

25. Planning Obligations

PO1 – Planning obligations

PO1.1 Development that would generate specific adverse impacts that cannot be mitigated against through the use of planning conditions or that would result in a material increase in the need for or the demand upon infrastructure, services, facilities and/or maintenance, will only be granted planning permission subject to appropriate planning obligations being put in place. These planning obligations must ensure that adequate mitigation measures are put in place that would make the development sustainable and acceptable in planning terms.

PO1.2 Planning obligations will only constitute a reason for granting planning permission if they meet all of the three statutory tests set out in the Community Infrastructure Levy Regulations 2010, 2019 (as amended):

- a) The obligation is necessary to make the development acceptable in planning terms;
- b) The obligation is directly related to the development; and
- c) The obligation is fairly and reasonable related in scope and kind to the development.

PO1.3 Planning obligations will be sought for all new development (including mezzanines), redevelopment and changes of use where appropriate. The nature and level of onsite or offsite provision or financial contributions will be established on a case by case basis, relating to the type and size of the development proposal and to the adverse impacts that would be caused as result of the development. A Planning Obligations SPD will be used to determine the level of planning obligations required along with any appropriate evidence base documents or assessments.

Infrastructure types

PO1.4 Planning obligations may be sought for the following types of infrastructure either through new or improved existing provision and facilities or through financial contributions, however, this list is not exhaustive:

- a) Affordable housing;
- b) Highways infrastructure;
- c) Sustainable transport and active travel schemes;
- d) Measures to reduce the impact of climate change;
- e) Measures that contribute to biodiversity net gain;
- f) Specific green infrastructure, such as tree planting
- g) Flood resilience and avoidance measures;
- h) Spatial green infrastructure, such as parks play areas and outdoor sports facilities;
- i) Indoor sports facilities, including swimming pools and gyms;
- j) Education facilities;
- k) Health facilities;
- l) Community facilities;
- m) The historic environment;
- n) Utilities and Digital Infrastructure;
- o) Allotments and cemeteries; and
- p) Public art.

PO1.5 Planning obligations (including those secured towards affordable housing) will principally be delivered through Section 106 Agreements. There will be a presumption in favour of the on-site provision of benefits sought by planning obligations and the Council will normally expect the developer to carry out the works. However, where it is not practicable or desirable to deliver these benefits on-site, or where a development is required to contribute towards strategic infrastructure or facilities, a financial contribution will be sought towards the provision of these benefits offsite.

Long term maintenance

PO1.6 Contributions towards the maintenance of new facilities or of improvements to existing facilities will be identified within the Planning Obligations SPD for some types of infrastructure (e.g. the cost for Specific Green Infrastructure includes a provision for the care and maintenance of new trees). However, the Council or other organisations have a statutory responsibility to maintain some types of infrastructure, such as adopted highways, and so contributions towards the maintenance of these cannot be collected. For all other infrastructure, where the developer and the Council agree to transfer maintenance and management liabilities to the Council or other organisations, a commuted maintenance sum will be required as a Negotiated Element of a Section 106 agreement.

Reduced planning obligations

PO1.7 Development will be permitted with reduced planning obligations compared to policy requirements only where:

- a) The applicant has submitted a viability appraisal that reflects the recommended approach in national policy guidance and provides a clear explanation for any assumptions that deviate from those used in the Council's latest strategic viability assessment (or the equivalent document in place at the time planning permission is granted);**
- b) The value of the planning obligations has been maximised having regard to likely viability;**
- c) A clawback mechanism has been incorporated into a legal agreement, where appropriate, to ensure that additional mitigation is provided in final development viability is better than anticipated in the viability assessment; and**
- d) The benefits of the development outweigh the lack of full mitigation for its impacts, having regard to other material considerations.**

PO1.8 The production of viability appraisals and evidence will be wholly the applicant's responsibility. However, it is the role of the Council to assess the appraisals and evidence produced by the applicant and form a conclusion on the financial viability of a scheme and whether on that basis the scheme can provide a policy compliant level of planning obligations.

Community Infrastructure Levy

PO1.9 The Council has a CIL Charging Schedule which was adopted on 7 July 2014. The Council will continue to apply the CIL charging schedule or its replacement at the time that permission is first granted in accordance with the CIL Regulations 2010, 2019 (as amended). Planning obligations will still be required for CIL liable developments where they are required in order to make a development acceptable in accordance with the CIL Regulations 2010, 2019 (as amended).

Monitoring and management of planning obligations and CIL

PO1.10 The monitoring and management of planning obligations will be undertaken regularly to ensure that all obligations entered into are complied with on the part of the both the developer and the Council, and that all financial contributions are spent in accordance with the terms of the S106 Agreement. The Council will produce an Annual Infrastructure Statement in accordance with the CIL Regulations 2010, 2019 (as amended) or any other such monitoring statement, to identify the Council's CIL and Section 106 receipts and spending and to identify priorities for the use of planning obligations and CIL funds.

Justification

Viability work undertaken as part of the Local Plan will determine the types of infrastructure contributions will be sought for and what the value of these contributions will be.

At the heart of the NPPF (February 2019) is a presumption in favour of sustainable development. To ensure sustainable development, it is critical to the delivery of the Local Plan that the necessary infrastructure is provided to support the level of growth identified as guided by an Infrastructure Development Plan (IDP) as well as any additional site specific requirements to support development proposals.

The provision of well-planned infrastructure which takes account of current and future needs is crucial to the well-being of communities and to economic growth. The Council's Infrastructure Development Plan will identify the social, economic and environmental infrastructure required to support the development and growth set out in the Local Plan.

Planning obligations

In accordance with the NPPF (February 2019) planning obligations will be sought in the form of onsite or offsite infrastructure provision or financial contributions where necessary to in order to make otherwise unacceptable development acceptable. Planning obligations will only be used where it is not possible to address unacceptable impacts through a planning condition and they will be sought in accordance with Regulation 122 of the CIL Regulations (2010, 2019) as amended.



Planning obligations will be determined on a case by case basis and will be informed by a 'Planning Obligations SPD' or its replacement at the time that planning permission is first granted. Further details of planning obligations will be detailed through the relevant policies of the Local Plan.

The type and value of planning obligations required will be determined on a case by case basis in accordance with the three statutory tests of the CIL Regulations 2010, 2019 (as amended) and the Council's SPD1 'Planning Obligations' or its replacement at the time that planning permission is first granted.

CIL

The Council has a CIL Charging Schedule which came into effect on 7 July 2014. Revisions to the CIL Regulations made in September 2019 mean that, where they are necessary in order to enable a development to be permitted and where they are in accordance with Regulation 122 of the CIL Regulations 2010, 2019 (as amended), the Council will ask for planning obligations for infrastructure types that will also be funded through CIL contributions from the same development.

CIL will be monitored regularly and CIL funds, priorities and spending will be reported through the Council's Annual Infrastructure Statement.

Viability

All planning applications where a developer considers that, on viability grounds, a reduced level of planning obligations should be provided in respect of a development will be required to provide a viability assessment.

Viability assessment will be made publically available in full on the Council's website alongside other documents that form part of the planning submission. Evidenced justification for specific inputs and outputs underpinning the viability assessment will be asked for where additional clarity is required.

A payment will be required to cover the Council's costs in assessing the viability information, including appointing a suitably qualified professional to analyse and interrogate the contents of the viability assessment and any supporting documentation. If an unusual level of input is required into the assessment of viability, further payment may need to be made.

Details of the viability assessment requirements will be provided through the Council's Validation Checklist (adopted 20 November 2018) or its replacement at the time that a planning application is validated.

Q24. Do you agree with the draft Planning Obligations policy PO1? If not, please explain why (providing supporting evidence where appropriate).