

Trafford Local Plan: Revised Supplementary Planning Document I (SPDI) – Planning Obligations



Adopted 7th July 2014



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CONTENTS

1. INTRODUCTION.....	1
Background.....	1
Community Infrastructure Levy	1
Planning Obligations.....	2
Policy Context.....	2
Contact Information	3
2. WHEN WILL A PLANNING OBLIGATION BE REQUIRED?.....	4
3. PLANNING OBLIGATIONS GUIDANCE.....	7
Overview.....	7
Affordable Housing	9
Transport and Accessibility	14
Specific Green Infrastructure	15
Spatial Green Infrastructure.....	16
Sports Facilities	20
Flood Defence Infrastructure	21
Other Planning Obligations	22
4. MANAGEMENT AND MONITORING.....	23
Implementation	23
Viability	23
Monitoring.....	24
Appendix 1: Key documents.....	26
Appendix 2: Viability Appraisal Guidance.....	27
Appendix 3: Affordable Housing Market Zones	28

1. INTRODUCTION

Background

- 1.1. A Supplementary Planning Document (SPD) provides further details on specific policies in Trafford's adopted Local Plan: Core Strategy. It forms part of the package of Local Development Documents (LDDs) which comprise the Trafford Local Plan, required under the Planning and Compulsory Purchase Act 2004 (as amended under the Localism Act 2011). It is a material consideration in the determination of planning applications and assists the Council in securing local and national objectives in respect of sustainable development.
- 1.2. This revised Supplementary Planning Document 1 (SPD1) 2014 sets out Trafford Council's approach to seeking planning obligations in conjunction with Trafford's Community Infrastructure Levy (CIL), for the provision of infrastructure, environmental improvements and affordable housing required as a result of new development. It has been subject to public consultation during May and June 2013, and replaces the previous version of SPD1 which was adopted in February 2012.
- 1.3. This document clarifies the relationship between the different mechanisms that deliver infrastructure, namely, planning conditions, planning obligations and CIL.

Community Infrastructure Levy

- 1.4. CIL allows local authorities to raise contributions from developers to help pay for infrastructure that is needed as a result of development. By providing essential infrastructure to support the development of an area, the levy is expected to have a positive economic effect on development across the borough. A charging schedule must be produced setting out the CIL rates for the area – expressed as pounds (£) per square metre (sq. m), as CIL is levied on the gross internal floorspace of the liable development. CIL is payable on developments as described in the adopted Trafford CIL Charging Schedule, government guidance, regulations and local guidance.
- 1.5. This SPD should be read in conjunction with the adopted Trafford CIL Charging Schedule, Regulation 123 list and associated guidance, which is available to view on the Council's website: www.trafford.gov.uk/CIL.
- 1.6. CIL provides a predictable and flexible funding stream so that infrastructure projects can be delivered more effectively, as well as providing greater certainty for developers regarding development costs. CIL replaces the use of some planning obligations, however affordable housing remains outside of the remit of CIL and will continue to be required as a planning obligation.

Planning Obligations

- 1.7. All development has the potential to impact on the environment and place pressure on local infrastructure and services. The planning system can be used to ensure that new development contributes positively to the local environment, and helps to mitigate against any adverse impacts on infrastructure, the local environment and services. This is normally achieved through the use of conditions placed on a grant of planning permission by the local planning authority. These conditions permit development to go ahead only if certain circumstances are satisfied. Conditions are the usual mechanism for essential on-site design requirements and critical infrastructure such as street lighting, sewers, roads, landscaping and amenity space.
- 1.8. Section 106 (S106) of the Town and Country Planning Act 1990 (as amended) allows the drafting of legal agreements for the Council to control the impacts of development, which cannot otherwise be achieved via planning conditions. These are an established mechanism to secure the delivery of services or facilities needed as a result of new development, and are referred to as “planning obligations”. Contributions to infrastructure are delivered by way of physical works on- or off-site, land transfer, or financial contributions.
- 1.9. Where planning obligations are required, planning permission will not usually be granted until the S106 legal agreement has been entered into by all relevant parties and has been completed.

Policy Context

- 1.10. Guidance on seeking and negotiating planning obligations is provided in the National Planning Policy Framework (NPPF). NPPF sets out three statutory tests for the appropriateness of seeking planning obligations, which are required to be:
 - Necessary to make the proposed development acceptable in planning terms;
 - Directly related to the proposed development; and
 - Fairly and reasonably related in scale and kind to the development.
- 1.11. The CIL Regulations 2010 (as amended) specify that local authorities can only pool planning obligations from up to five planning obligations towards any particular infrastructure project or infrastructure type (Regulation 123) after 6 April 2015, or before, if a local authority adopts a CIL charging schedule prior to that date.
- 1.12. Chapter 17 of the Core Strategy describes Trafford’s policy approach to Planning Obligations. Core Policy L8 seeks to ensure that developers make reasonable provision or contribution towards appropriate infrastructure to mitigate the impact of development. Going forwards, many of the types of infrastructure described in this policy will be delivered through CIL rather than through the use of a S106 legal agreement. However the principle of mitigating the impacts of development remains, no matter what the delivery mechanism.
- 1.13. As the Local Highway Authority, Trafford Council may also use Section 278 of the Highways Act 1980 to secure works to the public highway where necessary to

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facilitate or serve the proposed development. Examples of such works could be the construction of new access, junction improvements, or safety related works such as traffic calming or improved facilities for pedestrians and cyclists.

Contact Information

- 1.14. This document is aimed at developers, planners, stakeholders and local residents, and provides clarity on what infrastructure will be sought through planning conditions, planning obligations and what will be required through CIL.
- 1.15. For more information please contact:

Development Control
Trafford Council
Trafford Town Hall
Talbot Road, Stretford, M32 0TH
0161 912 3149
development.control@trafford.gov.uk

2. WHEN WILL A PLANNING OBLIGATION BE REQUIRED?

- 2.1. This section sets out Trafford Council's approach towards seeking developer contributions from development schemes.
- 2.2. Requirements for infrastructure provision need to be clearly understood before a planning application is submitted. These can be described via a hierarchy of needs:

Critical infrastructure is that without which the development simply could not take place. Fulfilling this requirement would normally be secured through the design of the scheme and through the use of planning conditions. In the case of highways infrastructure requirements, a section 278 agreement (Highways Act 1980) would be used to secure provision. However the provision of critical infrastructure is not limited to these mechanisms.

Key Infrastructure is of a site-specific nature, and is required to mitigate the negative impacts of development. The mechanism for ensuring delivery of these works is normally via a Section 106 legal agreement.

Supporting infrastructure is that which is required to support the sustainable growth of an area, but may not be directly or solely linked to an individual development. CIL monies can be used towards these strategic infrastructure projects.

- 2.3. Therefore, it is possible that planning conditions, planning obligations and CIL could each apply to the same application, in order to fulfil the hierarchy of needs to make a development acceptable in planning terms. However, the Council will ensure that no 'double counting' takes place and that developments are not charged twice for the same infrastructure, in line with the CIL Regulations 2010 (as amended).
- 2.4. Planning Obligations are scaled back but still remain the mechanism for securing the following requirements:
 - **Affordable housing**
This falls outside of the scope of CIL.
 - **Site specific infrastructure which is required as a result of, or to mitigate the impacts of a specific development**
This will only apply to infrastructure not included on the CIL Regulation 123 list.
 - **Commuted sums**
This covers the maintenance of facilities/infrastructure that the developer would like another body to adopt.
- 2.5. Restrictions on the pooling of planning obligations mean that the Council will only be able to pool up to 5 separate planning obligations for delivery of a specific item of infrastructure to mitigate the local impact of the developments paying those obligations.

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- 2.6. The CIL Regulation 123 list is the document which provides details on the types of infrastructure and infrastructure projects that will benefit from the application of CIL funding, and is available on the Council's website. The pooling of CIL receipts from different developments will also enable the local authority to make improvements of a strategic nature that will benefit the Borough.
- 2.7. **Table 2.1** clarifies the use of planning conditions, Section 106 agreements and CIL, by listing the key forms of contribution likely to be sought, and how each might be secured. This list of requirements is not exhaustive.
- 2.8. Applicants are advised to consult the Planning Department at an early stage in the planning process to discuss the requirements relating to specific development proposals. The Council offers applicants a chargeable pre-application service; more details about this service are available online.
- 2.9. Where a S106 legal agreement is required, draft heads of terms setting out the type and extent of planning obligations should be submitted with the planning application. A 'Planning Obligations Pro forma Statement' is available from the Council's website.
- 2.10. In order to enter into a planning obligation through a legal agreement, applicants will be required to provide the following:
- **Details of the applicant's solicitor**
 - **Proof of title of the ownership of the site**

All landowners and parties holding an interest in the land will also need to be party to the legal agreement, and if the site is subject to a mortgage then the mortgagee will also need to enter into the legal agreement.
 - **An undertaking to pay the Council's legal fees**
- 2.11. Where applicants feel that viability may be an issue for their development, they are encouraged to contact the planning officer as early in the planning process as possible. More information on the Council's approach to considering viability is covered in section 4 of this document.

Type of Infrastructure	Planning Condition	S106	CIL
Affordable housing	✘	✓	✘
Transport and accessibility	✓	✓	✓
Specific green infrastructure	✓	✓	✓
Spatial green infrastructure	✓	✓	✓
Sports facilities	✘	✓	✓
Education	✘	✘	✓
Health	✘	✓	✓
Flood defence	✓	✓	✓
Community facilities	✘	✓	✓
<p>Other provision For example: allotments, cemeteries, public realm, public art, biodiversity, ecology, skills development and heritage may be required as part of the planning process. The most appropriate way of delivering this, by one of the above means, will be discussed with the applicant.</p>			

Table 2.1: Requirements secured through Planning Conditions, S106 and CIL

3. PLANNING OBLIGATIONS GUIDANCE

Overview

- 3.1. This section provides more detail on the types of infrastructure that the Council is likely to seek from developments through planning obligations to mitigate specific impacts from development. **Table 3.1** provides an overview of the types of infrastructure required for a typical development scheme however it is not an exhaustive list.
- 3.2. Each type of infrastructure requirement including its justification is set out in more detail in the following section, along with information on calculating the level of provision for each type, including: affordable housing, transport and accessibility improvements, specific green infrastructure, spatial green infrastructure, outdoor sports facilities and flood defence.
- 3.3. There may be other types of infrastructure sought through planning obligations which will be determined on a case by case basis, and are set out at the end of this section. These are likely to be in the Strategic Locations; the Trafford Core Strategy and emerging Land Allocations Plan contain more details on these requirements.

Indicative type of development	Affordable Housing	Transport and Accessibility	Specific Green Infrastructure	Spatial Green Infrastructure	Flood Defence	Other Potential Requirements
Householder application	x	✓	✓	x	✓	✓
1 to 4 dwellings	x	✓	✓	x	✓	✓
5 to 99 dwellings	✓	✓	✓	✓	✓	✓
100 to 300 dwellings	✓	✓	✓	✓ ¹	✓	✓
Over 300 dwellings	✓	✓	✓	✓ ²	✓	✓
Non-residential development of less than 100 sq. m	x	✓	✓	x	✓	✓
Non-residential development over 100 sq. m	x	✓	✓	x	✓	✓
Development of public / institutional facilities	x	✓	✓	x	✓	✓
<p>1 – to also include children’s play equipment to LEAP/NEAP standard</p> <p>2 – to also include sports facilities</p> <ul style="list-style-type: none"> • This table is a guide and there may be specific cases that vary from this for justifiable reasons. • Dwellings and development can be new build, change of use or mezzanine structures. • Development that is mixed-use or does not clearly fall into one category will be assessed on an individual basis for the nature of provision required. • For outline applications the standard housing mix will be used as an indicator for requirements - see Policy L2 of the Core Strategy. 						

Table 3.1: Planning obligations required to support development

Affordable Housing

- 3.4. Affordable housing is defined in NPPF as: *“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”*.
- 3.5. Affordable housing remains outside of the scope of CIL and will continue to be delivered through the use of S106 legal agreement. It should usually be delivered on-site and will be required to remain affordable in perpetuity, except where subject to statutory rights such as Right to Acquire¹ and Right to Enfranchise².
- 3.6. There is an identified need for more affordable housing within Trafford as set out in the Strategic Housing Market Assessment (SHMA) December 2008 and the SHMA Update Report May 2010. Data collected in these reports highlights that Trafford consistently exhibits the largest affordability ratio of income to house price, suggesting the greatest affordability problem in Greater Manchester.
- 3.7. The Council will seek to secure appropriate levels of affordable housing in accordance with Policy L2 of the Trafford Core Strategy (adopted January 2012). The following is an extract from the policy, and highlights some key principles:
- a) The expected method of delivery will be on site;
 - b) At least 50% of the affordable housing provision will be required to be accommodation suitable for families;
 - c) In developments where there is a mix of both houses and apartments, the affordable housing element should reflect the overall mix of unit types on the site; and
 - d) A split of 50:50 in the affordable housing units to be provided between intermediate (commonly shared ownership) and social/affordable rented housing units.
- 3.8. Trafford does not perform as a single uniform property market, as established in the Trafford Economic Viability Study (TEVS) May 2009, and the 2011 update. Instead it has a number of sub markets, each distinct from the other in terms of market performance and offer. Trafford is divided into “hot”, “moderate” and “cold” markets to reflect these spatial distinctions. These market areas have different thresholds and percentage requirements for the provision of affordable housing on development sites.
- 3.9. The areas for affordable housing are shown as a map in Appendix 3 of this document. For avoidance of doubt, it should be noted that the “hot”, “moderate” and “cold” sub market areas for Affordable Housing Provision are different from the “hot”,

¹ Right to acquire allows most housing association tenants to acquire their homes at a discount

² Right to enfranchise allows tenants to buy 100% of the shared ownership lease

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“moderate” and “cold” charging zones within the adopted Trafford CIL Charging Schedule. **Table 3.2** below sets out the broad areas covered by each sub market area.

Hot Market Locations	Moderate Market Locations	Cold Market Locations
Altrincham Rural Countryside	Sale Stretford Urmston	Carrington Old Trafford Partington

Table 3.2: Affordable Housing Zones

- 3.10. In line with advice from PINS, Policy L2 of the Trafford Core Strategy assumes “normal” market conditions, as defined within the TEVS. Any variance from normal market conditions will be considered when determining the appropriate level of contributions. Developers should contact the local planning authority before submitting a planning application to agree the state of the economic market and therefore the required level of affordable housing.
- 3.11. Within “**hot**” market locations, a 40% affordable housing target will normally be applied. However under “good” market conditions this will be raised to a 45% requirement and maintained at 40%, or decreased as is deemed necessary on an individual site basis under “poor” market conditions.
- 3.12. Within “**moderate**” market locations, a 20% affordable housing target will normally be applied, with a flexibility to increase this to a 25% requirement under “good” market conditions and decreased to 10% under “poor” market conditions.
- 3.13. Within “**cold**” market locations no more than a 5% affordable housing target will be applied under normal market conditions, with a flexibility to raise this to a 10% requirement under “good” conditions. The supporting text of Policy L2 recognises that under “poor” market conditions a 5% contribution could inhibit development in cold market locations and therefore applications for development under these market conditions will not trigger a requirement for the provision of affordable housing.
- 3.14. In those areas where the nature of the development is such that, in viability terms, it will perform differently to generic developments within a specified market location, the affordable housing contribution will be determined via a site specific viability study, and will not normally exceed 40%. This will apply in the case of most of the strategic locations.
- 3.15. A ratio of 50:50 between intermediate (commonly shared ownership) and social rented housing should be sought in both North and South Trafford, in line with the findings of the SHMA.
- 3.16. The minimum threshold for qualifying sites will be 5 residential units in the borough’s “hot” and “moderate” market locations and 15 within the borough’s “cold” market locations. In considering whether a development meets the threshold for providing affordable housing, the Council will consider the net increase in the number of

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dwellings on site. This policy applies to the conversion of any building, whether already in residential use. The artificial sub-division of a site will not be permitted to circumvent this policy.

- 3.17. Developers will be required to ensure that their proposals meet the standards set out in Trafford Core Strategy Policies L5 – Climate Change and L7 – Design; and conform to the Homes and Communities Agency’s Design and Quality standards or any successor standards.
- 3.18. Affordable housing should:
- be fully integrated into the site as a whole;
 - avoid designs that result in high maintenance or service charges;
 - reflect the overall mix of property type and sizes;
 - be tenure neutral so that affordable housing is indistinguishable in visual terms from market housing; and
 - be phased to ensure that the delivery of the affordable units reflects the phasing of the scheme as a whole.
- 3.19. The Councils Housing Strategy team can provide advice on:
- The requirement for affordable housing on a particular site;
 - Local housing needs;
 - The involvement of an RP partner;
 - Maximum sales prices and target rents;
 - The acceptability of the form of provision required;
 - Calculation of financial formulae;
- 3.20. An Affordable Housing Statement will be required for developments above the threshold requiring the provision of affordable housing otherwise the Council may not be able to validate the planning application. The statement should include the following information:
- The number of affordable residential units to be provided;
 - The mix of affordable units in terms of type (intermediate/ social rented) and size (number of bedrooms and gross floorspace);
 - Plans showing the location of affordable housing units;
 - The design approach to the affordable element of the scheme;
 - How the affordable housing units are to be managed and, where this involves a Registered Provider, their details.
- 3.21. In the case of outline applications where it is not possible to specify the precise amount of affordable housing, a statement of intent should be submitted outlining how affordable housing will be provided in line with Core Strategy Policy L2.
- 3.22. Where residential accommodation has shared facilities and is not self-contained, for example supported housing and residential care homes that fall under Class C2

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(Residential Institutions) of the Town and Country Planning (Use Classes) Order 1987 and its subsequent amendments, it is regarded as an institutional use and may be exempt from the requirement to deliver affordable housing.

- 3.23. “Live-work units” will need to be judged on a case by case basis. Where the development is predominantly residential in character with offices incorporated or attached, Policy L2 will apply.
- 3.24. Where development involves the use of gypsy and traveller land, there will be an expectation of a contribution towards affordable housing subject to individual viability assessments.
- 3.25. Affordable housing should be provided on site as part of a development proposal. On-site provision can be made in several ways and will be agreed with the local planning authority on a site by site basis. The following are on-site delivery options for developers:
- Build the housing and then transfer to a Registered Provider (RP) to provide either rented or intermediate housing.
 - Transfer the land to an RP at discounted value and the RP develops the housing to provide either rented or intermediate housing.
 - Build the housing and then sell at below market price to eligible households. This will usually require a marketing strategy to be agreed between the Council and the Developer.
 - Build the housing and then rent at an affordable rent with the property managed in accordance with standards set by the HCA or its successor.
- 3.26. The preferred method of delivery is for the transfer of the affordable units to an RP. However where it is agreed that properties will be sold at a discounted market price, the Council will need to be satisfied that the level of discount to eligible purchasers is sufficient to enable them to obtain mortgage credit equivalent to 3 x average household income in the district where the discounted units are provided. If this does not achieve a discounted sales price which meets the CLG criteria (or its equivalent), it would not be deemed to be an acceptable form of affordable housing in accordance with Policy L2 of the Trafford Core Strategy.
- 3.27. The Council will need to be satisfied that any agreement reached between a developer and RP for the on-site provision of affordable housing will ensure that the rental levels or shared ownership costs will be affordable initially and in the long term. Where affordable rented properties are concerned, rental charges should be calculated in line with the prevailing Homes and Communities guidance.
- 3.28. Service charges and ground rent charges for dwellings should be set at levels which do not exceed the amounts needed to manage and maintain the properties to housing association standards, and should be fully transparent in their contents and calculation methods.
- 3.29. Where affordable housing is to be owned and retained (as opposed to managed) by a body other than an RP, equivalent safeguards concerning its long term nature and recycling of benefit will need to be secured by way of a legal agreement.

- 3.30. It is recognised that where an RP develops a property for shared ownership funded by public subsidy, occupiers have the right to staircase to full ownership. On re-sale there will therefore be no subsequent benefit to future occupiers, as the current occupier would be entitled to sell the unit at the full market value of the property. In these cases, the Council expects any recyclable receipts arising to the RP from staircasing to be reinvested within Trafford for affordable housing provision.
- 3.31. In exceptional circumstances it may not be possible or appropriate to deliver affordable housing on site, so provision may be made on an alternative site, through payment of a commuted financial contribution, or an alternative form of delivery. These circumstances include:
- Where the affordable housing can be more effectively secured by bringing existing housing back into use, e.g. empty properties in the private sector;
 - Where providing the affordable housing elsewhere is more likely to widen housing choice and encourage a better social mix, e.g. providing family homes in other areas of need.
- 3.32. Where it is agreed that exceptional circumstances exist for off-site provision of units, the Council will need to be satisfied that the alternative is appropriate.
- 3.33. Where it is agreed that circumstances exist to justify the use of a commuted financial sum, this should be paid to Trafford Council where it will be put into a ring-fenced account for the provision of affordable housing. These sums will be utilised for new affordable housing schemes, bringing vacant properties back into use as affordable housing and improving or converting existing housing for use as affordable housing. These sums may be utilised either for an RP scheme or may be utilised in the private sector to improve dwellings for use by the Council's nominated tenants.
- 3.34. The commuted sum should ensure that there is no difference in the proportionate level of contribution towards affordable housing between an on- and off-site option. An assumption will be made that 50% of the on-site provision would be low cost home ownership and 50% social rented tenure. The value of on-site affordable housing provision within the market location of the planning application site should be established, i.e. what an RP would reasonably expect to pay for it in order to generate an acceptable NPV. The difference between the open market value and the discounted value of the affordable housing units will constitute the affordable housing commuted sum. The value of the affordable housing units will vary on a site by site basis and must achieve an equivalent acceptable NPV for the RP which will be agreed with the LPA at an appropriate time in the planning process.
- 3.35. The following calculation is an example of how a commuted sum would be established:
- Total number of units on site = 60*
Number of affordable units = 24 (based on 40% target provision)
Open Market Value (OMV) of affordable housing units = £3,600,000
Affordable Housing Value of units = £2,340,000
Difference between OMV and Affordable Housing Value = £1,260,000
Total Commuted sum = £1,260,000

- 3.36. A commuted sum will be secured with a S106 legal agreement which will specify the amount of the sum to be paid, when it should be paid, how it will be used, the time scale for spending the money and appropriate sanctions if this undertaking is not honored.

Transport and Accessibility

- 3.37. New growth will put further pressure on the roads and transport networks and create demand for strategic and local transport infrastructure and service improvements in the Borough. There is a need for this to be addressed through site specific planning obligations for transport infrastructure and service improvements in relation to walking and cycling networks, public transport services and roads/highways. It also includes measures to reduce travel demand, for example through travel planning and demand management.
- 3.38. Any alterations to the transport network within or in the vicinity of new development which are required should form part of the design of developments. Planning applications will generally be refused where applicants are unable or unwilling to provide the necessary improvements.
- 3.39. Planning obligations may be needed to address localised impacts, for example relating to road safety, congestion or the need to encourage walking, cycling and public transport use. This will be particularly relevant to larger developments and those which are expected to generate more intensive traffic movements and parking demand (therefore many smaller developments are unlikely to require planning obligations of this nature). Examples of planning obligations secured may include junction improvements, a new bus service or improved pedestrian and cycle connectivity. Agreement with Trafford as the Local Highway Authority on the timing of such infrastructure should also be secured as part of the S106 or S278 agreement.
- 3.40. With regard to the adoption of highways, any separate S106 or S38 agreement (Highways Act 1980) should seek to ensure that the road network is open for use by the public at this same point in the development of the site

Preparation of Travel Plans

- 3.41. Policy L4 of the Trafford Core Strategy also requires a Travel Plan to be submitted where developments are likely to have significant transport implications. A Travel Plan is a way of managing and monitoring how users of a particular site or area travel to that location, with a particular emphasis on encouraging the use of sustainable modes, particularly walking, cycling and public transport. Applicants should seek advice from the Council to determine whether a Travel Plan needs to be submitted with a planning application.
- 3.42. The expectation is that Trafford as the Local Highway Authority will undertake the monitoring of approved travel plans within the Borough. Planning obligations will be sought, where appropriate, to fund the monitoring of Travel Plans by the Local Highway Authority.

Specific Green Infrastructure

- 3.43. Green infrastructure (GI) sets the context for how various green and blue spaces across Trafford combine to provide a multifunctional network delivering benefits for people, the economy and the environment.
- 3.44. In line with Core Strategy Policy R5.4 development will be expected to contribute on an appropriate scale to the provision of the green infrastructure network.
- 3.45. The Trafford Forest Plan has been prepared to guide the implementation of GI in the Borough. It maps the key green infrastructure resources and tree cover and identifies through its assessments where green infrastructure can make the greatest contribution to improving health, biodiversity, quality of place and climate change needs in the Borough. The Plan is a living document updated as new opportunities are identified.
- 3.46. Specific green infrastructure is associated with the development itself, its impact on the surrounding environment and the measures that can be taken to mitigate specific issues in that area. For example effects of urban heat, air quality, local surface water management needs and areas of poor environmental quality.
- 3.47. Provision will usually be required by all development and will be in the form of on-site enhancements such as tree planting, to the guide standards set out in **table 3.3**, or in line with the opportunities identified on The Trafford GI Plan. The GI scheme will vary on a site by site basis and will directly mitigate the impact of the development. In exceptional circumstances where it is not possible to implement a GI scheme on site, a contribution may be secured through the use of a S106 legal agreement to implement a scheme close to the development to make the development acceptable in planning terms.
- 3.48. More strategic opportunities for new GI and semi natural greenspace will be identified through the preparation of the Land Allocations Plan, but these will be funded by CIL.
- 3.49. Trees have been taken as a basis and guide for the appropriate provision for GI due to their multi functionality and the multiple benefits they bring beyond simply improving an area's general appearance. Measures such as green roofs, green walls, hedging or other habitats may be more relevant in particular areas and reference should be made to Biodiversity Action Plans to guide decisions.
- 3.50. Requirements may vary depending on the circumstances of particular developments. A development proposal may fulfil specific GI requirements in its provision of other open space requirements. For example, a green roof or sustainable drainage system designed in a particular way to provide local open space could fulfil part or all of the requirements under specific and spatial GI also.
- 3.51. These specific green infrastructure facilities planned as part of a development should be submitted as part of the planning application with a statement explaining their GI contribution to allow assessment of the suitability of the scheme to meet the GI needs of the development.

Trafford Council

- 3.52. Where a specific GI scheme is not proposed or identified, the amount of planting likely to be sought for typical developments to provide for site specific GI needs is set out in table 3.3. Any planting required will be of species appropriate to the location surrounding the development.
- 3.53. Applicants are advised to discuss with the Council the details of their proposed planting scheme at an early stage in the development process. Trees planted are in addition to requirements covering replacement planting as a result of trees felled on the site but could be part of a landscaping scheme. The willingness of applicants to plant trees will not however be a factor that would lead in itself to permission being granted. Trees would normally be planted on site and required only to mitigate site specific requirements of the development.

Development Type	Use Class	Number of trees
Residential apartments	C3	1 per unit
Residential housing	C3	3 per unit
Industry and warehousing	B2 & B8	1 per 80sqm GIA
Retail	A1, A2, A3, A4, A5	1 per 50sqm GIA
Offices	B1	1 per 30sqm GIA
Hotels, other residential, leisure and community facilities	C1, C2, C2A, C4, D1, D2	1 per 30sqm GIA
<p>However the provision of alternative GI treatments could be provided in lieu of, or in combination with, tree provision as follows:</p> <ul style="list-style-type: none"> • 5m of preferably native species hedge, per dwelling/2 apartments • 25m of preferably native species hedge per 2000m² of employment building • Green roof/ green wall provided at 1/10th of the area of the building footprint • 100m² of wildflower meadow per dwelling • Additional biodiversity or landscaping elements to a SUDS scheme • 50m² of woodland/orchard per dwelling • 10m² of food growing space per dwelling 		

Table 3.3: Guide to levels of tree planting and GI treatments for Specific Green Infrastructure

Spatial Green Infrastructure

- 3.54. People's quality of life is very much influenced by access to a range of green spaces and experiences. Therefore protecting and enhancing open spaces for current and future generations to enjoy is essential. National and local planning policy promotes the environmental, social and economic benefits to be gained from good quality diverse and accessible open space and recreational facilities. These green and blue

spaces represent the green infrastructure components that contribute to the character, image and effective functioning of places and are valued by communities.

- 3.55. The Council's Green and Open Spaces: An Assessment of Need June 2005 (updated June 2009) identified that the available open space provision across the Borough was sufficient, but when compared by Ward, many were found to be deficient in open space. The assessment also identified that many of the open spaces were poor in quality and not fit for purpose.
- 3.56. The Trafford Greenspace Strategy 2010 provides a framework for the improvement of Council owned and managed greenspace assets. The approach has established a greenspace hierarchy on an area specific basis, along with associated targets for quality and accessibility in relation to the different types of greenspace and facilities identified in the typology. These areas have been mapped, local standards set and gaps in quantitative and qualitative provision identified.
- 3.57. Standards have been calculated based on up to date audits of provision and take into account quantity, quality and accessibility where possible. In addition, where possible, standards take account of local needs. However, nationally recognised standards have been used to guide Trafford's local standards, particularly in terms of accessibility. Core Strategy Policy R5.3 sets out the detailed standards and development requirements.
- 3.58. Spatial green infrastructure is the open and natural green space functions of GI associated with the needs of residents of the development. Cumulative impacts arising from smaller development will be addressed through the use of CIL funds. Improvements required to local open space, semi natural green space, children's play equipment and outdoor sports facilities to address these impacts will be named on the CIL Regulation 123 list, which describes what type of infrastructure projects CIL funds will be spent on.

Local Open Space (LOS)

- 3.59. This is the umbrella term covering open space provision in the form of country/town parks, neighbourhood parks, local parks and open spaces with purpose built features such as footpaths, lighting, children's play, youth facilities and informal sports provision.
- 3.60. The open space needs of new development are calculated using the standards in Core Strategy Policy R5.3. They are based on hectares of space per 1000 population. The residential capacity of housing units is based on the 2011 Census data and should be calculated using **table 3.4**.

Dwelling size	Capacity
1 bedroom	1.3 persons
2 bedrooms	1.8 persons
3 bedrooms	2.5 persons
4 bedrooms	3.1 persons
5 bedrooms or more	3.5 persons

Table 3.4: Residential capacity (source 2011 Census)

- 3.61. Large residential developments of approximately 100 units, or that provide homes for 300 people or more, will need to provide new open space as part of the site design. It is the Council's long-term aim that all children in the Borough should have reasonable access to different types of play spaces for recreational purposes.
- 3.62. The children's play space standard is set out in Core Strategy Policy R5 and is based on a detailed assessment of adequate levels of provision in the Borough, and upon guidance given in the National Playing Fields Association 'Six Acre Standard' (Minimum Standards for Children's Use). Further guidance on designing good quality play provision can be found in the Fields in Trust "Planning and Design for Outdoor Sports" document.
- 3.63. The three tiered structure for children's informal recreation and equipped play specifies the location, minimum land area and style of provision required to provide for a range of age groups, appropriate to their needs. Guidelines for LAPs (Local Area for Play), LEAPs (Local Equipped Area for Play) and NEAPs (Neighbourhood Equipped Area for Play) are set out in **table 3.5**.
- 3.64. The provision of an area surrounding the play equipment for more informal play will be accounted for within the LOS standard. This allows for circumstances where LOS will be required but play space would not be, for example for 1 bedroom dwellings.
- 3.65. As a guide to provision, Town and Neighbourhood Parks will be expected to feature a Neighbourhood Equipped Area for Play (NEAP) capable of scoring 'excellent' in the Royal Society for the Prevention of Accidents (ROSPA) play value assessment, undertaken annually on the council's behalf. Depending on local site constraints and community support, this standard of provision will include a Multi-Use Games Area (MUGA) and skate/BMX facility.
- 3.66. Similarly, Local Parks will be expected to accommodate a Locally Equipped Play Area (LEAP) standard facility scoring 'excellent' at annual inspection, whilst stand-alone play spaces and larger open spaces containing children's play space will be expected to meet a standard appropriate for their size and location. This judgement will take into account factors such as the relationship to other parks (with play) provision in the vicinity, as in certain parts of the borough, large formal parks are more scarce, leading to greater deficiency in access to high quality play facilities. The specific requirements of play facility to meet the needs of different numbers of residents for a LEAP and NEAP play facility are available on the Fields in Trust (FIT) website: <http://www.fieldsintrust.org/>.

Facility	Time	Walking distance	Straight Line Distance	Minimum Size		Character	Population provided for
				Activity Zone	Buffer Zone (including activity zone)		
LAP	1 Min	100m	60m	100m ²	400m ² (0.04ha)	Informal recreation, landscaping, fencing, seating, and may include a low key games area for toddlers	50
LEAP	5 Min	400m	240m	400m ²	3,600m ² (0.36ha)	Informal recreation, landscaping, fencing, seating and junior play area	450
NEAP	15 Min	1,000m	600m	1,000 m ²	8,500m ² (0.85ha)	Informal recreation, landscaping, fencing, seating, play areas for all age groups, wheeled play and ball game opportunities	1062

Table 3.5: Minimum Standards for Children's Use (Source - National Playing Fields Association, 'Six Acre Standard')

3.67. In exceptional circumstances, it may be more appropriate to pay a commuted sum towards the provision of open space. For example, where a large development is phased so the provision can be delivered as part of a later phase, or to provide the required provision on land outside of the boundary of the planning application, but close to the development. A calculation will be made to assess the financial contribution as set out in **table 3.6**.

Type	Quantity Cost	Unit
Local open space	£161.59*	Per person
Provision for children/young people	£378.95*	Per person
*Includes estimated maintenance costs at 30%		

Table 3.6: Commuted costs of providing children's equipped play space

Semi Natural Green Space

- 3.68. This includes areas of countryside close to residential areas, urban fringe, linear countryside routes, woodlands and nature reserves, the distribution of which has been assessed in line with Natural England's Accessible Natural Greenspace Standard.
- 3.69. Semi-natural greenspace offers a more natural recreational experience through contact with nature, whilst providing a greater range of ecological functions than more formal open space. Semi natural green space should be considered especially important where opportunity exists to enhance existing sites, provide improved habitat in identified biodiversity zones or to improve linkage between habitat patches. The Greater Manchester Ecological Framework will be especially important to consider in identifying opportunities for semi natural green space.
- 3.70. Very large developments, in the region of 300 units and above, or those developments that impact on the existing strategic green infrastructure network will be required to provide mitigation measures for semi-natural greenspace.

Sports Facilities

- 3.71. Sports facilities are essential to the health and well-being of local communities. This includes the provision of outdoor and indoor sports facilities, including pitches for football, cricket and rugby, tennis and netball courts, bowling greens and multi-use game areas, indoor sports halls, health facilities and swimming pools.
- 3.72. The Trafford Outdoor Sports Facilities Study (March 2009) identified that the majority of areas within the Borough had good access to facilities, except for tennis. Community provision for tennis was found to be of poor quality and in some areas such as Old Trafford lacking in provision, although on the whole provision was generally more limited in the south of the Borough. Football pitches and changing facilities were also highlighted for quality issues requiring improvements in terms of standards. The study also identified that there was an increase in demand for pitches by girls team, which could be addressed through greater use of school sites.
- 3.73. The Trafford Leisure Management Key Issues Report (March 2009) identified slight deficiencies in the pay and play provision of swimming pools and health and fitness facilities. Areas in the north and west of the Borough were found to have poor access to public swimming facilities and that the public swimming pools at Stretford, Sale and Altrincham Leisure Centres are in need of refurbishment. Improvements to swimming pools and health and fitness facilities will be made through CIL.
- 3.74. Provision includes accessible facilities for a variety of formal and informal sports, from traditional grass football, hockey and rugby pitches to artificial turf pitches for these sports as well as tennis, bowling and cricket. Provision will include not only the layout of grass, all weather pitches and courts, but also changing facilities and ancillary features such as car parking, lighting and toilets.

Trafford Council

- 3.75. Very large developments in the region of over 300 units will need to provide on-site facilities, in line with standards in Core Strategy Policy R5 and the deficiencies and needs identified as part of the Outdoor Sports Assessment of Need Study, and/or in line with the deficiencies and needs identified as part of any future needs assessments. The cumulative impact of smaller schemes will be addressed through CIL funded projects.
- 3.76. In exceptional circumstances, it may be more appropriate to pay a commuted sum towards the provision of outdoor sports facilities. For example, where large development is phased so the provision can be delivered as part of a later phase, or where appropriate to provide the required provision on land outside of the boundary for planning permission, but close to the development. A calculation will be made to assess the financial contribution as set out in **table 3.7**.

Type	Quantity Cost	Unit
Outdoor sports	£520*	Per person
*Includes estimated maintenance costs at 30%		

Table 3.7: Commuted costs of providing outdoor sports facilities

- 3.77. Where provision is made for a new facility, for example new open space, play area or outdoor sports facility, provision for the long term maintenance of the site must be provided by the developer either by way of handing the site over to a third party, by ensuring a maintenance contract with a management company, or where an acceptable commuted sum is agreed with the Council.

Flood Defence Infrastructure

- 3.78. Extensive areas within the Borough have been identified in the Manchester, Salford and Trafford Level 2/Hybrid Strategic Flood Risk Assessment (SFRA) as being at risk of flooding. This flood risk arises from rivers, canals, sewers, surface water and groundwater.
- 3.79. Policy L5 of the Core Strategy requires developers to demonstrate that account has been taken of flood risk from all sources, as identified in the SFRA, and that the proposed development incorporates mitigation and management measures appropriate to the use and location. Policy L5 also requires developers to improve water efficiency and reduce surface water run-off through the use of a range of Sustainable Drainage Systems (SUDs) appropriate to the various parts of the Borough.
- 3.80. The use of SUDs and 'soft' flood defences, such as green, open spaces where waters can be stored in times of flood, will often be the preferred means of managing flood risk in relation to new development and will be required if assessed to be needed for site specific measures. However, the use of 'hard' flood defences, such as embankments, walls, weirs, sluices and pumping stations, may also be required in certain circumstances. More strategic flood defences that benefit a wider area than

Trafford Council

the immediate area around a development will be funded by CIL. A comprehensive flood defence strategy might use a combination of such measures, making use of both natural processes and engineering solutions, and bring wider benefits to the local community in terms of habitat creation and provision of recreational opportunities.

- 3.81. Source control should be considered first. There may be opportunities to deliver SUDs through integrated solutions for a collection of sites. The future ownership and maintenance of such SUDs should be discussed at the planning application stage with the relevant sections of the local authority (including Planning, Highways and Drainage), United Utilities and the Environment Agency. If this approach is not undertaken, then the developer must demonstrate no adverse impact will be caused by the development elsewhere and why it is not feasible.
- 3.82. The Council will encourage partnership working with developers, local communities and the Environment Agency on wider flood management initiatives within the Borough, including any relevant projects identified within the Local Flood Risk Management Strategy.

Other Planning Obligations

- 3.83. Trafford Council may also require the following types of provision to support development in a sustainable manner; this list is not exhaustive.
- Healthcare - provision of facilities within the vicinity of strategic locations.
 - Community facilities – for large scale development that will result in an increased pressure on existing or create a demand for new community facilities, provision may be sought, taking into account neighbourhood and locality evidence.
 - Allotments and cemeteries - provision of additional allotment grounds and burial land within or close to the site may be required for large scale housing developments where there is an identified need within the locality. More detail is included in the emerging Land Allocations Plan.
 - Public realm and public art - provision of public art, artistic features and enhancements to public spaces will be sought as an integral element to any development with a significant impact on its physical environment and setting.
 - Skills development and jobs - for large-scale developments, the Council will seek to ensure that employment and training/skills development opportunities (including apprenticeships) are provided to local people. Planning conditions may also be used to require the preparation of workplace skills strategies for new businesses.

4. MANAGEMENT AND MONITORING

Implementation

- 4.1. Some developers may attempt to avoid a planning obligation by reducing the scale of development to avoid a provision threshold. If it is considered that a proposed development is not maximising the use of a site, the Council reserves the right to seek obligations from the developer that reflect the best or full use of the land. In addition, if a potentially large development site has been divided into smaller applications, the Council may, for the purposes of a planning obligation, require that all the smaller applications be treated as part of the whole development proposal, subject to an appropriate timescale being established for bringing forward subsequent phases of development where relevant.
- 4.2. The long term maintenance of items of infrastructure must be provided by the developer either by way of handing the site over to a third party, by ensuring a maintenance contract with a management company, or where an acceptable commuted sum is agreed with the Council.
- 4.3. Planning decisions may be appealed, or the Secretary of State may call-in an application for determination. In such cases, the Secretary of State/Planning Inspectorate will determine the necessary planning obligations.

Viability

- 4.4. The CIL Regulations 2010 (as amended) allow charging authorities to set discretionary relief for exceptional circumstances; the Council has adopted an Exceptional Circumstances Policy in order to offer relief from CIL charges in a limited set of circumstances, as outlined in the policy. Before granting relief, the charging authority will need to be satisfied that the relief would not constitute notifiable State Aid. Relief for exceptional circumstances must be claimed in accordance with Regulation 57, and is a separate process from that described below.
- 4.5. The viability of planning obligations for the delivery of infrastructure which is not delivered through CIL, such as affordable housing will be negotiated between the Council and developers on a case by case basis.
- 4.6. The applicant should let the Council know at the earliest opportunity if they plan to raise the issue of viability. This should be at pre-application stage, as it will be expected that the developer has already incorporated the impact of planning obligations within their development costs. Early engagement provides time to scope out the relevant viability issues, agree an analytical approach, and explore the delivery mechanisms that will be used.
- 4.7. Viability information must be received prior to validation of the planning application, and may not be accepted during the course of considering a planning application. The viability information should include the following:

- **A financial viability appraisal setting out how they are not able to meet the full policy requirements.**
This should utilise a recognised form of development viability appraisal and include: a quantity surveyors cost assessment, market evidence of sales rate and site value, development and sales programme, details of any exceptional development costs, and likely CIL charge showing payments required in accordance with the installments policy.
- **A statement outlining the benefits of not meeting the policy requirements.**
- **Full details of deferred timing or phasing for the delivery of planning obligations.**

- 4.8. The Council may seek independent advice to review the financial appraisal that has been submitted, the cost of which will be met by the applicant.
- 4.9. The Council will consider potential benefits of a scheme by weighing these against the resulting harm from the potential under-provision or delayed provision of infrastructure. Based on independent financial viability findings and other evidence, planning obligations may be deferred, phased, or discounted, where this would not make the development unacceptable in planning terms.
- 4.10. The deferred timing or phasing of planning obligations may be considered as an appropriate option rather than reducing the quantum of contributions, depending on the viability evidence and nature of the development proposal.
- 4.11. Reductions in infrastructure provision will be the minimum necessary to make the scheme financially viable. The Council will need to make a judgement as to whether a development would still be acceptable in planning terms with a reduced level of infrastructure provision. Where discounted provision is agreed, this should be distributed between the identified requirements, depending on individual factors affecting the site and availability of mainstream funding and the Council's priorities.
- 4.12. Where a viability appraisal has been accepted by the Council, the S106 legal agreement may include provisions for overage and review mechanisms.
- 4.13. Developers can request that the Council reviews the financial viability of a development following the grant of planning permission. An example of which is where developments are expected to be phased over a number of years and circumstances may have changed since planning permission was granted.

Monitoring

- 4.14. The Council will monitor planning obligations to ensure compliance. Legal action will normally be taken where planning obligations are not complied with. Delivery of obligations will be required in line with triggers in the legal agreements.
- 4.15. Legal agreements will specify timeframes for planning obligations to be delivered on or off site or for the spending of monies secured through planning obligations. If money has not been spent by the end of the relevant contribution period, the Council will make provision to refund it on request. It is unreasonable for the Council to hold

Trafford Council

money in perpetuity, but for some projects a longer timeframe may be appropriate as the growth proposed in the Core Strategy covers the period to 2026.

- 4.16. The Council will publish information on an annual basis on the number of planning obligations secured and also CIL monies received and how they have been spent. This will be available to view on the Council's website.
- 4.17. A reasonable management fee of up to 5% of the contributions received will be used by the Council towards the collection, allocation, spending and monitoring of planning obligations.
- 4.18. Legal costs for securing planning obligations will continue to be sought in addition to this inclusive management fee. These legal costs will normally be payable on completion of the agreement, or if the agreement is not completed, within 28 days from the date of invoice.

Appendix 1: Key documents

The following sources of information are referenced within this SPD.

- Community Infrastructure Regulations 2010 (as amended), CLG
- Biodiversity Action Plans
- Fields in Trust “6 Acre Standard”, <http://www.fieldsintrust.org/>
- Green and Open Spaces: An Assessment of Need June 2005 (updated June 2009)
- Manchester, Salford and Trafford Level 2/Hybrid Strategic Flood Risk Assessment (SFRA)
- Strategic Housing Market Assessment (SHMA) December 2008
- SHMA Update Report May 2010
- Trafford CIL Exceptional Circumstances Policy, Trafford Council
- Trafford CIL Regulation 123 list, Trafford Council
- Trafford CIL Instalments Policy, Trafford Council
- Trafford Economic Viability Study (TEVS) May 2009, and the 2011 update.
- The Trafford Forest Plan
- The Trafford GI Plan
- Trafford Greenspace Strategy 2010
- Trafford Leisure Management Key Issues Report March 2009
- Trafford Outdoor Sports Facilities Study March 2009
- Transport for Sustainable Communities: A guide for Developers, Transport for Greater Manchester (TfGM) 2013

Appendix 2: Viability Appraisal Guidance

This page provides a basic guide to the types of information the council needs in order to evaluate the economic viability of a development. It is not intended to be a definitive guide to conducting a development appraisal, nor is it an exhaustive list of the information that may be requested for a specific scheme. Applicants are advised to seek professional advice from a Chartered Surveyor, details of which can be gained from the Royal Institute of Chartered Surveyors (RICS).

The most common way to conduct an appraisal is to undertake a 'residual valuation', where the costs of the development are subtracted from the estimated value of the development, including the value of the site, to leave a residual profit for the developer.

PROFIT = GROSS DEVELOPMENT VALUE – ALL DEVELOPMENT COSTS (INCLUDING SITE VALUE)

For both residential and commercial developments, a developer can expect to receive a reasonable financial return from the project in order for the development to be generally accepted as viable. This return will vary depending on the nature of the scheme and factors such as market conditions, location and demand. Typical information required to support a development appraisal is shown in the table below. Without this information the council is unlikely to be able to conduct an appraisal.

	Information	Justification / Details
Gross Development Value	How much the development is expected to sell for	Provide sales/rental estimates from valuers or estate agents, floor space and number of units.
Development Costs	Site acquisition costs	The land value, or for conversions, the use value of existing building
	Build costs	Expressed as an overall cost, or cost per square metre.
	Professional fees	Overall cost, or as a % of build costs
	Other costs	Provide details of any other costs, and evidence to support.
	Contingency	Overall cost, or as a % of build costs
	Finance costs	Overall cost, or as a % of build costs
	Sales costs	Overall cost, or as a % of sales value
	Planning obligations	What the council has asked the developer to contribute.
Profit	Financial return to the developer from the project.	Total figure in pounds (£), also shown as a percentage of gross development value or cost.

Appendix 3: Affordable Housing Market Zones

