

FAREHAM

BOROUGH COUNCIL

Planning Obligations Supplementary
Planning Document for the Borough of
Fareham (excluding Welborne)

Adopted April 2016

Contents

1: Introduction	1-4
Purpose of this Document	1
Scope of this Document	2
How this Document has been Produced	2
Figure A: Map showing the areas of the Borough covered by this document	4
2: Policy Background	5-6
National Planning Policy	5
Fareham Local Plan	5
3: Methods of Securing Developer Contributions	6-9
Planning Conditions	6
Planning Obligations	6
Section 278 Agreements	7
Community Infrastructure Levy (CIL)	8
4: How will the Council use Planning Obligations?	10-14
The Relationship Between Planning Obligations and CIL	10
Use of Planning Obligations	11
Category 1 Planning obligations securing developer contributions not restricted by the CIL Regulations	12
Category 2 Planning obligations relating specifically to on-site provision of infrastructure or to improvements to the environment on or near the site	12
Category 3 Planning obligations relating to infrastructure projects or types excluded from the Regulation 123 list	13
Category 4 Restriction on the use of land	13
Monitoring	14
5: Development Viability	15
National Planning and Policy Guidance	15
The Council's Approach to Developer Viability	15
6: Planning Obligations	16-22
Category 1 - Solent Special Protection Areas	16
- Traffic Regulation Orders	17
- Employment Skills	17
Category 2 - Public Open Space, Outdoor Sport & Children's Play Equipment	18
- Green Infrastructure Pedestrian and Cycle Links	18
- Utilities Infrastructure	19
- Nature Conservation	19
- Historic Environment	19
Category 3 - Site-specific Transport and Access Infrastructure Improvements	20
Category 4 - Avoiding Prejudice to Adjacent Land	21

Glossary	22-24
Appendices	25-35
Appendix A: Solent Recreation Mitigation Strategy, Research & Justification	25
Appendix B: On-site Open Space, Outdoor Sports Provision & Children’s Play Equipment Standards	30

1: Introduction

Purpose of this Document

- 1.1 The Planning Obligations Supplementary Planning Document (SPD) for the Borough of Fareham (Excluding Welborne) 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 approach set out through this SPD sits within the context of the Council's adoption of a Community Infrastructure Levy (CIL) in May 2013. Since its adoption CIL has become the primary method by which the Council seeks pooled developer contributions to help meet the Borough's infrastructure needs. This SPD does not set policy, but instead provides a framework for implementation of the policies within the adopted Fareham Local Plan, which relate to the impacts of development across the Borough, but excluding the Welborne area.
- 1.3 Almost all development has some impact on the environment or amenities, or on the need for infrastructure and services. Sometimes the impacts may be of such significance that development should not be permitted. However, often they can be mitigated through the design of the scheme and/or through appropriate mitigation measures, including financial contributions to help address the cumulative impacts of development on infrastructure.
- 1.4 Mitigation can generally be achieved in three ways:
 - Through conditions imposed on planning applications;
 - Through planning obligations, where conditions are not effective or appropriate to deliver the mitigation (for example, in relation to financial contributions);
 - Through the payment of the Community Infrastructure Levy in accordance with the adopted CIL Charging Schedule, where the impacts relate to infrastructure needs which the Council has said will be funded (at least in part) by CIL receipts.
- 1.5 The objective of this SPD is to provide clarity to developers, planners, interested parties and local residents regarding the basis on which planning obligations will be sought. It will assist in implementing local objectives in respect of the provision of sustainable development across the Borough by contributing towards the delivery of the Fareham Local Plan. To achieve this objective, the SPD explains how planning obligations will be applied in the context of Fareham's CIL regime.

Scope of this Document

- 1.6 This SPD relates to all of Fareham Borough except the area included within the Welborne Plan policy boundary (see Figure A on the following page).
- 1.7 A draft Planning Obligations and Affordable Housing SPD for Welborne was prepared alongside the first draft of this SPD. However, since that time, the Local Plan Part 3: The Welborne Plan has been subject to Examination and has subsequently been adopted by the Council (June 2015). The Council considers that the adopted version of the Welborne Plan provides sufficient detailed policy guidance on planning obligations and affordable housing to enable the Welborne development to be implemented. Therefore, it is not proposed to take the Welborne Planning Obligations and Affordable Housing SPD any further at this stage.
- 1.8 Since the consultation was undertaken on the draft SPD, the Government has published draft legislation in the form of the Housing and Planning Bill. The legislation, as currently proposed, would result in a marked change in the nature of affordable housing delivered through the planning system. In light of the draft legislation progressing through Parliament at the time this SPD was being finalised, it was considered appropriate to remove affordable housing from this SPD. A review of this Council's approach to affordable housing will be carried out when the position on housing tenure to be secured through the planning process is confirmed through legislation.
- 1.9 It should be noted that the Council's CIL charging schedule covers the whole of Fareham Borough, including the Welborne policy area. The Council is keeping the CIL charging schedule under review, as required by the relevant legislation and guidance, to ensure that the CIL charge rates remain appropriate in the context of the local housing market and the wider economy.

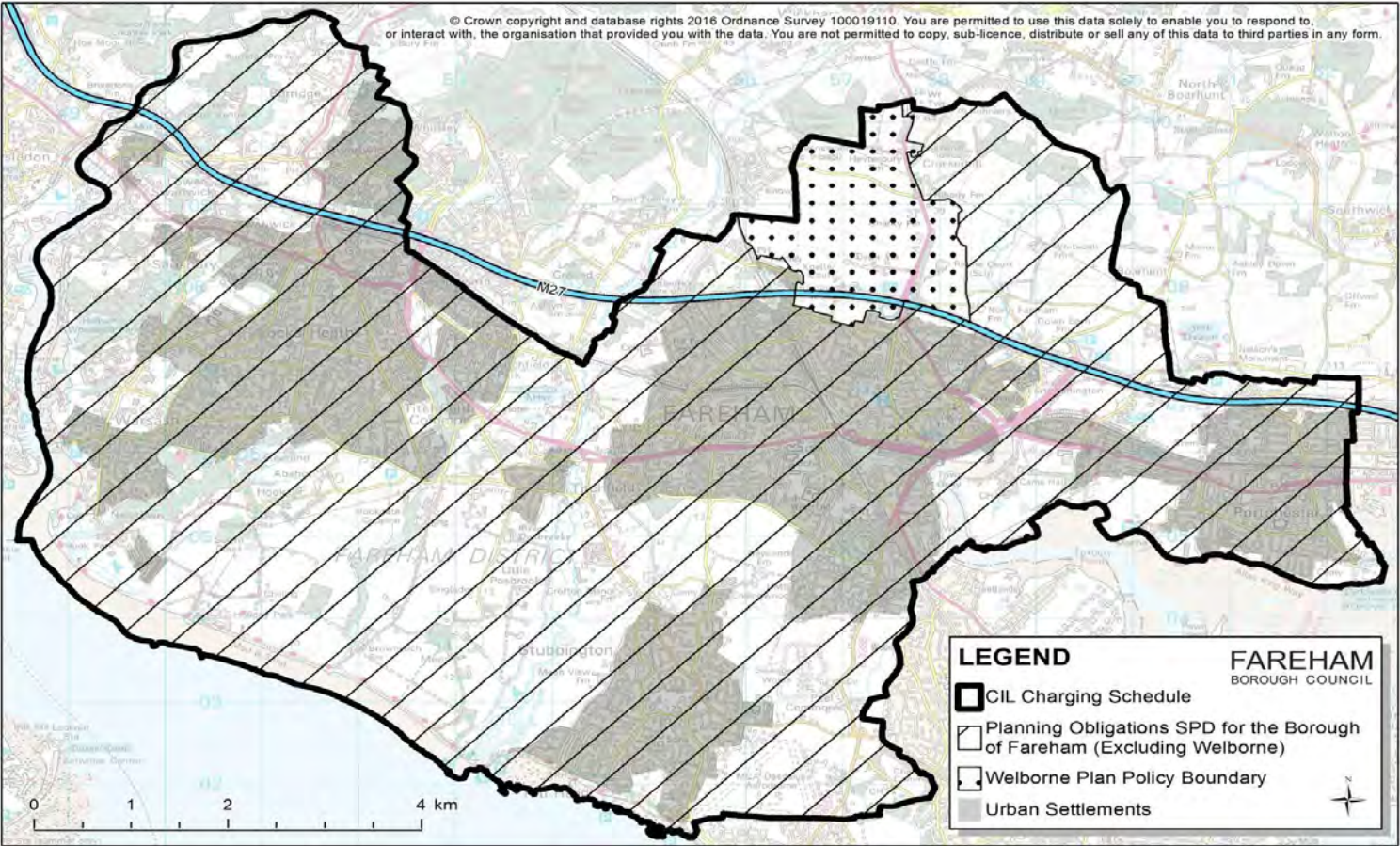
How this Document has been Produced

- 1.10 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 adopted Fareham Local Plan, which consists of the:
 - Adopted Local Plan Part 1: Core Strategy (August 2011)
 - Adopted Local Plan Part 2: Development Sites and Policies Plan (June 2015); and
 - Adopted Local Plan Part 3: The Welborne Plan (June 2015)

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

- 1.11 A Draft version of this SPD was published in May 2014 and was subject to public consultation between 25th June and 6th August 2014. The comments received during the consultation have been fully taken into account in the production of this version of the SPD.
- 1.12 At each stage in its production, this SPD has also been informed by the evidence base which supports the Local Plan and which can be viewed on the Council's website. In particular, the ***Fareham Borough Infrastructure Delivery Plan (Excluding Welborne)*** was revised at the same time as the Draft version of this SPD was produced and was subsequently subject to public consultation alongside the Draft SPD.

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 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 SPD for the Borough of Fareham (Excluding Welborne) 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 Borough Core Strategy (Local Plan Part 1), which is set out below, gives the local policy context for the guidance in this SPD in relation to planning obligations which are intended to address the impact caused by new development.

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. This section sets how contributions are secured through a number of different mechanisms including:

- Planning conditions (these cannot be used to secure financial contributions);
- Planning obligations (also known as Section 106 Agreements);
- Section 278 agreements; and
- Community infrastructure Levy (CIL)

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.

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

3.4 Section 106 of the Town and Country Planning Act 1990 gives local planning authorities the power to enter into legal agreements (known as planning obligations) with the owners of land 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, over or under 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.

3.5 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*”.

- 3.6 There are occasions in 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 legal agreement setting out the planning obligation should be 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.
- 3.7 Legislation² provides that planning obligations may only constitute a reason for granting planning permission for any development if the obligation is:
- a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development; and
 - c) Fairly and reasonable related in scale and kind to the development.
- 3.8 Planning obligations are legal deeds that have to be entered into by the landowner(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 landowner(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. These unilateral obligations (known as unilateral undertakings) are most frequently used in appeal situations but can be used in others.

Section 278 Agreements

- 3.9 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 for 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.
- 3.10 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 include: 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

² Regulation 122 of the CIL Regulations 2010.

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 attached to the planning permission or by Section 106 agreement. This would generally stipulate that the works would need to be 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.

- 3.11 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.
- 3.12 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 (known as the „Regulation 123 list“). 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

- 3.13 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 levied on any development that provides new buildings into which people normally go to use.
- 3.14 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, including the rules set out in the regulations for the annual indexation of CIL charge rates.
- 3.15 The Council has produced a ***CIL and Planning Obligations Guide for Developers and Land Owners***, which is available on its website, and is periodically updated as required. The Guide explains how CIL is calculated and gives some example calculations. Also available on the Council’s website 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 Planning Act 2008 and the CIL Regulations control the use of CIL receipts. In broad terms funds raised through CIL receipts will be used to help fund infrastructure projects that support the growth of the area. This might include supporting housing and economic growth, as well as providing greater certainty over future development, and benefiting local communities through the provision of new or upgrading existing facilities. CIL is also designed to provide a more predictable funding stream so that the delivery of infrastructure projects can be planned more effectively.

4: How will the Council use Planning Obligations?

The Relationship between Planning Obligations and CIL

- 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. Whilst planning obligations may still be used for a number of purposes, their use to secure new infrastructure or funding for infrastructure is now restricted in a number of ways by Regulations 122 and 123 of the CIL Regulations 2010 (as amended).
- 4.2 First, CIL Regulation 122 states that planning obligations may only be used as a reason to grant planning permission if they are: necessary to make the development acceptable in planning terms; directly related to the development; and be fairly and reasonably related in scale and kind to the development being permitted.
- 4.3 Secondly, CIL Regulation 123 limits the pooling of financial contributions secured through planning obligations, so that no more than 5 separate planning obligations (completed since 1 April 2010) may contribute to the same infrastructure project or type of infrastructure. This means that following the adoption of the CIL Charging Schedule, the Council no longer collects tariff-style developer contributions towards off-site recreational facilities and transport.
- 4.4 Finally, Regulation 123 seeks to ensure that there is no overlap between the infrastructure projects and types that are funded by CIL and those for which the Council may continue to seek to secure planning obligations. This is to ensure that a developer or landowner is not obliged to contribute to the same infrastructure through both CIL and planning obligations - a process known as „*double-dipping*“ in the National Planning Guidance. This separation is achieved by Regulation 123 enabling Councils to produce a list of infrastructure projects or types on its website that the Council intends to fund, in whole or in part, through CIL receipts.
- 4.5 The Council has published a list under CIL Regulation 123 (known as the Regulation 123 List), which sets out what types of infrastructure the Council intends to wholly or partly fund through CIL. Since bringing the current CIL Charging Schedule into effect (1 May 2013) the Council has not sought to use planning obligations to secure contributions towards those items set out on its Regulation 123 list. It should be noted however, that the legislation allows the Council to spend CIL receipts on any infrastructure and not just those projects or types set out on the Regulation 123 list.

- 4.6 The Council may change its Regulation 123 list at any time, subject to compliance with the procedures set out in the CIL Regulations and the National Planning Guidance, including the need for consultation on the changes proposed. The Council's up-to-date Regulation 123 list will always be published on the Council's website.³
- 4.7 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 whilst adhering to the provisions of Regulations 122 and 123 of the CIL Regulations.
- 4.8 For further details about the relationship between CIL and planning obligations please see the Council's ***CIL and Planning Obligations Guide for Developers and Land Owners***, which is available on the Council's website.

Use of Planning Obligations

- 4.9 Following the adoption of its CIL Charging Schedule the Council has reduced the use of planning obligations. In particular, planning obligations are no longer used to secure general tariff-style contributions, such as for the provision of off-site public open space and recreational facilities. Planning obligations may continue to be used by the Council to secure developer contributions that fall within three broad categories, as set out below. A fourth category covers other uses of planning obligations that do not involve the securing of developer contributions:
- 1) That are not restricted by CIL Regulations;
 - 2) That relate specifically to the on-site provision of infrastructure or improvements to the environment on or near to the site;
 - 3) That relate to infrastructure projects that have been purposefully excluded from the 123 List; and
 - 4) Involving restrictions on the use of land.

See Section 6 for further details and guidance about the specific purposes, within each of these four categories, for which the Council may require planning obligations.

³ http://www.fareham.gov.uk/planning/local_plan/ciladopt.aspx

CATEGORY 1) - Planning obligations securing developer contributions not restricted by the CIL Regulations

- 4.10 This type of planning obligation refers to developer contributions that are necessary to make the development acceptable in planning terms. The CIL Regulations do not restrict this category of developer contributions, as they do not relate to the securing of „infrastructure“ as defined in Section 216(2) of the Planning Act 2008. Therefore, where appropriate and where the tests set out in Regulation 122 can be met, planning obligations can be used in this way secure to contributions for, but not limited to:
- a) Solent Recreation Mitigation Strategy (SRMS);
 - b) Traffic Regulation Orders (TROs);
 - c) Revenue support to enhance bus services; and
 - d) The promotion of employment skills.

CATEGORY 2) - Planning obligations relating specifically to on-site provision of infrastructure or to improvements to the environment on or near the site

- 4.11 This category of planning obligations refers to site-specific developer contributions that are necessary to make the development acceptable in planning terms. These contributions relate specifically to the provision of necessary on-site infrastructure or to the requirement to improve the natural or historic environment on-site or in the immediate surrounds of the development site. Since many, if not all, of these requirements are infrastructure that would be capable of being funded through CIL, the Council has ensured that these are not included on its Regulation 123 list. In addition, the types of provision that may be secured within this category planning obligations are underpinned by the Council's evidence base, and in particular the Fareham Borough Infrastructure Delivery Plan (Excluding Welborne), which is available on the Council's website.
- 4.12 Where appropriate and where the tests set out in Regulation 122 can be met, planning obligations within this category can be used to secure, but are not limited to:
- a) The on-site provision and maintenance of public open space including children's play areas;
 - b) The on-site provision of footpaths/cycleways through or leading to open space or which will form part of a wider green infrastructure network;
 - c) Utilities infrastructure;
 - d) On-site flood mitigation measures identified as required by a Flood Risk Assessment;
 - e) On-site nature conservation measures;
 - f) On-site improvements to the historic environment and measures to mitigate any adverse impacts of the development of the site.

CATEGORY 3) - Planning obligations relating to infrastructure projects or types excluded from the Regulation 123 list

- 4.13 This type of planning obligation refers to infrastructure projects that could be secured through CIL but have been purposefully excluded from the Council's Regulation 123 list, so that they can be secured solely through the use of planning obligations. In order to avoid actual or perceived „double-dipping“ the exclusion of infrastructure projects or types will be supported by evidence from the Fareham Borough Infrastructure Delivery Plan (Excluding Welborne).
- 4.14 Restrictions on pooling of Section 106 contributions mean that no more than five separate planning obligations (completed since 1 April 2010) may contribute to the same infrastructure project or type that is included within this category of planning obligations.
- 4.15 Where appropriate, supported by infrastructure planning evidence and where the tests set out in Regulation 122 can be met, planning obligations within this category can be used to secure, but are not limited to:
- a) The land necessary to deliver the allotments and cemetery required by the strategic development at Coldeast Hospital;
 - b) The specific transport and access infrastructure improvements, whether on or off-site, that are required to make development acceptable in planning terms.

CATEGORY 4) - Restriction on the use of land

- 4.16 In addition to the three categories of planning obligations, listed above, which seek developer contributions, planning obligations will, in some circumstances, also be sought as part of a legal agreement to restrict the use of the land to certain activities or uses or to prevent undesirable outcomes of development. In these instances, no developer contributions are sought.

Where appropriate and consistent with the tests set out in Regulation 122, planning obligations within this category can be used, but are not limited to:

- a) Ensuring that a development does not prejudice the development of adjacent land and that highway and pedestrian access and services are provided to adjacent land.

Monitoring Planning Obligations

- 4.17 The Council monitors completed planning obligations to ensure compliance by all parties with any covenants, restrictions, and stipulations contained within them.
- 4.18 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.
- 4.19 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 the National Planning Guidance.
- 4.20 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.
- 4.21 Where justified on a case-by-case basis, the Council may expect the developer or landowner to fund some or all of the necessary costs incurred by the Council in the course of monitoring and the administration of the Section 106 agreement.

5: Development Viability

National Planning Policy and Guidance

- 5.1 The NPPF⁴ places 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 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 Guidance,⁵ which states *“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 as well as in the relevant policies of the Fareham Local Plan.
- 5.4 Assessing the overall viability of a scheme, developers should take full account of the scale of planning obligations that are likely to be appropriate, in addition to any CIL liability that may arise. Where a developer raises viability concerns in relation to contributions for an application, the Council will expect a full “open-book” viability assessment for the scheme to be submitted to support the viability case being made. The Council reserves the right to have all viability assessments checked by an independent third party to ensure the robustness and validity of the assumptions and methods used. In these circumstances, the viability assessment costs incurred by the Council would need to be paid by the developer.
- 5.5 The NPPF 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 obligations where viability has been demonstrated to be a concern, development that cannot provide the necessary requirements may be considered unacceptable and will, in such cases, be refused.

⁴ National Planning Policy Framework, paragraph 173.

⁵ National Planning Policy Framework, paragraph 19

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. This section sets out the more detailed guidance within each of the four categories of planning obligations that were set out in Section 4. 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, in negotiation with the developer or landowner.

Category 1) Planning obligations securing developer contributions not restricted by the CIL Regulations

6.2 *Solent Special Protection Areas (SPAs)*

Policy Basis: Local Plan Part 2: Development Sites and Policies - Policy DSP15 (Recreational Disturbance on the Solent Special Protection Areas)

- 6.3 Through the work of the Solent Disturbance & Mitigation Project (now known as the Solent Recreation Mitigation Strategy or „SRMS“) 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 SRMS work, Local Authorities and Natural England have agreed a set of interim mitigation measures. This mitigation scheme is now 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 across the sub-region.
- 6.7 The total cost of the mitigation framework is currently calculated as £176 per net additional dwelling (as at 1 April 2016) and is applicable across the whole Borough. The per-dwelling contribution figure will be revised each April to take account of inflation (as measured by the Retail Price Index). The contributions will also be required from development comprising student accommodation and for additional dwellings provided through Permitted Development. Developments comprising residential institutions (within Use Class C2) for the elderly or disabled, including sheltered accommodation and 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 In some cases, larger developments may be required to provide additional bespoke mitigation measures, including the provision of Suitable Areas of Natural Greenspace (SANGs). Such development will also need to undergo individual assessment under the Habitats Regulations.

- 6.9 The Council provides an option for applicants to make a direct payment through a „Section 111 agreement“ to avoid the need for a Section 106 agreement where the contribution towards the mitigation of Solent SPA disturbance would be the only requirement. However, for development where a Section 106 agreement is required for other contributions, then the SPA disturbance mitigation package should be done as part of the Section 106 agreement. In such cases there will be no need for a separate Section 111 agreement.
- 6.10 More information on the SRMS work, research and justification for the mitigation measures proposed are set out in **Appendix B**.

Traffic Regulation Orders (TROs)

Policy Basis: Local Plan Part 1: The Core Strategy – Policy CS5 (Transport Strategy and Infrastructure).

- 6.11 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.

Employment Skills

Policy Basis: Local Plan Part 1: The Core Strategy – Strategic Objective 3 and paragraphs 4.06 and 4.14.

- 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.

Category 2) Planning obligations relating specifically to on-site provision of infrastructure or to improvements to the environment on or near the site

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

Policy Basis: Local Plan Part 1: The Core Strategy – Policy CS21 (Protection and Provision of Open Space).

- 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 B**) will be required to provide open space, outdoor sport facilities and/or children's play equipment on-site. Such open space is usually considered to be a 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 and this is clarified by the exclusion for this type of infrastructure within the Council's Regulation 123 list.
- 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. In each case, the determination of what is required to be delivered on and off-site will be based upon the contents of the latest available and published survey of Open Space in the Borough, which is currently the **Fareham Greenspace Addendum 2014**.⁶ The approach to calculating which types and how much on-site open space and children's play equipment will be required is set out in more detail in **Appendix B** to this SPD.
- 6.15 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. Again, more details of the approach the Council will take to securing the future maintenance of on-site open space is set out in **Appendix B**.

Green Infrastructure Pedestrian and Cycle Links

Policy Basis: Local Plan Part 1: The Core Strategy – Policy CS5 (Transport Strategy and Infrastructure), Policy CS17 (High Quality Design) and Strategic Objective 5.

- 6.16 Planning obligations may be used to secure the provision of on-site footpaths or pedestrian/cycle links to off-site open space, or where such links could form part of a wider green infrastructure network.

⁶ http://www.fareham.gov.uk/PDF/planning/local_plan/GreenspaceStudyAddendum2014.pdf

Utilities Infrastructure

Policy Basis: Local Plan Part 1: The Core Strategy – Policy CS20 (Infrastructure and Development Contributions).

- 6.17 The provision of, and upgrade to appropriate utilities infrastructure is an essential part of developing new communities and delivering new housing. Along with new on-site infrastructure for utilities some larger development may require upgrading to off-site infrastructure, such as waste waster, to ensure that the impacts of the development are mitigated.
- 6.18 The delivery of, or improvements to the utilities infrastructure throughout the Borough will be secured, on the most part, by agreement between developers and the utilities providers. However, planning obligations may be used where necessary and in taking this approach the Council will liaise with the utility companies involved.

Nature Conservation

Policy Basis: Local Plan Part 2: Development Sites and Policies – Policy DSP13 (Nature Conservation).

- 6.19 Policy DSP13 encourages all relevant development to explore the opportunities to deliver a net gain in biodiversity and to incorporate biodiversity enhancements, where appropriate. In some developments, specific mitigation may be required to ensure that the development can comply with Policy DSP13. Where such measures are required and these cannot be achieved through planning conditions, planning obligations may be required. The sorts of measures for which a planning obligation may be sought include:
- On-site habitat creation or enhancement;
 - Re-location of protected or priority species to a suitable alternative site; and
 - Measures to mitigate identified impacts of a development on a nearby area of high biodiversity interest.

Historic Environment

Policy Basis: Local Plan Part 2: Development Sites and Policies – Policy DSP5 (Protecting and Enhancing the Historic Environment).

- 6.20 Local Plan Part 2 makes it clear that new development will be expected to integrate into the historic environment and respond to local character and distinctiveness. Site-specific planning obligations may offer opportunities to fund improvements to, and/or mitigate the adverse impacts on Fareham's historic environment. Where appropriate, and subject to meeting the tests set out in CIL Regulation 122, the types of developer contribution for this purpose might include:

- Repair, restoration or maintenance of a heritage assets and their setting;
- Increased public access and improved signage to/from heritage assets;
- Interpretation panels/historical information;
- Measures for preservation or investigation and recovery of archaeological remains and sites;
- Display of archaeological sites; and
- Provision of local capacity for the storage of, and public access to, archives resulting from archaeological and/or historical investigation.

Category 3) Planning obligations relating to infrastructure projects or types excluded from the Regulation 123 list

Site-specific Transport and Access Infrastructure Improvements

Policy Basis: Local Plan Part 1: The Core Strategy – Policy CS5 (Transport Strategy and Infrastructure) and Policy CS20 (Infrastructure and Development Contributions).

- 6.21 The majority of transport infrastructure improvements required as a result of planned development in across the Borough will be funded through CIL or through funding not related to developer contributions. However, some development proposals give rise to specific transport and access improvements, which are necessary to make the development acceptable in planning terms. Such improvements may include:
- Provision of works to ensure safe access and egress from the development site to the adjoining public highway network;
 - Measures to facilitate safe pedestrian and cyclist access to and from the site;
 - Provision of internal roads to appropriate (adoptable) standards;
 - Street lighting or street furniture required to mitigate the impact of a development; and
 - Other mitigation works, whether on or off-site, which are specifically identified as necessary within a Transport Assessment.
- 6.22 Where the need for such improvements is clearly and reasonably related to a particular development proposal, the Council considers that the improvements should be funded through a planning obligation and not through CIL. This is clearly reflected in the Council's Regulation 123 list, which ensures clarity to ensure that developers are not charged twice for the same infrastructure project.

Category 4) Restriction on the use of land

Avoiding Prejudice to Adjacent Land

Policy Basis: Local Plan Part 2: Development Sites and Policies – Policy DSP4 (Prejudice to Adjacent Land).

- 6.23 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, for example through the creation of „ransom strips“. The necessity for the use of section 106 in this regard will be considered on a case-by-case basis.

Glossary

Community Infrastructure Levy (CIL):	A planning charge on new development. The rate(s) (at pounds sterling per square metre) is set out 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.
Development Plan	The Development Plan sets out the parameters for all development in the Borough. It comprises the adopted Fareham Local Plan (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 (HCC)	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	Prepared by local planning authorities to set planning policies to facilitate development, economic growth and protection of natural and historic environment.

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.
Solent Disturbance & Mitigation Project (SDMP)	See Solent Recreation Mitigation Strategy (SRMS).
Sustainable Development	Development that meets the needs of the present without compromising the ability of future generations to meet their own needs
Solent Recreation Mitigation Strategy (SRMS)	New house-building around the Solent will create additional recreational pressures, which will impact on the three Solent Special Protection Areas unless mitigation measures are put in place. Drawing on extensive research, a partnership of South Hampshire local authorities, including Fareham Borough Council, and other bodies has prepared an interim strategy to implement those mitigation measures. See Appendix B of the SPD.
Special Protection Areas (SPAs)	See European Sites.
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: Solent Recreation Mitigation Strategy, Research and Justification

What are Special Protection Areas?

- A.1 A Special Protection Area (SPA) is an area of land, water or sea that 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.
- A.2 Almost the entirety of the Borough's 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

- A.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.
- A.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.
- A.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.

A.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.

A.7 Through the work of the SDMP (now called the Solent Recreation Mitigation Strategy or „SRMS“) 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.

A.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 migration framework will enable development to provide the necessary mitigation in order to go ahead in compliance with the Habitats Regulations.

Interim Mitigation Measures

A.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.

A.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.

A.11 The total cost of the mitigation framework will be £176 (as at 1 April 2016) per net additional dwelling. Developments such as retirement homes and 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.

A.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.

A.13 These proposals are one way in which developments could provide a package of mitigation measures that 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.

- A.14 The £176 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.
- A.15 In some cases, larger developments may be required to provide additional bespoke mitigation measures, including the provision of Suitable Areas of Natural Greenspace (SANGs). Such development will also need to undergo individual assessment under the Habitats Regulations.
- A.16 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

- A.17 Table 2 below lists the nature and cost of the measures included within the interim framework.

Table 2: Estimated Annual Cost of the 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
----------------------------	-----------------

- A.18 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 B: 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 of the Core Strategy, have been derived from the Fareham Green Space Study 2007, its 2010 and 2014 addenda 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 1.5 hectare per 1,000 population
Outdoor Sport 1.2 hectare per 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 0.1 hectare (Ha) based on an area of 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) 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 2014.⁷ 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 residents' needs as locally 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. On sites of 600 or more units the provision of on-site playing pitches will almost always 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

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

space and outdoor sports provision required in new developments (where considered using the site thresholds set out in Table 4). Table 5 is derived from the space standards, set out in the Core Strategy, multiplied by the average number of people per dwelling type (calculated from research undertaken by the Council and by Hampshire County Council).

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 (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	LEAP 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 locally 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 of the Core Strategy 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 SPD, except where the revisions are considered to comprise minor amendments.

Maintenance of Open Space

- 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 7 below*, which will be revised as at 1 April annually in line with inflation (the Council will use the published Retail Price Index), unless otherwise justified, for example, by a greater than average rise in the costs associated with replacing children's play equipment.

* At its meeting on the 21st, September 2021, the Council's Executive considered a review of the Council Trees Service.

As a result of the detailed work that was undertaken as part of the review of the Council's Trees, it was clear that the cost of maintaining land when it contains trees is considerably higher than the level of contribution presently secured.

The Council's Executive agreed that where the Council adopts land containing trees which it will be required to actively manage, a maintenance contribution of £500 (index linked from April 2021) should be secured for each tree with immediate effect. This is in addition to the £6 per square metre (index linked).

Formatted: Indent: Left: 1.27 cm

Formatted: Hyperlink, Font: 11 pt, Superscript

Field Code Changed

Formatted: Hyperlink, Font: 11 pt

Formatted: Hyperlink, Font: 11 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Normal, Left, Indent: Left: 1.27 cm, Right: 0 cm, Line spacing: single

Formatted: Font: 12 pt

Formatted: Font: Bold

Formatted: Font: 12 pt

Table 7: Calculating Maintenance Contributions

	Parks & Amenity Open Space	Outdoor Sports Provision	Children's Play Equipment	Total Maintenance Contribution
Provisional rates (at 1 April 2015)*	£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	£	£	£	£

* [Please see footnote after Paragraph C.16 above](#)