01329 236100.

- v Please note that comments cannot be treated as confidential. They will be made available as public documents, in accordance with Government regulations.

1: Introduction

Purpose of this Document

- 1.1 The Planning Obligations & Affordable Housing (Excluding Welborne) Supplementary Planning Document (SPD) sets out Fareham Borough Council's approach to securing planning obligations from new development, either to deliver essential infrastructure, to address the effects of developments, or to control and/or enhance specific aspects of the development.
- 1.2 The SPD also provides further detailed guidance on the Council's approach to securing affordable housing (outside of Welborne), as well as setting out the Council's preferred tenure, dwelling type and size mix for affordable housing.

Scope of this Document

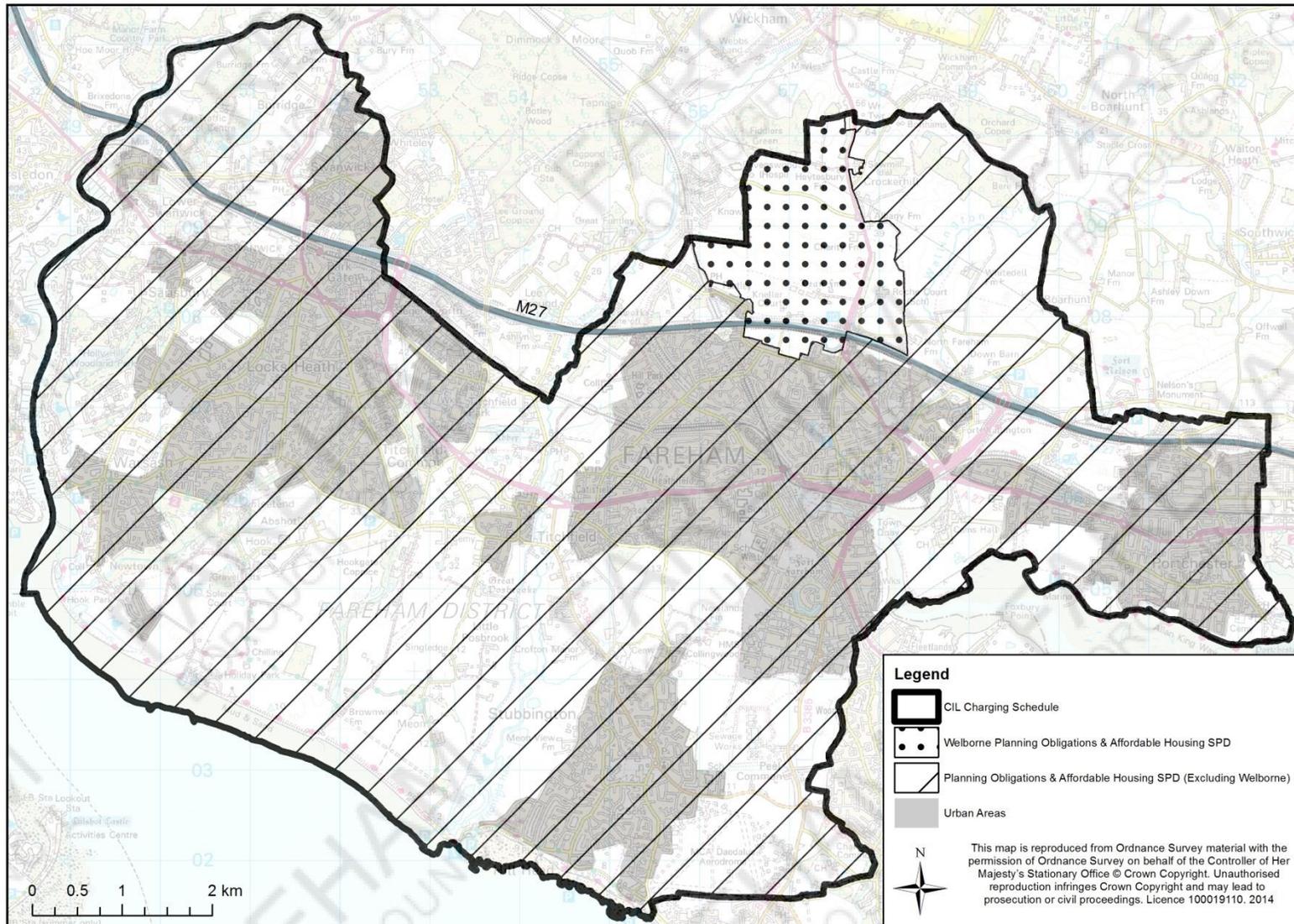
- 1.3 This SPD relates to all of Fareham Borough except the area included within the Welborne Plan policy boundary (see Figure A). There is a separate planning obligations SPD being produced to cover Welborne. It should be noted that presently the CIL charging schedule covers the whole of Fareham Borough. The CIL charging schedule is currently being reviewed and should be completed by the end of 2014 or early 2015.
- 1.4 The reason why the Council is producing two separate planning obligations SPDs relates to the very large scale and special circumstances of the Welborne development, which is being planned through a separate Local Plan document. The Council considered that including the detailed planning obligations guidance for Welborne within a single SPD for the Borough would make that document too large, complicated and potentially confusing for landowners and developers of the smaller developments across the rest of the Borough.

How this Document has been Produced

- 1.5 This SPD and the guidance within it have been produced to comply with the relevant planning legislation and to be fully consistent with national planning policy and guidance¹ and with the Fareham Local Plan, which consists of the:
 - Adopted Local Plan Part 1: Core Strategy;
 - Emerging Local Plan Part 2: Development Sites and Policies Plan; and
 - Emerging Local Plan Part 3: The Welborne Plan.
- 1.6 This SPD has also been informed by the evidence base which supports the Local Plan.

¹ The National Planning Policy Framework (DCLG, March 2012) and the National Planning Guidance (DCLG, March 2014)

Figure A: Map showing the areas of the Borough covered by this document.



2: Policy Background

National Planning Policy

- 2.1 National planning policy and legislation provide the mechanisms for local authorities to work to the infrastructure and affordable housing needs of their area. The main ways of doing this are through the use of planning obligations and Community Infrastructure Levy. Planning conditions and Section 278 agreements are also commonly used for this purpose.
- 2.2 Supplementary Planning Documents are documents that provide “*further detail to the policies in the Local Plan*”. They can be used to provide further guidance on particular issues, and while they are not part of the development plan, they are a material consideration in planning decisions
- 2.3 The Planning Obligations & Affordable Housing (Excluding Welborne) SPD has responded to the advice set out in the National Planning Policy Framework (NPPF). The NPPF requires local planning authorities to “consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition”.

Fareham Local Plan

- 2.4 Policy CS20 of the adopted Fareham Core Strategy (Local Plan Part 1), which is set out below, gives the local policy context for the guidance in this SPD.

CS20 Infrastructure and Development Contributions

Development will be required to provide or contribute towards the provision of infrastructure through planning conditions, legal agreement or directly through the service provider. Contributions or provision may also be required to mitigate the impact of development upon infrastructure. Detailed guidance on provision or contributions is or will be set out in Supplementary Planning Document(s) including any standard charges introduced through the Community Infrastructure Levy.

Provision or financial contributions will be required to include arrangements for on-going maintenance where necessary and appropriate.

Phasing of development will be related to the provision of infrastructure. Consideration will be given to pooling of contributions towards the cost of facilities.

3: Methods of Securing Developer Contributions

3.1 Developer contributions can be sought through a number of different mechanisms. These include:

- Planning conditions (these cannot secure financial contributions);
- Planning obligations (also known as Section 106 agreements)
- Section 278 agreements
- Community infrastructure levy

Planning Conditions

3.2 Planning conditions can deal with a wide variety of matters. Types of conditions include, for example, time limits on development, undertakings regarding environmental and noise issues, and limits on the size and external appearance of a new development. Planning conditions cannot be used to secure financial contributions. The power for local planning authorities to attach conditions when granting planning is given by Section 72 of the Town and Country Planning Act 1990.

3.3 When imposing planning conditions, local planning authorities are required by law to ensure that they are:

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects

Planning Obligations

3.5 Section 106 of the Town and Country Planning Act 1990 gives local planning authorities the power to enter into agreements (known as planning obligations) with the owners of land (but also see below) for the following purposes:-

- (a) Restricting the use or development of land in any specified way;
- (b) Requiring specified operations or activities to be carried out in, on, under or over the land;
- (c) requiring the land to be used in a specified way; or
- (d) requiring a sum or sums to be paid to the authority on a specified date or dates or periodically.

3.6 Paragraph 203 of the National Planning Policy Framework states that *“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used when it is not possible to address unacceptable impacts through a planning condition”*.

- 3.7 There are occasions on which local planning authorities, when granting planning permission, will use the powers given by section 106 when the desired objective cannot be achieved by the attachment of a planning condition to the planning permission. In those cases the local planning authority will require that the planning obligation is completed prior to the issuing of the planning permission. For example, planning obligations can secure the provision of on-site works such as the provision of public open space and can secure financial contributions to allow the local authority to carry out works to mitigate the impact of the development. Planning obligations can also place restrictions or requirements on how land is used.
- 3.8 Planning obligations are legal deeds that have to be entered into by the land owner(s) (generally freehold and leasehold) and anyone else who has a legal interest in the land such as mortgagees. Planning obligations usually take the form of an agreement between the local planning authority and the land owner(s)/interested parties but section 106 also makes provision for planning obligations to be given to the local planning authority unilaterally i.e. only signed by the land owner(s) and other parties with an interest in the land and not by the Council. Unilateral obligations are most frequently used in appeal situations but can be used in others.
- 3.9 Planning obligations are a tried and tested mechanism. They are flexible and have historically delivered a wide range of on-site and wider community infrastructure benefits, including the transfer of land for community use as well as regulating the way in which land is used.

Section 278 Agreements

- 3.10 These are agreements made under section 278 of the Highways Act 1980 between the owners of land and the Highway Authority (Hampshire County Council are the Highway Authority Fareham Borough) for the private sector funding of works on the public highway network. Section 278 agreements provide a mechanism for ensuring delivery of mitigation works identified as necessary for planning permission to be granted. The works can be carried out by the Highway Authority and recharged to the developer, or the developer can carry them out themselves as its agent. Unlike planning obligations, there is no legal provision for unilateral versions of section 278 agreements.
- 3.11 The need for a section 278 agreement arises when alterations or improvements to the highway are identified as being necessary in order to make a development acceptable in planning terms. Examples of works that may be required are: provision of a new junction to access the site or construction of a footway along the frontage of a site to make access to and from the development safe for pedestrians. Typically such works are identified as part of the Transport Assessment and subsequent discussions with the Highway Authority (the County Council). The works would need to be secured by planning condition or section 106 agreement and then carried out at an agreed point in the development, typically prior to commencement

or occupation of the development depending on the nature of the works.

- 3.12 The wording of the section 278 agreement ensures that the works are carried out to the necessary design standards, requiring that details of the scheme be submitted to the Highway Authority for approval before they can be implemented. The agreement also ensures that the contractor has the necessary insurance to work on the highway, and provides for a bond to be secured so that, if the contractor defaults on the works, the Highway Authority has the funds in place to complete the scheme.
- 3.13 The Community Infrastructure Levy Amendment Regulations 2014 brought section 278 agreements within the restrictions imposed by CIL Regulation 123. The implication of this is that it will not be possible for a section 278 agreement to be entered into in relation to any scheme that is identified on the infrastructure list published by Fareham Borough Council in accordance with CIL Regulation 123. This will ensure that there is no overlap between the highway infrastructure funded through CIL and that funded by, or secured through, section 278 agreements.

Community Infrastructure Levy

- 3.14 The Council adopted a Community Infrastructure Levy (CIL) Charging Schedule for its area with effect from 1 May 2013. From that date any development gaining planning permission is liable for the payment of CIL in accordance with the Charging Schedule and the CIL Regulations. In simplistic terms CIL is a charge on development that provides new buildings into which people normally go to use.
- 3.15 The CIL chargeable amount is not negotiable and is derived from the figures contained in the Council's Charging Schedule and the formula contained in the CIL Regulations. The Council has produced a CIL Guide for Developers and Land Owners which is available on its web site. The Guide explains how CIL is calculated and gives some example calculations. Also available on the Council's web site is a CIL calculator which enables the CIL liability for a given development proposal to be calculated.
- 3.16 CIL is not intended to provide funding for the total cost of required infrastructure but will be used in conjunction with other sources of infrastructure funding.
- 3.17 The use of CIL receipts is controlled by the CIL Regulations but broadly will be used to help fund infrastructure projects that support residential and economic growth, provide certainty for future development, and benefit local communities. It will also provide a predictable funding stream so that the delivery of infrastructure projects can be planned more effectively.

4: How will the Council use Developer Contributions?

The Relationship between CIL and Planning Obligations

- 4.1 Following the adoption of the Council's CIL Charging Schedule, CIL has become the primary source of infrastructure funding through the grant of planning permissions. Regulation 123 of the CIL Regulations restricts the use of planning obligations to secure funding for infrastructure projects or types of infrastructure as explained below.
- 4.2 In conjunction with the adoption of its CIL Charging Schedule, the Council has published a 'Regulation 123 list' on its website that sets out the infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL receipts. These types of infrastructure or projects on the list cannot be funded through the imposition of section 106 planning obligations. This is to avoid any developer/land owner contributing towards the same infrastructure through both CIL and a planning obligation. It should be noted however that CIL receipts can be spent on any relevant infrastructure and not just those projects or types of infrastructure that appear on the Regulation 123 list.
- 4.3 In addition, Regulation 123 limits the pooling of contributions resulting from planning obligations completed after 1 April 2010 to no more than five for each infrastructure project or type.
- 4.4 There will be occasions in which a development will be liable for CIL as well as there being the requirement for the completion of a planning obligation. Such obligations will relate to site specific requirements that are necessary to make the proposed development acceptable in planning terms while adhering to the provisions of Regulations 122 and 123 of the CIL Regulations.
- 4.5 For further details about the relationship between CIL and Planning Obligations please read the Council's Guide for Developers and Landowners² which is available on the Council's website.

The Future Use of Planning Obligations

- 4.6 Following the adoption of its CIL Charging Schedule the Council has been scaling back its use of planning obligations. In particular, planning obligations will no longer be used to secure general tariff type contributions, such as for the provision of off-site public open space and recreational facilities. The use of planning obligations may however continue to be used for, but not limited to, the following:
 - Affordable housing
 - The on-site provision and maintenance of public open space including

² http://www.fareham.gov.uk/PDF/planning/Fareham_CILGuideRevised.pdf

- children's play areas
- The provision of on-site footpaths/cycleways through or leading to on-site open space or which will form part of a wider network
- Contributions towards the Solent Disturbance Mitigation Project (SDMP)
- Other restrictions on the use of land
- Securing access to developable land adjoining application sites to ensure comprehensive development (the prevention of the creation of ransom strips)
- On-site nature conservation measures
- The promotion of employment skills
- Contributions to fund the making of traffic regulation orders e.g. to impose waiting restrictions on roads near to application sites

More detail on some of these types of obligations can be found in Section 6.

Monitoring

- 4.7 The Council monitors completed obligations to ensure compliance by all parties with any covenants, restrictions, and stipulations contained within them.
- 4.8 Planning Obligations secured by way of a Section 106 agreement or Unilateral Undertaking are binding on the land and are therefore enforceable against all successors in title. They are registered as a local land charge and will remain on the register and therefore revealed on local searches until the planning obligation has been fully complied with or the planning permission to which the Section 106 agreement or Unilateral Undertaking relates has expired.
- 4.9 All financial contributions are monitored closely to ensure their spending is wholly in accordance with the terms set out within the agreement and that allocations of contributions are appropriate and in accordance with the tests set out in National Planning Guidance (formerly set out in Circular 05/2005).
- 4.10 Through these monitoring processes the Council is confident that it can provide a full and comprehensive audit trail of any allocation and spending of planning obligations' monies should any developer require it. In due course the developer will be expected to pay a charge for monitoring purposes in order to cover the expenses incurred by the Council for this service.

5: Development Viability

National Planning Policy Guidance

- 5.1 The NPPF³ puts emphasis on the need for Local Authorities to consider the viability of schemes carefully. It states that “to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking into account of the normal costs of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”
- 5.2 Viability considerations are emphasised further in the Planning Practice Guidance⁴, which states that “In making decisions, the local planning authority will need to understand the impact of planning obligations on the proposal. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations.”

The Council’s Approach to Development Viability

- 5.3 Taking into account the guidance in the NPPF and Planning Practice Guidance the Council will take a pragmatic approach to contributions. However, when assessing the financial viability of a potential scheme, developers should carefully consider the principles in this guidance.
- 5.4 Assessing the overall viability of a scheme should lead to an understanding of the scale of planning obligations which are appropriate. Where viability concerns are raised by a developer in relation to contributions for an application the Council will expect a full “open-book” viability assessment for the scheme to be submitted. The Council reserves the right to have all viability assessments checked by an independent third party to ensure the validity of the assumptions used. The Council’s viability assessment costs incurred would be paid by the developer.
- 5.5 The NPPF Framework is clear that where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted. This means that whilst the Council will be flexible in seeking planning obligation where viability is a concern, development that cannot provide the necessary requirements may be considered unacceptable and will, in such cases, be refused.

³ <http://planningguidance.planningportal.gov.uk/blog/guidance/viability-guidance/viability-and-decision-taking/> (paragraph 173)

⁴ <http://planningguidance.planningportal.gov.uk/blog/guidance/viability-guidance/viability-and-decision-taking/> (paragraph 019)

6: Planning Obligations

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

Affordable Housing

- 6.2 The Council's requirement for the provision of affordable housing is set out in Core Strategy Policy CS18. Policy CS18 states, in summary;
- On sites with a capacity of 5 to 9 dwellings, 30% of the new dwellings will need to be affordable, unless it is impracticable in which case alternative methods of delivery can be considered.
 - Sites that can produce a net gain in units of between 10 and 14 new dwellings are required to provide 30% affordable housing on site.
 - Sites that can produce a net gain in units of 15 new dwellings or more are required to provide 40% affordable housing on site.

The Policy also states that development will be required to provide a mixture of dwelling types, sizes and tenures reflecting the identified housing needs of the local population.

- 6.3 The Council's current approach to securing on-site affordable housing is primarily through planning conditions. In cases where off-site provision is to be made, or financial contributions are taken, these are secured through section 106 agreements. It is the Council's intention to secure all affordable housing, whether on or off site, through section 106 agreements in due course.
- 6.4 Detail on the Council's desired approach to delivering affordable housing, in terms of method of provision, tenure split and mix of types and size of dwellings is set out in detail in Appendix A. This should form the basis of the affordable housing provision to be proposed on all relevant developments.

Solent Special Protection Areas (SPAs)

- 6.5 Through the work of the Solent Disturbance & Mitigation Project (SDMP) it has been concluded that any net increase in residential development will give rise to likely significant effects on the Solent Coastal Special Protection Areas (SPAs), either "alone" or "in combination" with other development proposals. As a result, in order to meet the requirements of the Habitats Regulations 2010, mitigation measures will need to be provided where necessary from development schemes before works can go ahead.
- 6.6 Through the SDMP work, Local Authorities and Natural England have agreed a set of interim mitigation measures. This mitigation scheme is being

operated by all of the local authorities along the Solent, and has been scaled based on the amount of development in current and progressing Local Plans.

- 6.7 The total cost of the mitigation framework is currently calculated as £172 per net additional dwelling and is applicable across the whole Borough. Developments such as sheltered accommodation, retirement homes, nursing/rest homes may need to provide mitigation and will be assessed on a case-by-case basis based on an analysis of the likely impact of the residents and the level of care.
- 6.8 It is the Council's intention to provide an option to developers so that the collection of contributions towards the mitigation package may be made via a direct payment through a Section 111 agreement. However, for development where a Section 106 agreement is required for other contributions then the mitigation package can be done as part of the Section 106. In such cases there will be no need for a separate Section 111 agreement.
- 6.9 More information on the SDMP work, research and justification for the mitigation measures proposed are set out in Appendix B.

Transport & Access

- 6.10 In some cases a planning obligation will be used to secure a contribution towards the cost of making a traffic regulation order (TRO) on the highway adjacent to the application site. In most cases, the TROs are likely to be ones imposing parking restrictions but could also be used for restricting or controlling vehicular use of a particular stretch of highway.
- 6.11 Planning obligations may also be used to secure the provision of on-site footpaths or pedestrian/cycle links to open space or where they form part of a wider network.

Employment Skills

- 6.12 The Core Strategy recognises the need to support programmes of skills development to assist the local workforce. This can prevent unnecessary commuting to employment sites in the Borough. The Council will assess on a case-by-case basis the need for a developer to provide a commitment to targeted recruitment and training for local residents. Planning Obligations to secure such commitments are only likely to be necessary on major developments or significant employment sites.

On-site Public Open Space, Outdoor Sport & Children's Play Equipment

- 6.13 With the introduction of CIL the majority of strategic open space improvements will be delivered using accumulated CIL funds. However developments of a certain size (see Appendix C) will be required to provide open space, outdoor sport facilities and/or children's play equipment on-site. Such open space is requirement to make development acceptable in policy terms and will be secured through a section 106 agreement. As this

provision is required to meet the on-site needs of the development CIL funds will not be used to deliver the same piece of infrastructure.

- 6.14 Policy CS21 of the adopted Core Strategy requires that appropriate provision is made for open space, outdoor sport and children's play equipment in new developments. The determination will be based upon the contents of the latest available survey of Open Space in the Borough, which is currently the Fareham Greenspace Addendum 2014⁵.
- 6.15 Calculating what types and how much on-site open space and children's play equipment are required is set out in detail in Appendix C.
- 6.16 For all on-site open space the Council will need to be satisfied that suitable arrangements have been made for their long-term maintenance and that they will be kept as public open space in perpetuity.

Ransom Strips

- 6.17 To ensure the most efficient use of land the Council may require a section 106 agreement to ensure that development does not prejudice the provision of access to adjacent land. The necessity for the use of section 106 in this regard will be considered on a case by case basis.

⁵ http://www.fareham.gov.uk/PDF/planning/local_plan/GreenspaceStudyAddendum2014.pdf

Glossary

<p>Affordable Housing</p>	<p>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.</p> <p>Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.</p> <p>Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing.</p> <p>Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).</p> <p>Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.</p> <p>Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.</p>
<p>Community Infrastructure Levy (CIL):</p>	<p>A planning charge on new development. The rate(s) (at pounds sterling per square metre) is set up in a charging schedule, which balances the estimated total cost of infrastructure required to support development and the overall potential effects of the levy on the economic viability of development. The infrastructure required to support new development, which the Community Infrastructure Levy can help to pay for, includes roads, schools and recreational facilities.</p>
<p>Development Plan</p>	<p>The Development Plan sets out the parameters for all development in the Borough. It comprises the Local Plan</p>

	(Parts 1, 2 and 3) and the Hampshire Minerals and Waste Plan.
European Sites	Defined in Regulation 8 of the Conservation of Habitats and Species Regulations 2010, these include a range of ecological sites designated for the protection of rare, endangered or vulnerable natural habitats and species of exceptional importance within the European Union. Designations include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), while Ramsar sites, which generally overlap SACs and SPAs.
Green Infrastructure	A network of high-quality multi-functional green (and blue) spaces, urban and rural, capable of providing a wide range of environmental and quality of life benefits for local communities.
Habitats Regulation	Refers to the Habitats and Conservation of Species Regulations 2010, which provide for the designation and protection of European sites, and the adaptation of planning and other controls for the protection of European sites.
Hampshire County Council	The higher tier local authority in which Fareham is located. Hampshire County Council is the statutory planning authority for highways, minerals and waste development in non-unitary and non-national park local authority areas.
Infrastructure	The facilities and services needed for a place to function. This includes roads and utilities as well as school places, GP surgeries, libraries and a range of other facilities.
Local Plan	The plan for the future development of in law, the development plan document adopted under the Planning and Compulsory Purchase Act 2004.
Local Planning Authority	The public authority that has a duty it is to carry out specific planning functions for a particular area. All references to local planning authority apply to the district council, in this Fareham, this is the Borough Council. But also see the entry for Hampshire County Council above.
National Planning Policy Framework (NPPF)	Introduced in March 2012, this new framework sets out the Government's planning policies for England and how these are expected to be applied. It provides the framework within which local councils can produce local plans, which reflect the needs and priorities of their communities.
Open Space	All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs)

	which offer important opportunities for sport and recreation and can act as a visual amenity.
Planning Practice Guidance (PPG)	Introduced in March 2014, this guidance provides further detailed explanation of how the policies within the National Planning Policy Framework (NPPF) should be applied.
“Ransom Strips”	Parcels of land which hold the key to unlocking the development potential of adjoining land.
Solent Disturbance & Mitigation Project (SDMP)	See Appendix B.
Sustainable Development	Development that meets the needs of the present without compromising the ability of future generations to meet their own needs
Transport Regulation Order (TRO)	the legal document required to support a range of measures, which govern or restrict the use of public roads including double yellow lines, one-way streets, banned turns and bus lanes.
Viability	In planning terms relates to the assessment of a development scheme to establish that favourable conditions regarding the financial aspects will enable development to proceed.

Appendix A: Affordable Housing Standards

Methods of providing Affordable Housing

- A.1 There are three ways of providing affordable housing on private (market) scheme and the Council's preferences, in order, are:
1. On-site provision
 2. Off-site provision
 3. Financial contributions.

On-site Provision

- A.2 On-site provision is where units on a private market development are brought forward as affordable housing to help create socially balanced communities. This is the Council's preferred method for providing the required amount of affordable housing units on any given development. Only on developments with fewer than 10 units, and where on-site provision can be shown to be impractical or unviable, will alternative methods be considered.

- A.3 To ensure the creation of a mixed, integrated and socially inclusive community, affordable housing should be developed to a similar design so they become indistinguishable from the market housing.

Off-site Provision

- A.4 In exceptional circumstances the Council may agree to affordable housing being delivered at an alternative location. Provision would need to be equivalent to that otherwise required on site, in a location agreeable to the Council and built out in a reasonable time frame.

Financial Contributions

- A.5 On sites of 5-9 dwellings, and where on-site and off-site provision are demonstrated to be, and accepted as, impractical or unviable, an equivalent financial contribution will be sought. Nationally there is no prescribed methodology for calculating commuted sums but any such contribution should be broadly equivalent in value to the cost of on-site provision.
- A.6 In seeking to reach agreement on any commuted sum to be paid in lieu of affordable housing on site a contribution representing 30% of the open market value (OMV) for each affordable dwelling will provide the basis for negotiation.

Example:

A Developer is proposing to build 6 x 2 bedroom homes all for private sale. A scheme of this size attracts an affordable housing contribution of 30%, equating to 2 x 2 bedroom homes.

Based on recent research the OMV for each 2 bedroom property is assessed as £150,000, meaning the OMV of the total affordable provision is worth £300,000.

Based on the assumption that the land value will be broadly equivalent to 30% of the OMV, the Council would require £90,000 as a commuted sum and in lieu of affordable housing being provided on site.

Tenure and Dwelling Mix

- A.7 The Council advocates a tenure blind approach to housing development. Affordable housing should be integrated with, rather than segregated from, private housing with new developments. This should be as seamless as possible to the extent that different tenures appear indistinguishable. Affordable homes should be 'pepper potted' across a development in such a way that avoids a sense of separation between the tenure types and promotes sustainable communities.
- A.8 The greatest need for affordable housing in the Borough is homes for rent. The Council will therefore seek a proportion of affordable housing for rent as a part of all new residential developments with an affordable housing requirement.
- A.9 A tenure ratio of 70:30 in favour of affordable /social rented accommodation against intermediate housing will normally be acceptable when delivering a policy compliant scheme. However, in instances where the viability of a development is challenged and the overall percentage of affordable homes is reduced, the Council reserve discretion to increase the proportion of affordable/social rented units required in light of this being the greatest area of need.
- A.10 The Council would wish to encourage the development of new social rented homes (as opposed to affordable rented) where it is suitable and financially viable to do so.

Dwelling Type

- A.11 It is essential that affordable homes deliver good quality long term accommodation and can cater for the changing dynamics within a family over time. As such the Council aims to ensure that all new affordable homes are of a suitable size and type to meet a variety of housing needs.

- A.12 Based upon recommendations from the 2013 Strategic Housing Market Assessment⁶ the Council aims to achieve the mix of units set out in Table 1 below. The proportions sought on individual sites may differ depending on the specific circumstances of each development, but it will remain the Council's decision to stipulate the type and size of the units to be achieved within the context of developer proposals.

Table 1: Dwelling Type mix for affordable housing

Unit size	Occupancy level	Required %	Combined %
1 bedroom	2 person	35%	35%
2 bedroom	3 person	10%	35%
	4 person	25%	
3 bedroom	5 person	15%	25%
	6 person	10%	
4 bedroom+	7 person	5%	5 %

- A.13 It is likely that all one bedroom homes and larger family homes will need to be for rent, but consideration shall be given to the prevailing housing demands at the time of an application being made.

Design Requirements

- A.14 New affordable homes must comply with the national and local standards adopted at the time planning permission is sought. These will relate to issues such as space, layout, and energy efficiency. Of particular relevance is Core Strategy Policy CS17: Design and Council's the Supplementary Planning Document on Design (due for adoption in early 2015).

Delivery Partners

- A.15 The Council's preference is for affordable homes to be provided by a recognised Registered Provider (RP) who is already signed up to the Council's Affordable Housing Agreement (details of providers can be provided upon request).
- A.16 This ensures new affordable homes are developed and managed to the Council's required standards, and are available in perpetuity to people from the Council's Housing Waiting List. The agreement is reviewed annually to ensure that management standards etc remain up to date with current best practice.

⁶ http://www.push.gov.uk/work/housing-and-planning/strategic_housing_market_assessment.htm

Appendix B: Solent Disturbance & Mitigation Project Research and Justification

What are Special Protection Areas?

- B.1 A Special Protection Area (SPA) is an area of land, water or sea which has been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds found within the European Union. SPAs are European designated sites, classified under the European Wild Birds Directive which affords them enhanced protection.
- B.2 Almost the Borough's entire coastline is covered by one of the Solent Coastal Special Protection Areas (SPAs) designation. The Solent Coastal SPAs have been designated for the protection of significant number of waders and waterfowl which spend the winter in the Solent. It is estimated that the Solent as a whole supports about 10-13% of the world population of Brent Geese, and about 30% of the UK population during the winter.

Policy Context & Research

- B.3 The European Habitats and Birds Directives protect rare species and habitats. Member states are required to classify particular habitats as SPAs and manage them to a favourable condition.
- B.4 The Directives have been transposed into UK law through the Habitats Regulations, which state that Local Planning Authorities must assess whether development is likely to have a significant effect on an SPA. Due to the precautionary approach in the regulations, it is necessary to demonstrate, with a reasonable degree of certainty, that any project will not be likely to have an effect on the SPA before it can lawfully be authorised.
- B.5 The Council has been working with neighbouring authorities, the Partnership for Urban South Hampshire (PUSH), Natural England and other stakeholders to investigate the disturbance on the SPAs that arises from new development. A great deal of research has now been done through the Solent Disturbance and Mitigation Project (SDMP), which has involved:
- A desktop review of existing national and local research
 - A survey of visitors at the Solent SPAs
 - A survey of households living close to the Solent SPAs
 - Bird disturbance fieldwork at the SPAs
 - Computer modelling to establish whether the patterns of activity which were observed at the Solent SPAs lead to mortality in bird populations
 - Advice on the kinds of mitigation measures that could be used to remove mortality in bird population.

- B.6 The research looked at where people travel from to reach the coast and the distance they have to travel. It found that 75% of all visits to the Solent SPAs are from 5.6km or less. All of Fareham Borough is within 5.6km of the Solent SPAs.
- B.7 Through the work of the SDMP it has been concluded that any net increase in residential development will give rise to likely significant effects on the Solent Coastal SPAs, either “alone” or “in combination” with other development proposals. As a result, in order to meet the requirements of the Habitats Regulations, mitigation measures will need to be provided where necessary from development schemes before works can go ahead.
- B.8 In the long-term the most effective solution to this issue would be a joint mitigation framework amongst all local authorities within 5.6km of the Solent SPAs. However, whilst work continues on this, an interim mitigation framework will enable development to provide the necessary mitigation in order to go ahead in compliance with the Habitats Regulations.

Interim Mitigation Measures

- B.9 The following interim mitigation measures have been agreed by Local Authorities and endorsed by Natural England:
- A team of rangers who will work on the ground at European sites to reduce disturbance levels and initiate specific measures at the sites to reduce disturbance levels
 - A project officer to oversee the rangers
 - A monitoring scheme.
- B.10 This mitigation scheme is being operated by all of the local authorities along the Solent, and has been scaled to reflect the amount of development in current and progressing Local Plans.
- B.11 The total cost of the mitigation framework will be £172 per net additional dwelling. Developments such as sheltered accommodation, retirement homes, nursing/rest homes may need to provide mitigation and will be assessed on a case-by-case basis based on an analysis of the likely impact of the residents and the level of care.
- B.12 This fee is chargeable to all locations in the Borough as the whole Borough is within the 5.6km distance from the SPA which is deemed to have the greatest impact upon the SPA.
- B.13 These proposals are one way in which developments could provide a package of mitigation measures which would remove the likelihood of a significant effect as a result of disturbance on the Solent SPAs. Applicants are free to propose an alternative approach to the protection of the Solent SPAs from disturbance caused by recreation and this will be considered by the Council.

B.14 The £172 sum has been developed by taking account of all planned residential development across the Solent, looking at adopted and progressing Local Plans (see section below). This allows developers to benefit from economies of scale in implementing the mitigation and ensures a consistent approach across the areas affected.

B.14 The measures set out in the interim mitigation scheme are not considered to be infrastructure under Regulation 123 of the CIL regulations. As a result, they can be secured using a legal agreement.

Calculation of the Developer Contribution

B.15 Table 2 below lists the nature and cost of the measures included within the interim framework.

Table 2: Estimated annual cost of mitigation framework

Item	Cost	Notes
Full-year ranger (one post)	£40,000	As the mitigation is required to prevent impacts on over-wintering birds, most of the rangers will only be employed during each winter. The figures include salaries plus an allowance for uniform, personal protective equipment, equipment, vehicle rent, maintenance and fuel.
Winter-only rangers (three posts)	£60,000	
Project implementation Officer	£28,000	
Operating budget	£21,080	Operating budget includes printing, signage and web-design.
Monitoring	£8,333	Three years of funding will be rolled together to pay for on-site collection of data on bird and visitor behaviour during one winter.
Sub-total of mitigation costs	£157,413	
In perpetuity funding	£215,184	Set at 136.7% of annual mitigation costs, which is the level that allows for sufficient interest to be gained by the year 2029 to cover the annual mitigation costs. See table 3 below.
Total annual costs:	£372,597	

B.16 The local authorities across the Solent anticipate that planning permission will be granted for approximately 2,220 homes per annum within the 5.6 kilometre zone, of which around 100 are expected to be one bedroom properties with no parking provision. The latter will generate far fewer recreational trips to the coast and as a consequence will require far less mitigation; so they will be required to contribute only half that of other new dwellings. Sharing the £372,597 total cost between those anticipated

dwellings means a contribution of £172 per standard dwelling and £86 for each property with only one bedroom and no parking provision.

- B.17 To maintain the mitigation measures in perpetuity, some of the funding contribution will be invested, so that by 2029 there should be sufficient money invested to generate sufficient annual income to cover the annual cost of the mitigation measures. Table 3 below shows the accumulation of cash necessary to ensure a future income stream to achieve that. The first row shows the in-perpetuity allowance element of the developer contributions secured during the preceding year. A 4% interest rate has been assumed for each year (row 2): this is an average as it is recognised that rates will vary over time. Row 3 shows the interest earned and row 4 shows that year's contribution from developers to the in-perpetuity fund. Row 5 is the total of rows 1, 3 and 4: it then becomes the sum carried forward to the ensuing year.

Table 3: In-perpetuity funding

		2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
1	Carried Forward	0	£215,184	£438,974	£671,717	£913,769	£1,165,504	£1,427,307
2	Interest Rate	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
3	Interest Earned	0	£8,607	£17,559	£26,869	£36,551	£46,620	£57,092
4	Developer Contributions	£215,184	£215,184	£215,184	£215,184	£215,184	£215,184	£215,184
5	Total Funds	£215,184	£438,974	£671,717	£913,769	£1,165,504	£1,427,307	£1,699,583

	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
1	£1,699,583	£1,982,750	£2,277,244	£2,583,517	£2,902,041	£3,233,306	£3,577,822	£3,936,119
2	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
3	£67,983	£79,310	£91,090	£103,341	£116,082	£129,332	£143,113	£157,454
4	£215,184	£215,184	£215,184	£215,184	£215,184	£215,184	£215,184	£215,184
5	£1,982,750	£1,982,750	£1,982,750	£1,982,750	£1,982,750	£1,982,750	£1,982,750	£1,982,750

Appendix C: On-site Open Space, Outdoor Sport & Children’s Play Equipment Standards

Fareham Borough’s On-site Open Space Standards

C.1 The Borough Council’s on-site Open Space Standards set out in Policy CS21 have been derived from the Fareham Green Space Study 2007, its 2010 addendum and the 2012 Fareham Playing Pitch Study. The overall Standard is divided into the different categories of provision as summarised in the box below.

Parks & Amenity Open Space
1.5ha/1,000 population
Outdoor Sport
1.2ha/1,000 population

Definitions

C.2 The Greenspace study sets out a clear definition of “Parks and Amenity Open Space”, but in short it contains urban parks, buffer zones around children’s play equipment, informal recreation spaces, incidental space, village greens and green paths between developments. This type of space is not laid out for defined sport, recreation or as a playspace but is accessible, available and safe for all purposes. It is largely comprised of the sort of areas that people think of as “typical” public open space, for everyday activities such as dog-walking or a “kickabout”.

C.3 These types of spaces are vital to the success of new developments as they not only provide a pleasant backdrop to the urban environment, but they also play an important function in the health and wellbeing of all residents. In order to provide a useable space, which is of true value to its users, the minimum size of any on-site open space should be 0.1ha (approx. 35m x 30m, with no single dimension less than 10m).

C.4 Outdoor sport is made up of playing pitches, courts, greens, athletics tracks or training areas. Playing pitches should be grass, artificial or synthetic surfaces marked out for team sports including football, rugby, cricket, hockey etc. This also includes areas around pitches required for “run-off” or player safety purposes. Appropriate ancillary facilities, including changing rooms can count towards this standard.

What Types of Development Generate an on-site Open Space and Sports Provision Requirement?

C.5 All residential development is likely to create some need for Open Space. However, individual dwellings and small developments will only create a limited demand and are unlikely to be able to deliver a practical on-site solution. Therefore the Council will require the provision of on-site Open

Space in line with the thresholds in table 4 below.

Table 4: On site Open Space and Outdoor Sports Provision Thresholds

Net increase in dwellings	Parks and Amenity Open Space	Outdoor Sport
Less than 20	Not normally required	Not required
20-49	May be required depending on circumstances and location	Not required
50-299	Will be required	Not normally required
300+	Will be required	Will be required

- C.6 Different age groups will have different requirements for Open Space; however, all the residents of a community will make some use of their local Open Spaces, whether it is for walking, sitting, sports or play. Therefore, in general, all types of new residential development above the threshold are considered to generate demand for on-site parks and amenity open space.
- C.7 For specialist accommodation (such as hostels, student accommodation and accommodation for those with special needs etc) the Council will consider the need for on-site open space on a case by case basis.
- C.8 For sites yielding between 20 and 49 dwellings the Council will normally only seek to secure the provision of on-site parks and amenity Open Space where the proposed development will exacerbate, or create, a deficit in provision. The determination will be based upon the contents of the latest available survey of Open Space in the Borough, which is currently the Fareham Greenspace Addendum 2014⁷. However, on sites of 50 or more dwellings on-site parks and amenity open space will normally be expected to be delivered on site regardless of local provision in order to serve new resident's needs as local as possible.
- C.9 In large developments there may be a requirement to provide on-site Outdoor Sports facilities to serve the needs of the new residents. For sites of 300-599 units the need for pitches will be determined by taking into consideration the local provision of sports pitches, including their accessibility in relation to the development site. Of sites of 600 or more units the provision of on-site playing pitches will be required.

Calculating the Requirement for on-site Open Space and Outdoor Sports Provision

- C.10 Table 5 has been developed as a simple tool to determine the level of open space and outdoor sports provision required in new developments (where considered using the site thresholds set out in table 4). The table is derived from the space standards set out in the Core Strategy multiplied by the

⁷ http://www.fareham.gov.uk/PDF/planning/local_plan/GreenspaceStudyAddendum2014.pdf

average number of people per dwelling size (calculated from FBC and HCC research).

Table 5: Calculating the Requirement for on-site Open Space and Outdoor Sports Provision

	Parks & Amenity Open Space	Outdoor Sports Provision
Provisional rates	15 sq.m per person	12 sq.m per person
	(Insert no. of units)	(Insert no. of units)
1 Bed	20.70 x =	16.56 x =
2 Bed	29.40 x =	23.52 x =
3 Bed	38.70 x =	30.96 x =
4 Bed	46.35 x =	37.08 x =
5+ Bed	49.80 x =	39.84 x =
Studio	15.00 x =	12.00 x =
Elderly 1bed	15.00 x =	12.00 x =
Elderly 2 bed	18.00 x =	14.40 x =
Total Requirement (sq.m)	sq.m	sq.m

Children’s Play Equipment

C.11 Children’s play equipment should be provided on new development to serve the needs of the children on that development. The Council has two different definitions of areas for children’s play equipment: “LEAP’s” (Local Equipped Areas for Play) and “NEAP’s” (Neighbourhood Equipped Areas of Play), their definitions are below. The Council will seek areas of children’s playing for the site size thresholds site out in table 6.

Table 6 Children’s Play Equipment Thresholds

Net increase in dwellings	Children’s Play Equipment
Less than 20	Not normally required
20-49	May be required depending on circumstances and location
50-199	LEAP
200+	NEAP

C.12 For sites of less than 50 children’s play equipment may be required on site if there are no accessible areas of children’s play within a reasonable walking distance. However, for sites yielding over 50 dwellings children’s play equipment will normally be expected to be delivered on site regardless of local provision in order to serve new resident’s needs as local as possible.

C.13 Older person’s accommodation is not considered to create a demand for

children's play equipment. In schemes proposing to deliver wholly older person's accommodation children's play equipment is therefore not required. Where older person's accommodation forms part of a wider scheme, those units proposed for that use should not be included in the dwellings total used to determine what form of children's play area is required (table 6).

LEAP's are designed to provide equipment for younger children and should be located where they are easy and safe to access. Ideally this means they should serve a catchment area within 5 minutes' walk or 400m. They should be a minimum 400sq.m in size, include at least 5 pieces of equipment on safety surfacing and be surrounded by dog-proof safety fencing. Given the Council's experience to-date regarding the impact of LEAP's and the likely form of housing layouts in the future, the distance between the equipped area and the nearest residential boundary should be a minimum 20m. Therefore a LEAP (0.04Ha), including buffer zone (0.46Ha), extends to a minimum 0.50Ha.

NEAP's are designed to provide equipment mainly for older children and should be located where they are easy and safe to access. Ideally this means they should serve a catchment area within 15 minutes' walk or 1Km. They should be a minimum 1,000 sq.m in size, include at least 8 pieces of equipment on safety surfacing and a hard surfaced multi-purpose area and surrounded by dog-proof safety fencing. Given the Council's experience to-date regarding the impact of NEAP's and the likely form of housing layouts in the future, the distance between the equipped area and the nearest residential boundary should be a minimum 30m. Therefore a NEAP (0.1Ha), including buffer zone (0.90Ha), extends to a minimum 1.00Ha.

Outline Applications & Amended Permissions

- C.14 Where outline or other planning applications contain insufficient detail to allow the calculation of the open space requirement, applicants will be required to enter into a planning obligation in order that any open space required may be calculated and provided in accordance with adopted Policy CS21 and this SPD at the appropriate time in the future. Given that the appropriate provision of open space required by the future residents of proposed developments is a material consideration in the determination of planning applications, proposals to renew or extend the time limit conditions of previously permitted development will be subject to the adopted Policy CS21 and this SPD. Applications to amend previously permitted development will also be subject to a reassessment of the Open Space required under Policy CS21 and this SPG, except where the revisions are considered to comprise minor amendments.

Maintenance

- C.15 Developers will be required to make provision for the maintenance of Open Space they supply and retain on or off-site. Subject to obtaining the Council's written agreement, developers may make their own arrangements

for maintenance. However, given the costs and other issues associated with private maintenance, most developers are likely to prefer to transfer ownership and future maintenance to the Council. In such cases, the developer will be required to maintain the approved Open Space to the Council's satisfaction for a period of 12 months following its completion. After this period, the land will be transferred to the ownership of the Council for a nominal fee set out in the planning obligation and subject to the payment of a sum to cover the future maintenance of the Open Space.

- C.16 Where maintenance is secured by means of a development contribution, the amount due will be calculated using Table 9, which will be revised as at 1 April annually in line with inflation (Retail Price Index); unless otherwise justified, for example by greater than average price rises in Open Space equipment.

Table 9: Calculating Maintenance Contributions

	Parks & Amenity Open Space	Outdoor Sports Provision	Children's Play Equipment	Total Maintenance Contribution
Provisional rates	£6 per sq.m	£17 per sq.m	£92 per sq.m	
	(Insert no. of units)	(Insert no. of units)	(Insert no. of units)	
1 Bed	£124 x =	£282 x =	£254 x =	
2 Bed	£177 x =	£400 x =	£361 x =	
3 Bed	£232 x =	£526 x =	£475 x =	
4 Bed	£278 x =	£630 x =	£569 x =	
5+ Bed	£299 x =	£677 x =	£611 x =	
Studio	£90 x =	£204 x =	£184 x =	
Elderly 1bed	£90 x =	£204 x =	NOT APPLICABLE	
Elderly 2 bed	£108 x =	£245 x =	NOT APPLICABLE	
Total Contribution	£	£	£	£