

Planning Obligations

Supplementary Planning Document

September 2025



**Sunderland
City Council**

1. Introduction

Sunderland City Council ('the council') adopted its Core Strategy and Development Plan 2015-2033 (CSDP) in January 2020. This Plan is supported by an Infrastructure Delivery Plan, which provides details of the infrastructure that is necessary to enable growth. At the same time, the council undertook a comprehensive review of its approach to securing planning obligations, resulting in the adoption of the Planning Obligations Supplementary Planning Document (SPD) in June 2020.

In light of new legislative requirements, updated national and local policy and guidance across a range of subject matters, and as a result of reflection upon the effectiveness of the existing SPD, it was considered that a review and update of the SPD was necessary. This updated document ensures that the revised SPD provides up-to-date guidance and remains fit for purpose, thereby continuing to ensure an appropriate, fair and justified approach to planning obligations.

The council secures planning obligations from new development within the city via Section 106 of the Town and Country Planning Act 1990 (as amended). Developer contributions are sought in order to mitigate the impact of new development and to ensure the development is acceptable in planning terms. Planning obligations can be secured to support the delivery of a wide range of infrastructure, facilities and services, which are required to mitigate the impact of development. The details of the council's approach to securing such planning obligations is set out within this SPD.

This SPD specifically supplements policy ID2: Planning Obligations of the CSDP. In addition, it will provide further guidance

in relation to the following policies within the CSDP:

- ID1: Delivering Infrastructure
- H2: Affordable homes
- VC5: Protection and delivery of community facilities and local services
- NE1: Green and blue infrastructure
- NE2: Biodiversity and geodiversity
- NE4: Greenspace
- SP10: Connectivity and transport

As part of the preparation of this document, a Scoping Report covering the relevant matters to be reviewed was consulted on between 6 January 2025 and 3 February 2025. Responses to this consultation have been incorporated into this document, where appropriate.

Following this, a further six-week consultation was undertaken on the draft SPD during spring 2025. Responses to this have been incorporated into this final document, where appropriate.

This SPD will be kept under regular review and updated where necessary to reflect the most up-to-date policies and guidance, to assist in the delivery of the policies contained within the development plan. The standards set out in this document will be applied to all applications valid on or after the date of its adoption.



2. Planning obligations and the purpose of this document

Introduction

When assessing planning applications for new development the council must take into account a wide range of issues to determine the acceptability of a proposed development. One of these considerations is whether the development would generate a need for new or improved infrastructure, services or facilities, without which the development would be unacceptable in planning terms.

The use of planning obligations can provide assurance that such needs are met to ensure new development is acceptable. These may be delivered directly by the developer or by way of a financial contribution to the council, who will arrange for the necessary investment to be made.

Legislative context

Section 106 of the Town and Country Planning Act 1990 (as amended) provides the mechanism for planning obligations to be secured from new development. In addition, the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) set out additional legislation on the use of planning obligations.

Regulation 122 of the CIL Regulations defines that for a planning obligation to be taken into consideration when granting planning permission, it must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and

- Fairly and reasonably related in scale and kind to the development.

National planning policy context

The National Planning Policy Framework (NPPF) December 2024 identifies that Local Planning Authorities (LPA) should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations (paragraph 56). It highlights that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. NPPF paragraph 58 restates the statutory three tests for planning obligations which are defined in the CIL Regulations.

In relation to viability, NPPF paragraph 59 states that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable. Paragraph 59 further states that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The LPA as the decision maker, can decide on evaluation of all circumstances and evidence as to how much weight should be given to a viability assessment. All viability assessments should reflect the recommended approach in national planning practice guidance, including standardised inputs, and should be made publicly available.

| Mechanism | Details | Example uses |
|---------------------------|--|--|
| Planning Conditions | To make otherwise unacceptable development permissible - these may restrict the use of development, or require specific approval via a discharge of conditions prior to commencement | Noise and odours Landscaping Materials Working hours Travel plans |
| S106 Planning Obligations | To make otherwise unacceptable development permissible by imposing controls that cannot be secured by planning conditions. These may be financial or non-financial and provided on or off-site | Provision of affordable housing Address site specific impacts Deliver essential infrastructure |
| S278 Highways Agreements | Agreements to provide for alterations to the adopted highway to be funded by developers | Highway improvements |

Figure 1: Summary of Planning Mechanisms used for mitigation against the impacts of development

National Planning Practice Guidance (PPG) states that plans should be informed by evidence of infrastructure and affordable housing need. Viability assessments should not compromise sustainable development but should be used to ensure policies are realistic and the total cumulative cost of all relevant policies will not undermine deliverability of the plan.

Local planning policy context

The council’s current adopted statutory development plan is:

- Core Strategy and Development Plan 2015-2033 (Adopted January 2020 and reviewed December 2024);
- International Advanced Manufacturing Park (IAMP) Area Action Plan (AAP) 2017-2032 (Adopted November 2017 and reviewed October 2022); and
- Saved policies of the Unitary Development Plan (Adopted 1998) and Unitary Development Plan Alteration No.2 (2007).

The Core Strategy and Development Plan (CSDP) sets out an overarching strategy, strategic policies and strategic allocations and designations for the

future change and growth of Sunderland. The Plan also includes local policies for Development Management purposes. The Plan covers the period 2015 – 2033.

In accordance with the NPPF and PPG a review of the CSDP was undertaken in December 2024. This was required to determine whether the policies of the plan remain effective, fit for purpose and consistent with national policy. The review concluded that the policies within the plan continue to be in general conformity with the NPPF and PPG, remain broadly effective in delivering the overall CSDP’s vision and objectives and form an appropriate basis on which to determine planning applications. Therefore, a review of the plan was not required. The council will commence work on the preparation of a new local plan upon introduction of the new plan-making system, however, work will commence on updating the evidence base to inform the new plan during 2025.

This document specifically supplements Policy ID2: Planning Obligations within the CSDP and as such provides further guidance on when planning obligations will be required and the nature of these requirements.

The CSDP recognises that in certain circumstances, particularly where planning conditions cannot make a

development acceptable, planning obligations are necessary to mitigate and/or compensate the impact of a development which, without that mitigation, would render the development unacceptable in planning terms. As such, Policy ID2 sets out the council's approach to planning obligations and specifies that:

1. Section 106 planning obligations will be sought to facilitate the delivery of:
 - i. affordable housing; and
 - ii. local improvements to mitigate the direct or cumulative impact of development where evidenced and/or additional facilities and requirements made necessary by the development, in accordance with the Planning Obligations SPD.

Where it is not possible to deliver the policy requirements in full, a viability assessment should be submitted in line with the requirements of the PPG.

The use of planning obligations will be critical to the delivery of Strategic Priority 13 of the CSDP which identifies the need to ensure that the city has the infrastructure in place to support its future growth and prosperity. In order to meet this need the council will seek to secure a fair and reasonable developer contribution without adversely affecting the ability for new developments to take place in the city.

Consideration will be given to site, area or topic specific SPDs or masterplans including their own site-specific planning obligations and infrastructure requirements.

One such area specific SPD is the South Sunderland Growth Area (SSGA), which is a strategic new growth area for housing within the city. Planning applications submitted for sites within the SSGA will be considered separately to the standards within this Planning Obligations SPD. The SSGA SPD and Infrastructure Delivery Study (IDS)

were adopted in June 2020 and will be used in its place. These documents provide specific guidance for planning obligations and infrastructure requirements in this strategic growth area.

Any future SPDs and masterplans will be publicised on the council's website. Pre-application discussions will highlight where, when and in what circumstances it will be necessary to deviate from the requirements set out within this Planning Obligations SPD.



3. Summary of requirements

NPPF paragraph 35 indicates that plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.

The legislative requirements which govern the use of planning obligations mean that each obligation needs to be considered individually having regard to site-specific circumstances of a development proposal.

Notwithstanding the above, it is possible to identify common issues that are likely to arise from the majority of development schemes and for which planning obligations may be required to mitigate the impacts.

The council's approach to securing planning obligations is therefore based around the following:

- **Affordable Housing** - The council needs to secure an appropriate level of affordable housing to meet identified local needs. As such, developers will need to provide an element of affordable housing within new housing developments.
- **Education** - In recent years there has been an upturn in demand for local school places, partially as a result of new housing developments within the area. Notwithstanding this, the capital monies available to accommodate increased demand for school places is very limited and therefore developer contributions are sought to ensure the required schools places generated as a result of new housing developments are provided.
- **Open Space** - The provision of open/green space is an important factor in the health and well-being of communities, providing a natural environment and community function that promotes physical activity and improves mental wellbeing. As such, residential developments are expected to provide an agreed amount of useable greenspace on-site unless a financial contribution for the maintenance/upgrading to neighbouring existing greenspace is considered to be more appropriate. Additionally, in the event a development is proposed on an area of green space and considered acceptable, a developer contribution may be sought to provide new or enhance existing areas of green space.
- **Children's Equipped Play Space** - Having local access to quality fixed play provision is an important part of a child's life and as such, when new housing is proposed, developer contributions will be sought towards the provision, improvement and future maintenance of these facilities.
- **Ecology** - To minimise the impact of new development on biodiversity and geodiversity, the council aims to promote the preservation, restoration and re-creation of priority habitats, ecology networks and the protection and recovery of priority species populations. As such, developer contributions will be sought for on and off-site mitigation and enhancements related to a development and prevailing ecological and geographical factors. Habitat Regulations Assessment (HRA) is a statutory process requiring that any plan or project,

including development proposals, are assessed for their potential to adversely affect the integrity of internationally designated nature conservation sites and to identify any mitigation necessary to prevent adverse effects. The HRA for the CSDP identified a zone of influence of 7.2km within which new residential development could adversely affect the Northumbria Coast SPA and Ramsar and the Durham Coast SAC through increased recreational pressures. A strategic mitigation strategy has been prepared setting out how the council proposes to mitigate the impacts of increased recreational pressures from residential development.

- **Biodiversity Net Gain (BNG)** - BNG is a mandatory requirement for most developments to deliver a 10% increase in biodiversity value as a result of development. Biodiversity value is measured through the Statutory Biodiversity Metric for consistency. All off-site delivery and any on-site delivery that is significant in relation to the baseline biodiversity value will need to be secured for at least 30 years. Developer contributions will be sought to cover the cost for the council to monitor delivery and maintenance of agreed habitat creation and enhancement where the enforcement role lies with the council. Obligations may also be used to secure delivery of off-site habitat enhancements where these lie within Sunderland and on-site habitat enhancement where the use of a legal agreement is the most appropriate means of securing this.
- **Highways and Public Transport** - Most new developments will inevitably have some impact on the transport network around them. To accommodate impact and facilitate a move towards more sustainable modes of transport, improvements to infrastructure or existing public

transport services may be required which, depending on individual circumstances, may be provided by way of a developer contribution.

- **Sport and Recreation** - Sport and physical recreational facilities are vital to supporting healthy, active communities, and as such additional facilities may be needed as a result of a new residential development. Existing facilities will be safeguarded from development wherever possible. Where this is not possible, and it cannot be demonstrated that the existing facilities are surplus to demand, developer contributions will be sought for the creation of new or enhanced facilities to accommodate increased demand or compensate for their loss.
- **Other Site-Specific Requirements** - In some cases development may result in a need for other mitigating actions and these will be assessed on a case-by-case basis. Such requirements may relate to health, public realm improvements, public art provision and the protection of heritage assets.

The table below summarises when planning obligations will typically be sought, however there may be specific cases that vary for justifiable reasons.

Throughout this document reference is made to bed spaces when calculating contributions, in line with the guidance set out in Policy NE4 of the CSDP, bed spaces can be notionally equated with types of dwellings, as set out below:

- One bedroom dwelling - 2 bed spaces
- Two bedroom dwelling - 3 bed spaces
- Three bedroom dwelling - 4 bed spaces
- More than three bedrooms - 1 bed space per each additional bedroom

| Infrastructure Type | Residential | Student Accommodation | Non-residential |
|-------------------------------------|--|--|--------------------|
| Affordable Housing | 10 dwellings or 0.5 ha. or more | Not required | Not required |
| Education | Case by case basis | Not required | Not required |
| Equipped Play Space | 10 dwellings or more | Not required | Not required |
| Ecology | Case by case basis | Case by case basis | Case by case basis |
| Habitat Regulation Assessment (HRA) | All development within the zone of influence | All development within the zone of influence | Case by case basis |
| Biodiversity Net Gain | All unless exempt | All unless exempt | All unless exempt |
| Open Space (Amenity Greenspace) | 10 dwellings or more | 10 units or floorspace of more than 0.1ha. | 0.1ha. or more |
| Sport and Recreation | Case by case basis | Case by case basis | Case by case basis |
| Allotments | 10 dwellings or more | Not required | Not required |
| Highways | Case by case basis | Case by case basis | Case by case basis |
| Public Transport | Case by case basis | Case by case basis | Case by case basis |
| Other site-specific | Case by case basis | Case by case basis | Case by case basis |

Figure 2: Thresholds for contributions

Where a development is targeted at a specific demographic it may not be appropriate to request developer contributions for some or all infrastructure types. All developments will be assessed on a case-by-case basis in line with the guidance set out in this document.

All thresholds which apply to housing development relate to the net increase in the number of dwellings. Net increase in this context refers to the increase having regard to any loss of dwellings that may form part of a planning application.

The council will take into account the full extent of the site and area and neighbouring sites to ensure that sites are not developed in an incremental manner in order to remain below the defined thresholds for when planning obligations are required.

Applications for Outline Planning Permission

For applications for outline planning permission an appropriate formula will be included within the legal agreement which will be consistent with the guidance set out within this document and will be applied once the reserved matters application(s) have been received and the type and quantum of development are known.

Monitoring of Planning Obligations

For all Section 106 agreements, a monitoring fee which is proportionate and reflective of the monitoring and reporting required will be charged. This will be calculated based on the number and type of obligations, the

trigger points and duration for which monitoring is required. Further details of the monitoring fee(s) can be found in Appendix 3 of this document.

Viability

Where a developer considers that there are site-specific issues which mean that the cumulative impact of policy requirements and planning obligations would compromise development viability, the council may enter into negotiations with developers to agree a reduced contribution where appropriate. Detailed information in relation to viability can be found in Chapter 14 and Appendix 2 of this document.

4. Affordable Housing

Introduction

The NPPF states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community (paragraph 61).

To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning practice guidance. Within the context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing (including Social Rent) (paragraphs 62 and 63).

CSDP Policy H2: Affordable Homes requires that in order to deliver affordable housing to meet identified needs, all housing developments of 10 dwellings or more, or on sites of 0.5ha. or more, should provide at least 15% affordable housing. This affordable housing should:

1. be provided on-site in order to help achieve mixed and balanced communities. However, exceptionally off-site provision, or a financial contribution in lieu, may be considered acceptable where it can be justified;

2. be retained in affordable use in perpetuity;
3. when part of a mixed housing scheme should be grouped in clusters throughout the site;
4. be indistinguishable in terms of appearance from the market housing; and
5. reflect the latest available evidence with regards the tenure split and size of dwellings.

CSDP Strategic Priority 4 identifies the need to provide a range and choice of accommodation, house types and tenures to meet the diverse needs of current and future residents.

In accordance with the current 2020 Strategic Housing Market Assessment (SHMA), the council will seek a tenure split of 75% affordable rent and 25% intermediate¹ tenure offering affordable routes to homeownership. The SHMA will be updated as part of the evidence for the new Local Plan. Applicants must consider the most up to date SHMA as a starting point with regards to tenure split and affordable housing mix. Other evidence, where appropriate, will be considered to ensure the right tenure split and mix is delivered on sites.

The council recognises that, in some instances, it may not be possible to deliver the affordable housing requirement in full. In such instances the applicant will be required to submit a detailed viability assessment, prepared in line with the requirements of the PPG and this SPD, to clearly demonstrate how the affordable housing requirement set out in Policy H2 would make the scheme unviable.

¹ As defined by NPPF Annex 2, paragraphs c) and d).

If through a viability assessment it can be demonstrated that the 15% affordable housing requirement is not viable with a 75:25 tenure split, consideration will be given in the first instance to reviewing the tenure split to still enable a provision of 15% affordable housing. If it is considered that 15% affordable housing requirement is still not viable, a sliding scale should be adopted by reducing the 15% requirement down to a percentage that is viable.

Approach to seeking developer contributions

In line with CSDP Policy H2, the requirements set out in this SPD apply to all residential developments proposing 10 dwellings or more or on residential developments of 0.5ha. or more, including mixed use sites with a residential element that meets the above threshold. Where the residential units on a site are proposed for a mixture of residential use classes, the affordable housing requirement will only apply to the proportion of residential units that are available for sale, rent or affordable housing. Developments for student accommodation will be exempt from providing affordable housing.

In cases where a proposal is just under this threshold, the applicant may be required to justify the proposed density to ensure the land is being used efficiently. As a guide, a calculation of 30 dwellings per hectare will be used alongside other considerations such as location, accessibility and sustainability.

When applying the 15% affordable requirement, the number of dwellings will be rounded up when 0.5 or more and anything less will be rounded down.

Where development is to be phased or is subject to more than one planning application, the council will calculate the affordable housing requirement based on the overall area of the development site.

On larger sites of more than 50 dwellings, the council (or a relevant qualified third party) may review the viability of the scheme in respect of phasing to take account of changing market conditions.

The priority is for affordable housing to be provided on-site in order to ensure developments contribute towards creating mixed and balanced communities.

In exceptional circumstances, the council may however accept delivery of affordable housing off site, or, the payment of a financial contribution in lieu of on or off-site provision.

Such instances for providing off-site affordable housing may include:

- the development of general market housing is being promoted as part of a wider strategy to broaden the mix of neighbourhoods of predominantly social rented tenure;
- there is an identified need for specific types of affordable dwellings that cannot be accommodated within the development site, for example where there is a need for large affordable homes but the development proposal is for apartments, or vice versa;
- the site is being developed for lower density housing; or
- it will deliver a greater number of affordable units of a size and type to meet local need,

In these circumstances a robust justification will need to be submitted as to why the provision cannot be made on site.

When delivering off-site provision the developer must consider:

- affordable housing need in the city as evidenced in the most recent SHMA; and
- appropriate innovative schemes, such as the refurbishment of vacant

properties in a regeneration and renewal area, to assist in creating increased affordable housing units, sustainable communities and reducing the number of empty properties in the city.

Affordable housing planning obligations may include a contribution towards the costs of land, associated infrastructure, property acquisition and refurbishment and other development costs associated with the provision of affordable housing.

How the contribution will be calculated

Where the council considers that the affordable housing provision can be delivered off-site by a financial contribution, the level of contribution will represent the gap funding required to provide the number and tenure of affordable homes as determined by the policy requirement, applicable to the development to which the relevant S106 agreement relates.

The council will calculate the required contribution based on the cost of acquiring the required number of units (at open market value) less the value of the homes acquired subject to a restriction to an affordable tenure 'restricted value'. The restricted value reflects the amount a Registered Provider (RP) would reasonably pay for each affordable home based upon the tenure type (rented or intermediate) or the value of the home where it is restricted to be sold as a Discounted Market Sales Housing unit (known locally and thereafter in this document as Discounted Market Value (DMV)).

Mechanisms other than acquisition may be used to deliver the units, however the calculation will be based upon the aforementioned model.

In calculating the open market value and the restricted values the following assumptions will be applied:

- Open market values will be based upon the cost of purchasing equivalent new build homes in a suitable geographical area to the development site.
- Purchase costs will be based upon current industry standard fees and applicable taxes.
- The value of the DMV homes will be based upon the unrestricted open market value less the applicable discount.
- Homes will be restricted as affordable in perpetuity.
- Affordable rents will be based on comparable market evidence adjusted by the affordable rent percentage (currently 80%) subject to the rent standard limit.
- The value of intermediate tenure (e.g. shared ownership) properties will be calculated based upon open market values using a discounted cashflow methodology which assumes the first tranche of equity being purchased is 35%. The Council may assume that additional tranches are acquired within the model to reflect the trend in staircasing over the previous two years. The value of the retained equity will be calculated based upon the rent formula in place at the time the calculation is made (currently 2.75% of the remaining equity) capitalised at an appropriate market rate.
- Gross rental income will be subject to deductions for voids, management and maintenance, based upon the age and condition of the property to be acquired.
- Values will be adjusted to account for relevant purchaser's costs.
- Rental income is capitalised based upon an all risks yield in line with market conditions and comparable evidence.

How the obligation will be delivered

The council may use any contributions to deliver affordable housing through a variety of mechanisms which can be directly or indirectly in partnership with developers, RPs or other agencies to:

- acquire homes to deliver affordable housing
- develop new affordable housing on council or RP owned sites;
- bring empty housing back into use for affordable housing;
- work with developers or RPs to increase affordable housing provision on their sites; and/or
- any other initiative that will deliver affordable housing.

Contributions in lieu will be spent on providing affordable housing units according to local needs as assessed in the most recent SHMA at an affordable rent or for affordable home ownership and units will be retained and monitored as such in perpetuity.

Contributions may be used as gap funding (the gap between the costs to acquire and refurbish less the worth of the units acquired to the organisation holding them) and will be registered on the title of the property to ensure perpetuity.

When deciding where to acquire empty homes to enable the provision of affordable housing, the council will consider and give priority to the following:

- homes within regeneration and renewal areas;
- properties that have been vacant for over 2 years;
- homes that are problematic to a neighbour or attracting crime and anti-social behaviour;

- areas where there are large areas of empty homes; and
- local need as assessed by the most recent SHMA

The council advocates that applicants should aim to involve a Registered Provider, where appropriate, at the earliest opportunity to avoid any delays through the formal planning application procedure.

Affordable housing should be available as an affordable unit in perpetuity to ensure the city offers choice in tenure for existing and future residents. Depending on the type of affordable housing provided this could entail recycling any subsidies received for alternative affordable housing provision or retention of discounts for future households.

For developments providing 100% affordable housing, the council will seek to secure the policy compliant percentage of affordable housing in perpetuity through a planning obligation. (Other than where statutory rights dictate otherwise).

Where a housing development is subject to grant funding to deliver affordable housing on site and the scheme is demonstrated through a viability report, which has been submitted to and agreed by the LPA through the planning process, to be otherwise unviable without the funding the Council will:

1. Require the section 106 agreement to set out that the development will deliver grant-funded affordable housing (with the amount of affordable housing being delivered through the grant funding clearly set out). This is important because it allows the LPA to give material weight to the delivery of a level of affordable housing which exceeds the required policy compliant amount of affordable housing to be delivered as part of the development.

2. Where it is robustly demonstrated to the LPA that the provisions required in (1) are not appropriate, the section 106 agreement will include a viability retesting provision (or an equivalent mechanism to be agreed with the LPA) to ensure that the council is able to secure affordable housing in line with the requirements of Chapter 4 of this SPD. It should be noted that the LPA will typically expect more than one retest for all major developments.

the planning application and should be covered in a draft Section 106 Heads of Terms, as identified in the Validation of Planning Application Checklist (2024).

In instances where the grant funding is to be recycled or refunded to government, or the relevant authority specified in the funding agreement, the council will where possible, seek to ensure the policy compliant percentage of funds is utilised for the provision of alternative affordable housing provision in the administrative area of the council to ensure it is able to meet the affordable housing needs of its current and future residents.

Where Discounted Market Value (DMV) units are proposed, local connection and eligibility criteria will apply and the level of discount will be a minimum of 30%. Further details are set out in Appendix 1.

Where possible, the council will seek to have nominations rights over affordable rental properties. Where the council holds nominations rights, properties will be allocated in accordance with the council's latest Allocation Scheme.

In line with the CSDP policy, the provision of affordable housing on-site should be dispersed amongst the market housing in clusters of a size proportionate to the scale and layout of the development. All affordable housing should be indistinguishable from other development on the site and the size and type of affordable housing units provided should also reflect those that are built to be sold on the open market.

The location and type of affordable housing units must be shown on the proposed site plan submitted as part of



5. Education

Introduction

The council will request developer financial contributions towards the creation of new early years/nursery, primary, secondary and special school places to fulfil the demand generated as a consequence of new housing developments.

Financial Contributions

The approach set out in this chapter ensures that the council has sufficient resources to respond to increased demand for school places associated with the development of new housing and in doing so fulfil its statutory responsibility to ensure the sufficiency of local school places.

The importance of ensuring an adequate choice of school places is available to meet the needs of new and existing communities is outlined in paragraph 100 of the NPPF which states that local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. In accordance with paragraph 100 the council will:

- give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

Basis for requiring the contribution

Most new housing developments will increase the number of early years/nursery, primary and secondary aged children requiring a mainstream or special school place in the city.

A number of factors are taken into account when calculating the number and type of school places that are required in Sunderland. Key stage 1 primary school places are governed by statutory Infant Class Size Regulation. This aims to ensure that, unless exceptional circumstances are demonstrated, the maximum number of children in any Key Stage 1 class is limited to 30 pupils per teacher.

The physical capacity required by schools to deliver an effective curriculum is identified through a Net Capacity calculation. This is the Department for Education (DfE) measurement of required teaching space within each school based on identified and available class spaces, which evaluates the number of students that can be accommodated in the school and identifies any shortfall in capacity to accommodate additional pupils. However, the requirement for Infant class sizes takes precedent over the Net Capacity Assessment. In addition to teaching space, any expansion would need to take into consideration requirements for example, for increased studio space, dining and food preparation area, outdoor play, transition areas and access and parking.

With the exception of special school demand, requests for developer contributions should take into account the average distance to the nearest schools. The distance is calculated

as the shortest route along which the pupil, accompanied if necessary, can walk with reasonable safety including pedestrian footpaths as well as roads. The distance is calculated from the child's permanent home to the school. For children aged 8 years or under, the maximum statutory walking distance is 2 miles, for children aged over 8 the maximum statutory walking distance is 3 miles. It is recognised that, due to parental preference, some parents may proactively seek a school place outside of this radius.

As such, this needs to be considered alongside the current reduced capacity in Sunderland's primary school sector and all admission authorities use of proximity (shortest safest walking route) to a school as part of the criteria to allocate places.

As a result of government policy changes since 2024 in relation to free childcare, a greater number of children aged between 9 months old and statutory school age must be considered when identifying the availability of early years/ nursery places required to serve any new housing development.

The council recognises that the number of children whose complex needs cannot be met within the mainstream school sector but that are accessing school places in the city has increased in recent years. This has resulted in pressure on local special school places. A proportion of these children reside in new housing developments in the city. Special schools due to the nature of their offer, are citywide provisions and as such are not necessarily located within the statutory walking distances that inform the sufficiency of mainstream school places. Pupils who attend special schools are eligible for home to school transport support to enable attendance. As such, any developer contribution received for special school requirements will be utilised by the council at any existing or new special school provision within the city, regardless of its proximity to the development site.

The council uses the below methods to project primary and secondary demand.

Primary schools

The council utilises the most up to date information that is available to calculate projected demand for primary school places. GP registration data is currently used to identify the number of pupils that will require a reception place within a five-year period. This data also provides an indication of the current number of nursery aged children in each area of the city.

Postcodes where children are registered with a GP are compared with school census data which provides postcodes of pupils already attending local primary schools. This gives an indication of where demand for school places in each area is most likely to be should existing school place demand remain consistent. Variable factors that may influence demand, such as the availability of places through the development of new Free Schools, existing nursery cohorts, the number of children already on roll and inspection outcomes are considered and whenever possible accounted for by the Council.

Secondary schools

Demand for future places is calculated by applying a three-year average of pupils who attend local primary schools to historical transfer patterns from primary school to secondary schools. As with Primary school place projection, should a school be projected to be oversubscribed any excess demand identified against a school is allocated to schools within the same planning area with surplus places.

The council will consider the cumulative impact of other housing developments which have received full planning approval and that would require school places from the same geographical

area but which may not have yet been delivered in full.

It is also recognised that in some cases pupils may attend a school which is outside statutory walking distance. This can be for a number of reasons, for example a pupil may access a school place in another part of the city as it is more appropriate for a Special Education Need, they are maintaining an existing school place for the remainder of an academic year following a home move (before seeking a local school place for the following academic year) or because there were no local school places available at the point they entered the local school system. Given these pupils are the in minority in a cohort and specific reasons for their school places usually sit outside average school place preferences this will not be factored into the calculation for required school places as a consequence of a specific housing development. Instead, except for citywide SEN school place requirements, it will be assumed that the parents/ carers of pupils from a development will seek a local school place within statutory walking distance of their home.

How the contribution will be calculated

Developer contributions will be sought for all developments of 10 units or more, however residential developments for student accommodation, older persons and some other specialist tenure types will be exempt.

The Department for Education (DfE) provides the council with an updated cost per primary and secondary school place rate on an annual basis. The council will use the DfE’s latest Pure Primary and Secondary rates per school places to calculate the overall cost of new places. Given most nursery expansions are expected to take place within primary school buildings the council will use the updated primary school

costs to calculate the cost of nursery/ early years places. The most recent DfE rates are as below:

Nursery places - £18,882.23

Primary places - £18,882.23

Secondary places - £24,261.47

The rate per school place used to calculate developer contributions for education will be the most up-to-date rate at the point the planning application is valid.

Pupil yield is calculated based on the average number of school places required. For all developments the following factors will be applied:

| | 1 or 2 Bedroom | 3 Bedroom | 4+ Bedroom |
|------------------|-------------------|--------------|---------------|
| Nursery | 0.04 | 0.10 | 0.10 |
| Primary | 0.13 | 0.35 | 0.56 |
| Secondary | 0.05 | 0.16 | 0.27 |

Figure 3: Pupil yield per private dwelling (Delivering Schools to Support Housing Growth: DfE 2023)

The calculations within Figure 3 are based on data provided by the DfE showing the average number of primary and secondary aged pupils at postcodes registered between 2019/20 and 2021/22 attending schools and nurseries within Sunderland. Should new housing yield data be released by the DfE, the council will update its calculation methodology to utilise the latest available information.

Demand for special school places has increased in the city as new housing has become available. The proportion of pupils living in properties completed up to 2021/22 that required Special Educational Needs (SEN) support or had Education, Health and Care Plans (EHCPs) has increased, with 3% of children resident in a property registered in 2021/22 in receipt of a EHCP and a further 9% receiving SEN support within their substantive school place.

The DfE has estimated that 0.01 children per new dwelling are accessing places in a local special school. To ensure this infrastructure for those children is available the council will, where required, seek a contribution towards the creation or expansion of citywide special school provision or local resourced provision for pupils with SEN.

For 2023/24 the cost for the provision of a SEN place was £64,000. As such, the council will seek a contribution equivalent to 0.01 pupils per dwelling, being applied as an average across new housing developments.

Contributions will be sought where forecasts suggest that the appropriate educational establishments or pupil place planning area in relation to the development cannot reasonably accommodate the increase in demand for places. Contributions will be sought in cases where the development will result in a specific education place sector (nursery/early years, primary, secondary and special educational needs) or school place planning areas having less than 5% surplus space. The council will not seek a financial contribution for education if it considers the number of current and projected surplus school places to be sufficient to meet the needs of a development.

DfE's publication 'Securing developer contributions for education' (August 2023) sets out guidance to enable local authorities to ensure enough good quality school places are available to meet local needs whilst driving forward housing delivery.

As far as possible education facilities should be available to meet the demand for school places generated as a result of the new development prior to the new population residing in the area.

It is preferable that developer contributions are secured upfront or as early in the development phase as possible. However, it is acknowledged

that due to cash flow and viability this is not always possible and as such the payment of contributions must, in some instances, be phased.

However, in order to deliver the required infrastructure in a timely manner the council may where appropriate fund these works in advance of the receipt of all of the developer contributions. In the event infrastructure is forward funded in this manner, the council will ensure that developer contributions, once received, will be used to repay the funding (including any financing costs) that has enabled the infrastructure to be delivered.

The council recognises the inherent risk with forward funding and in the event infrastructure is forward funded in this manner, the council will ensure that developer contributions, once received, will be used to repay the funding that has enabled the infrastructure.

How the contribution will be spent

Developer contributions will be used to fund costs associated with capital expenditure including any financing costs where appropriate, e.g. the creation of new places and will not be used to meet the revenue requirements of any increase in capacity, such as the employment of additional teaching staff or conditional work that is not linked to increasing capacity or ensuring existing space is suitable to accommodate increased pupil numbers.

The delivery of any additional places will be based on demand and budget availability at the time of development commencement and Section 106 contributions being received. In order to effectively meet demand, the council will, as far as practicable, request for financial contributions to be spent at schools that are geographically appropriate for the development. In most cases this would be a 2 to 3 mile radius

from the site for primary schools and 3 mile radius from the site for secondary schools, so as to align with the DfE statutory walking distances.

Where appropriate, contributions may be directed towards increasing capacity at one of Sunderland's new or existing special primary or secondary schools for children with SEN and disabilities, for whom a local mainstream school is not considered an appropriate educational setting. Given SEN schools are citywide provisions contributions for those settings may be utilised anywhere in the city.

The use of DfE cost multipliers is intended to provide an indication on the cost of expansion or refurbishment and does not extend to the development of new schools.

It is expected that, when the scale of a development cannot be sufficiently accommodated through the expansion of an existing school or academy, the contribution sought from the developer includes the provision of any land required to develop a new build school and a sufficient contribution to meet capital requirements associated with the new build.

In some instances it may be appropriate for the council to request the developer, in addition to the provision of land, also to construct and equip any new school. This would be subject to negotiation between the council and the developer to agree any planning obligations via the Section 106 process.



6. Greenspace (amenity greenspace and allotments)

Introduction

Greenspace relates to public and private open space and is identified within the city's Greenspace Audit 2020 as including amenity greenspace, provision for children and young people, natural and semi-natural greenspace, formal parks and country parks, allotments and community gardens, outdoor sports facilities, school playing fields and grounds, cemeteries and church grounds, civic spaces and coast and estuary

Accessible, quality greenspaces make a significant contribution to the health, wellbeing and social cohesion of the communities and people living in Sunderland. These spaces promote physical activity, active travel and mental wellbeing and have wider environmental benefits such as supporting biodiversity, providing invaluable habitats and links within the existing green network, which allow wildlife to migrate and adapt to changing environments.

Through its Greenspace Audit the council quantified and surveyed all greenspace in Sunderland and the value it has to the local community. The council is committed to ensuring that all residents have access to a wide range of quality greenspace, helping to contribute to mental and physical health and wellbeing by:

- prioritising environmental improvement in areas where the variety, quantity and quality is poor;
- enhancing the fixed formal play offer, and developing greenspaces for children and young people;

- improving access to quality natural greenspaces;
- improving access to suitable quality woodland sites;
- maintaining high quality allotment provision across the city; and
- ensuring that all residents can access a range of indoor and outdoor sport and leisure venues across the city.

The city contains a wide diversity of greenspace; however, the spatial distribution, type and quality of these areas remains varied, especially in older neighbourhoods. It is therefore important to protect valued greenspace from development and create new and enhanced greenspaces where a greater distribution and higher quality can be achieved.

Different types of greenspaces serve different purposes and offer opportunities for a mix of demographics/needs. As such the required amount of greenspace to be provided through new developments may be made up of a combination of greenspace types, which will be determined through the planning application process.

Basis for requiring the contribution

CSDP Policy NE4(3)

In accordance with CSDP Policy NE4, all major residential developments of 10 dwellings or more and major developments for student accommodation (10 self-contained units

or 10,000 square metres) or more, are to make the following open space provision:

- a minimum of 0.9ha. per 1,000 bed spaces of useable greenspace should be provided on-site unless;
- a financial contribution for the maintenance/upgrading to neighbouring existing greenspace is considered to be more appropriate.

This useable on-site greenspace will normally need to be secured by a planning obligation to ensure its retention, maintenance and management in perpetuity.

CSDP Policy NE4(4)

In the event that a development is proposed on an area of greenspace and considered acceptable, a developer contribution may be sought to provide new or enhance existing areas of greenspace.

Paragraph 104 of the NPPF seeks to protect open spaces by stating that existing open space, sports and recreational buildings and land, including playing fields and formal play spaces, should not be built on unless:

- a. an assessment has been undertaken which has clearly shown the open space, building or land to be surplus to requirements; or
- b. the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c. the development is for alternative sports and recreation provision, the benefits of which clearly outweigh the loss of the current or former use.

Policy NE4(4) stipulates that the council will refuse development on greenspaces which would have an adverse effect on its amenity, recreational or nature conservation value unless it can be demonstrated that:

- the proposal is accompanied by an assessment that clearly demonstrates that the provision is surplus to requirements; or
- a replacement facility which is at least equivalent in terms of usefulness, attractiveness, quality and accessibility, and where of an appropriate quantity, to existing and future users is provided by the developer on another site agreed with the council prior to development commencing; or
- if replacement on another site is neither practicable or possible an agreed contribution is made by the developer to the council for new provision or the improvement of existing greenspace or outdoor sport and recreation facilities and its maintenance within an appropriate distance from the site or within the site.

How the contribution will be calculated

Contributions towards greenspace will be sought for the following scenarios:

- where the policy compliant quantity of greenspace is not provided within the residential development (where justified);
- where there is a loss of greenspace as a result of the residential development being on a fully or partly greenspace site; or
- where there is a loss of greenspace for non-residential, commercial and mixed-use developments.

Where it is considered that a financial contribution for the maintenance and/or upgrading of neighbouring existing greenspace is more appropriate, contributions for more than one type of greenspace may be sought to ensure that a mix of greenspace is provided.

Where a financial contribution in lieu is more appropriate, the following calculation will be used. When calculating the requirements for children's equipped play space reference should be made to chapter 7.

Amenity greenspace

Contributions when providing off-site greenspace

Contributions towards the improvement, enhancement or maintenance of existing areas of amenity greenspace, where the policy requirement for on-site provision on residential developments is not met, will be calculated as follows:

Typical cost of improving 1ha. of amenity greenspace and maintenance over a 5-year period = £93,559 = £9.36 per square metre.

0.9ha. divided by 1,000 bedspaces = 9 square metres per bedspace

9 * £9.36 = **developer contribution of £84.24 per bed space.**

The number of bed spaces will be calculated in line with the guidance set out in chapter 3 of this document.

Contributions for loss of greenspace

When greenspace of 0.1ha. or more is lost as a result of new residential, non-residential and mixed-use developments, contributions will be sought to compensate for this loss using the below formula.

Total square metres of greenspace lost * £9.36 = developer contribution.

Where an element of greenspace is provided on-site but does not meet the full policy requirements, a reduced contribution will be sought which will take into account the greenspace being provided on-site.

In instances where the policy compliant amount of greenspace is not provided

on-site (either in whole or in part) and the development would also result in a loss of existing greenspace, contributions for the non-policy compliant provision and loss of greenspace will both be sought.

Provision of new greenspace should be provided by the developer to a design and specification first approved in writing by the council along with a maintenance and management plan. The provision should be retained in perpetuity by the developer and monitored as such through the S106 process. New or enhanced greenspace must be publicly useable and available. Grass verges should not be included in any calculations and any heavily engineered SUDs solutions will not be considered acceptable within greenspace provision.

Allotments

Allotment sites provide important greenspaces and access to local opportunities for fresh food cultivation. These facilities have an important dual role in maintaining health and wellbeing and new allotment provision will be sought where a shortage is identified.

For contributions directed towards allotment provision there is a requirement of 15 plots per 1,000 dwellings with an average size of between 250 and 300 square metres. However, where contributions in lieu are agreed a contribution of **£115.40 per dwelling** will be required.

How the contribution will be spent

The quantity and quality of greenspace across the city varies on an area-by-area basis. Through the Greenspace Audit the council quantified and surveyed all the greenspace in the city and the value it has to the local community. Sunderland's Greenspace Audit, alongside the Green Infrastructure Strategy and accompanying Delivery and Action Plan

identifies priorities for greenspace/ infrastructure delivery in Sunderland, these documents will assist in identifying key priorities for improvement.

Financial contributions will be directed towards the improvement, enhancement and maintenance of existing greenspace. This may include the addition of new facilities such as 'pause places' which help to promote mental health and wellbeing by offering welcoming places to rest, socialise and interact with nature and the outdoors to encourage relaxation and mindfulness.

Existing areas of greenspace may benefit from improvement works to cope with the extra use as a result of the new development. This could include, but is not limited to:

- provision of additional or replacement bins and seating;
- increasing and improving footpaths, lighting, fencing, gates and signage near the new development;
- provision of new and improvement of existing planting and soft landscaping; and
- creation of pause places.

Contributions for allotments will be used to increase and enhance allotment provision through the improvement and/ or expansion of existing sites or the creation of new sites, where appropriate.

7. Equipped play space

Introduction

The NPPF highlights the importance of promoting healthy communities and the role that planning can take in their provision. Paragraph 98 identifies that to deliver social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments.

New developments can lead to an intensification of use of existing greenspace causing a detrimental impact and reduction in quality and offer. In relation to children' and young people's equipped play space this would result in the need for a greater amount of equipment across all age ranges to accommodate the new population as existing play equipment will wear out more quickly.

CSDP Policy NE4: Greenspace identifies the requirement for development to contribute towards the provision for children and young people. This may be provided on-site as part of the development or by way of a contribution in lieu towards the provision, improvement and maintenance of new or existing play facilities.

Equipped play provision which is to be provided on-site as part of a development, is required to be of a design and specification first approved in writing by the council. Such provision must be retained and maintained in perpetuity by the developer. On-site play provision should include play equipment suitable for a range of ages as well as inclusive play equipment.

Basis for requiring the contribution

The council recognises that play is an important part of a child's life and that all children and young people have the right to access quality fixed play provision. The availability of play provision is recognised as being important to improving life chances and aspirations for each child and young person in the city.

The council is committed to the continued provision and improvement of play facilities and aims to:

- provide a standard quality of play provision in Sunderland;
- provide a sustainable approach for play provision in Sunderland;
- ensure that play is strategically planned;
- maintain and create, where able, free and inclusive play spaces;
- involve children and young people in the development of play refurbishments and developments; and
- work in partnership to develop, support and promote high standards for play.

Approach to seeking developer contributions

Developer contributions will be sought for all developments of 10 dwellings or more, however developments for older persons, student accommodation and some specialist housing types will be exempt.

Developer contributions are sought for the development, enhancement,

replacement and maintenance of play provision in Sunderland to serve the needs of the occupants of new housing developments with good quality, suitable and modern play facilities. In addition, it is the council's priority to ensure that play facilities are accessible for all children and young people and as such inclusive play equipment will be designed into new projects as far as possible.

Following the Play Pathfinder Programme (2006 to 2009) the city's play and urban games facilities were considered well-distributed, sustainable, and fit for purpose. Surveys have been carried out to ensure play spaces are high quality and inclusive for all children and young people. Investments through the council's City Play and Urban Games Improvement Programme have allowed a number of sites to be upgraded, including new, or repaired equipment, improved surfacing, and inclusive features. In some instances, new play areas may need to be developed to replace existing facilities if it is considered that the site and location would most benefit from an improved provision. In addition, significant areas of housing growth may require new play sites which may be provided on-site as part of the development or as a financial contribution to the council.

How the contribution will be calculated

Developer contributions will be calculated on the basis that the budget cost of providing a good quality fixed play area, with a range of equipment suitable for mixed ages as well as accessible and inclusive play equipment, is £210,000 including groundworks and professional fees. Contributions for equipped play areas will be sought for dwellings of two bedrooms or more.

The contribution is charged at £797 per unit based on the methodology below.

There are approximately 119,660 dwellings in Sunderland with two

bedrooms or more. At present there are 115 play areas within the city which are within council ownership.

119,660 dwellings divided by 115 play areas = 1,041 2+ bedroom dwellings per play area.

Average cost of play area construction = £210,000

Maintenance, renewal and repair costs for 10 years at £62,000

per annum = £620,000

Total cost of £830,000 divided by 1,041 2+ bedroom dwellings per play area = £797 per unit.

How the contribution will be spent

Contributions will be spent on the provision of children and young people's equipped play facilities within the vicinity of the development, full details of which will be set out within the S106 agreement. The provision will fall into two categories:

1. The development of a new play facility and subsequent maintenance; or
2. The improvement, enhancement, refurbishment and/or maintenance of existing play facilities including safety and security measures

Upon receipt of the contribution an assessment will be undertaken of the fixed play sites at which the developer contribution can be spent, in accordance with the relevant S106 Agreement. Appropriate options will be presented to stakeholders for comment to ensure local needs are best met.

Contributions for maintenance, repairs and renewals will be used for, but not limited to, safety inspections, cleansing, minor repairs, patching of tarmac and safety surfacing and the replacement of play equipment, fencing, seatings, bins and surfacing. To ensure the play

facilities can be maintained to an appropriate level, a 10 year spend period from the date the contribution is received will be required through the Section 106 agreement.



8. Ecology

Introduction

In accordance with guidance set out in paragraphs 187 - 195 of the NPPF the council will promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations to minimise the impact of new development on biodiversity and geodiversity.

In addition, CSDP Policy NE2: Biodiversity and Geodiversity outlines the circumstances in which measures will be secured in order to safeguard the provision, maintenance and monitoring of appropriate mitigation and/or compensation measures.

Primary legislation specific to European Sites is the European Union Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds' Directive) and Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (the Habitats' Directive), which is transposed and retained in UK law through the Conservation of Habitats and Species Regulations 2017 (as amended). National priority species and habitats are listed under Section 41 of the Natural Environment and Rural Communities Act 2006 and local priority habitats and species are contained within the North East Local Nature Partnership - Biodiversity Action Plan Priority Species and Habitats.

The impacts of development, and any subsequent planning obligations and developer contributions are assessed against the current legislation, policy and guidance pertaining to designated European Sites and/ or other ('Non-European') sites, species and habitats of conservation importance.

Basis for requiring the contribution

The acknowledged reference on ecological impact assessments is the Biodiversity: Code of Practice for planning and development published by the British Standards Institute (BS42020:2013) and CIEEM Guidelines for Ecological Impact Assessment in the UK and Ireland, which support the requirement for suitable planning obligations. Accordingly, developer contributions will be sought for on and off-site mitigation and enhancement specific to each development and prevailing ecological and geological factors. The primary focus will be the conservation of ecological and geological features such as protected and priority species and habitats, Local Sites, wildlife corridors identified through the Local Plan and, when available, measures set out in the South of Tyne and Wear Local Nature Recovery Strategy. Appropriate measures will differ depending on the impacts of the development assessed.

European sites

Development assessed as having a likely significant effect on European Sites, through a Habitats Regulation Assessment (HRA), will be required to contribute in whole or part to mitigation measures specific to the impacts along with contributions required or agreed for any other ecological or geological mitigation and enhancement measures. The level of contribution for development assessed through HRA will be calculated against provision required to address the direct and indirect impacts on the key features of European Sites.

Where impacts can be addressed through strategic mitigation strategies, such as the Sunderland Recreation Mitigation Strategy, in respect of increased recreation and urban pressures, then the preference will be a financial contribution towards those strategic schemes.

Where a strategic approach has been developed to deliver in-perpetuity measures, and a bilateral Section 106 agreement is used to secure financial contributions, the agreement will not include the Council's covenant to repay unspent funds after a given timescale. This is to ensure funding remains available to continue to deliver the mitigation measures.

Non-European sites

When proposals for new development are unable to avoid any direct or indirect negative effects on biodiversity or geodiversity of non-European sites, the developer must mitigate against these impacts, or as a last resort compensate and always provide sustainable enhancements.

How the contribution will be calculated

Contributions will be calculated on a case-by-case basis, taking into account the proposal and nature of the site and surrounding area. Contributions may be sought when it is considered the development will result in direct, or indirect, impacts which are detrimental to the biodiversity or geodiversity on or surrounding the site.

In mitigating against the effects of new development on European Sites, contributions will be calculated per dwelling or bedspace, as detailed in Figure 4, by the cost of mitigation measures, including long-term maintenance. Mitigation includes provision for Sustainable Alternative

Natural Greenspace (SANG) and sustainable Strategic Access Management and Monitoring (SAMM). Sunderland City Council has developed the Sunderland Recreation Mitigation Strategy as an in-perpetuity strategic approach to the mitigation of increased recreation and urban pressures on coastal European sites, which comprises the SAMM for the Sunderland area. The Council will keep the SAMM under review and may supersede the Sunderland Recreation Mitigation Strategy with a revised SAMM, potentially adopting a combined approach with neighbouring authorities in recognition that recreational impacts of developments often extend beyond Local Authority boundaries. At present the SAMM is suitable only for mitigating the effects of increased recreational pressures arising from residential development in Sunderland.

Through the Sunderland Recreation Mitigation Strategy, and any strategy, joint or otherwise, that supersedes it, contributions will be proportional to the scale of the residential development being assessed. This is achieved by setting a contribution rate for general needs housing. Alternative per-bedspace rates have also been calculated to enable the Strategy to be used to mitigate the impacts of Homes of Multiple Occupation (HMO) and student accommodation. These rates are calculated based on average household size from the 2021 Census data, and for student accommodation contributions towards measures related to parking management and dog ownership being excluded to reflect that car and/or dog ownership are not typical among students occupying purpose-built student accommodation. The current rates are provided in Figure 4 below, which will be charged until superseded by any updated SAMM.

| Contribution Type | Contribution Rate |
|--|-------------------|
| General needs housing (per residential unit) | £557.14 |
| Student accommodation (per bedspace) | £214.19 |
| Homes of multiple occupancy (per bedspace) | £248.72 |

Figure 4: HRA Contribution rates by unit type

Where impact pathways other than recreation and urban impacts are identified through HRA as affecting European sites, contributions will be proportionate to the scale, type and impacts of a development or combination of developments, and based on the average cost of creation, improvement and maintenance of wildlife and geological features and sites. This may be done on a stand-alone basis or in combination with other concurrent development within a geographic area.

Due to the complexities associated with protected species, habitats and environments and the potential range of harm that may be caused as a result of new development, it is not possible to create an accurate formula for the calculation of developer contributions. The following examples outline potential factors which will be considered when assessing a development to determine the level of mitigation and contribution required.

Development inclusive of associated infrastructure which results in direct and indirect negative impacts on designated wildlife sites and their buffer zones, protected and priority species and habitats as well as wildlife corridors will be expected to provide on and off-site ecological mitigation and enhancement measures such as, but not limited to:

- habitat improvement and creation;
- access control measures to address impacts such as habitat loss and increased disturbance from people and domestic animals; and

- staff resourcing to ensure delivery.

The contribution sought will be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development.

How the contribution will be spent

Provision of mitigation and enhancement measures will be on or off-site and may be implemented prior to commencement of development or occupancy or the implementation of the operational use, to ensure the measures are established and workable, for example, to accommodate displaced species or to control disturbance events that result from increases in people and domestic pets.

SANG and SAMM are two of the main mitigation measures appropriate for addressing the recreational impacts of development on European Sites; one or both methods will be applied following an assessment of need. These principles, like the mitigation hierarchy, will also apply where development impacts on other ecological and geological receptors.

Contributions will deliver species, habitat and geological conservation and include provision for habitat creation, establishment, maintenance, monitoring, interpretation, land acquisition, staff resources, management and/or other elements appropriate to a specific development. The type and mix of measures required to conserve biodiversity and geodiversity will reflect the type and mix of uses in a development, the mix of future residents/users and the existing distribution and status of habitat and species in the locality.

Pooling of contributions and other resources will be employed where appropriate to add value, ensure sustainability and to address cumulative impacts and pressures.

A means of long-term maintenance is fundamental to sustainable delivery of any provision achieved through, for example a management company, trust or similar, and possibly via an annual homeowner or business levy. The council may take on the responsibility, particularly for off-site provision, subject to an agreed commuted sum to cover identified costs. If a developer does not intend to offer areas for adoption, the council will enter into a Section 106 agreement with the developer to ensure that satisfactory alternatives and appropriate arrangements are in place for future maintenance.

9. Biodiversity net gain

Introduction

Mandatory Biodiversity Net Gain (BNG) was introduced through The Environment Act 2021, which inserted Schedule 7A into the Town and Country Planning Act 1990 (as amended). This provides the legal framework for BNG, which is applied through the general biodiversity gain condition applied to all new planning applications, subject to a series of limited exemptions. The biodiversity gain condition is a pre-commencement condition requiring that a biodiversity gain plan is discharged prior to commencement of development. The biodiversity gain plan sets out how the development will deliver the biodiversity gain objective of a minimum 10% increase in biodiversity value compared with the pre-development value of the on-site habitats.

For non-phased development, a biodiversity gain plan is required under the general biodiversity gain condition. In cases where the planning permission has the effect of requiring or allowing the development to proceed in phases the biodiversity gain condition is modified through the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024. In such cases an overall biodiversity gain plan must be discharged prior to commencement of development and phase biodiversity gain plans discharged for each phase before development commences in the relevant phase.

Basis for requiring the contribution

Significant Onsite Habitat Enhancement

Under the provisions of paragraph 9 of Schedule 7A of the Town and Country Planning Act 1990 (as amended), when assessing proposals the council will decide if any proposed on-site habitat enhancement is significant in relation to the pre-development biodiversity value. In which case, the proposed on-site enhancement may only be taken into account in calculating a development's post-development biodiversity value if this on-site enhancement is secured for at least 30 years after the development is completed.

Guidance on what constitutes significant on-site habitat enhancement is provided by the Department for Environment, Food and Rural Affairs (Defra) ([Make on-site biodiversity gains as a developer](#)).

The content of an application to discharge the biodiversity gain plan is controlled through paragraph 14(2) of Schedule 7A, and Articles 37C(2) and 37C(4) of The Town and Country Planning (Development Management Procedure) (England) Order 2015. These requirements include a description of the arrangements for maintenance and monitoring of significant on-site habitat enhancement. In addition, Defra has also published templates for use in discharging the biodiversity gain plan, overall biodiversity gain plan and phase biodiversity gain plans which include questions relating to significant on-site habitat enhancement.

Significant on-site enhancement can be secured by either planning conditions, planning obligations or a conservation covenant. In most cases, where planning conditions and obligations are used to secure significant on-site enhancement, this will require applicants to submit monitoring reports to the council at agreed intervals throughout the 30-year period to demonstrate maintenance of the agreed post-development habitats.

The processing and review of these reports creates a resource requirement for the council and will therefore need to be funded through the payment of monitoring fees. Where conditions are used to secure on-site habitats, a separate planning obligation will be used to secure monitoring fees, otherwise monitoring fees will be incorporated into the Section 106 agreement used to secure the on-site habitats. For phased development, monitoring fees will be required for each phase of development separately to enable and account for staggered 30-year monitoring periods.

Where a conservation covenant is used to secure on-site habitat, the monitoring and enforcement role will be with the responsible body in respect of that agreement. This will, in most cases, be an organisation other than Sunderland City Council.

Offsite Biodiversity gains

There are other situations related to BNG in which an applicant may wish to enter into a Section 106 agreement with the Council. These will relate to the requirement for all off-site habitat creation and enhancement, that is any generation of biodiversity units through habitat management activities used to contribute towards a development's post-development biodiversity value, to be registered with Natural England on the register established through the Biodiversity Gain Site Register Regulations 2024.

A prerequisite of registration of off-site gains is, among others, a legal agreement that secures the land for at least 30 years. This can be in the form of a Section 106 agreement or a conservation covenant. Where the off-site gains are within the administrative area of Sunderland City Council, an applicant may wish to secure the site with a Section 106 agreement.

The council is not currently registered as a responsible body and therefore cannot act as the enforcing body in respect of conservation covenants at this point in time.

Where off-site gains are secured for 30 years through a legal agreement and registered with Natural England, the land on which the gains are made is referred to as a biodiversity gain site. In broad terms, these biodiversity gain sites are of two types.

- **Bespoke Off-site Compensation** - where the gains created are tailored to the requirements of a specific development and all biodiversity units generated through habitat creation and enhancement are allocated to that development.
- **Habitat Bank** - where gains are created without full knowledge of which development the biodiversity units are to be allocated to and are subsequently allocated to a development or series of developments.

Where an applicant proposes bespoke compensation, and the proposed biodiversity gain site is within the administrative area of Sunderland City Council, it is expected that applicants will aim to secure this through a Section 106 agreement linked to the development, to enable registration with Natural England in order for the gains to be incorporated within the biodiversity gain plan. In this case a monitoring fee will be required for the biodiversity gain site, which is separate to any required in respect of significant on-site habitat enhancement.

In most cases, it is expected that Section 106 agreements used to secure habitat banks will be independent of any planning permission. The council is not obliged to enter into such an agreement but will seek to do so in order to facilitate development in the city. Within these agreements monitoring fees will be required and will be related to each separate phase of delivery.

For agreements used to secure habitat banks, the council will seek to secure a bond or surety to enable exercise of the step-in rights incorporated into agreements.

Monitoring fees

Monitoring fees will be charged in accordance with the schedule of Biodiversity Net Gain Monitoring Fees published on the Council’s website, which will be updated annually to ensure charges are sufficient to cover the costs of monitoring the delivery of BNG.

The schedule of fees is based on an estimation of officer time required to review and process initial monitoring plans and ongoing monitoring reports. It is assumed that no more than eight monitoring reports will be submitted for review throughout the 30-year monitoring period.

The calculated costs also include the cost of corporate overheads set at 20% of officer time and a contribution towards the maintenance of software systems required to monitor BNG delivery throughout the 30-year monitoring

period and monitoring fees in respect of the financial contribution.

Monitoring fees will be related to the size of the area to be monitored and the technical difficulty in creating and maintaining the agreed habitat types at their target ecological condition. Monitored areas will fall within one of three size classes: small (0 to 5ha.); medium (greater than 5 to 15 ha.); and large (greater than 15 to 30ha.). For monitorable areas above 30ha, a bespoke fee will be agreed.

The monitorable area can be an area considered by the council to provide a significant increase in biodiversity value in relation to the pre-development biodiversity value of the on-site habitat (significant on-site habitat enhancement), which may include retained habitat where appropriate. Any biodiversity gain site registered with Natural England and secured through a Section 106 agreement will also be monitorable.

The technical difficulty is taken to be the most technically difficult habitat creation or enhancement of any habitat included within the monitorable area. Technical difficulty is defined within the Statutory Biodiversity Metric for each habitat type.

The current rates for 2025, which are subject to annual review on an ongoing basis are shown in Figure 5 below.

Each of the values is chargeable in addition to a software maintenance fee and a financial obligation monitoring fee. The fees for 2025, which are subject to an

| Size | Technical difficulty | | |
|----------------------|----------------------|-----------|-----------|
| | Low | Moderate | High |
| Small (0 to 5 ha) | £2,582.41 | £3,095.61 | £3,654.62 |
| Medium (5+ to 15 ha) | £3,547.89 | £4,078.59 | £4,516.16 |
| Large (15+ to 30 ha) | £6,239.23 | £7,309.24 | £9,473.90 |

Figure 5: BNG Monitoring Fees

annual review on an ongoing basis are shown in Figure 6 below.

| Fee Type | Fee Cost |
|---------------------------|----------|
| Software Maintenance Fee | £33.67 |
| Obligation Monitoring Fee | £89.00 |

Figure 6: Software Maintenance and Obligation Monitoring Fees

How the contribution will be spent

The monitoring fees collected will be used to offset the cost of employing appropriately qualified and experienced inhouse or agency staff as well as the cost of the annual fee of purchasing software used to track and monitor the delivery of BNG.

Bond

The value of any bond in respect of biodiversity gain sites will be calculated entirely on a case-by-case basis and will be based on the expected cost of exercising the step-in rights within the agreement. The value will be calculated to enable the Council to maintain the habitats of the gain site at the agreed ecological condition for the duration of the agreement. A bond reduction schedule will be incorporated into agreements to account for the reduced financial risk as the agreement progresses through the 30-year maintenance period.

10. Sport and recreation

Introduction

Chapter 8 of the NPPF identifies the importance of access to high quality open spaces and opportunities for sport and physical activity on the health and wellbeing of communities as well as the wider benefits of high quality open spaces for nature and addressing climate change. Paragraph 104 states that existing open space, sports and recreational buildings and land, including playing fields and formal play spaces, should not be built on unless:

- a. an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b. the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c. the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

CSDP Policy NE4: Greenspace reiterates the requirements as set out in paragraph 104 of the NPPF in relation to protecting, conserving and enhancing the city's greenspaces

Basis for requiring the contribution

In Sunderland it is important that sufficient good quality sports facilities are provided to ensure that residents of new housing developments have access to a range of such facilities for recreation and exercise.

Contributions from developers for the benefit of sport and recreation can be generated in two ways.

1) From a residential development resulting in a new resident population

Sport England's Sport Facility Calculator (SFC) and the council's indoor strategic needs assessment should be used to estimate the sport and recreation needs, such as sports halls and swimming pools, generated by an increased population as a result of a new residential development. The SFC is a planning tool which assists in estimating the amount of demand for key community sports facilities that may be generated by a given population, as well as the cost of the provision. The SFC can be found online on the [Active Places Power website https://www.activeplacespower.com](https://www.activeplacespower.com)

Depending on the outcome of the Calculator, options to be implemented could include:

- measures to increase the capacity of pitches and/or other sports sites that will serve the development;
- provision of new playing pitches (in conjunction with other parties) off-site; and
- provision of playing pitches within the application site.

The developer should consider the results of the calculator alongside the relevant strategic recommendations and actions within the council's Playing Pitch Strategy (PPS) and, Sport England approved Mitigation Plan, if in place, to determine the most appropriate way of meeting the estimated demand. Part of the purpose of the PPS is to consider the adequacy of pitch provision against current demand, as well as

against projected population growth identified and planned for within the Sunderland Local Plan. The council's PPS identifies measures that seek to address deficiencies in playing pitch provision where they exist or are predicted to arise. In instances where an area has sufficient playing pitch provision, across sports and age groups, to absorb demand generated from the proposed development then the developer will not be required to make a contribution to playing pitch provision.

It should be noted that Sport England's Sports Facility Calculator will only be used to inform the respective viability assessment.

2) Developments on a current or former playing field

Where the loss of a playing pitch is justified, a developer contribution may be required towards the provision of appropriate replacement facilities. In these circumstances, the developer will be required to follow a process consistent with Sport England guidance and the council's Playing Pitch Strategy. The approach should be referred to when considering the need for a developer contribution and to ensure any financial contribution received is directed towards an area of need.

In line with Sport England guidance, the use of a developer contribution to replace a playing field, should only be considered once it has been agreed that the interests of the sport are better served by new provision. In some instances, Sport England may agree that a financial contribution in lieu is recommended, rather than new provision.

How the contribution will be calculated

a) with full replacement

For developments which result in a complete loss of playing fields (with full

replacement), the following process will be adopted:

- calculating the total playing field area to be lost (not just the pitch area) and using Sport England's register of facility costs to establish the value of replacement provision; and
- using the register of facility costs to calculate the cost of providing new ancillary facilities such as pavilions and car parking.

The process will need to meet the requirements of Sport England's playing field policy (exception E4).

b) without replacement

Developments which result in the complete loss of a playing field (without replacement) must comply with Sport England's playing field policy where it can be shown that there is a surplus or excess of playing pitch provision in the locality. This process will require:

- a local needs assessment for the relevant sport, taking into consideration supply and demand issues outlined in the council's Playing Pitch Strategy. This assessment will identify if a new provision needs to be built, or if a financial contribution would be better spent elsewhere in the locality.
- the developer should consult Sport England guidance (Exception E1) to assess the cost of facility replacement to identify a suitable financial contribution. Generally, this will be of a solicited process, involving the developer meeting the requirements of Sport England, the council and the relevant sport governing body.

All costs relating to the production of any local needs assessments must be borne by the developer.

How the contribution will be spent

Contributions may be directed towards the capital costs associated with the provision of new and/or improvement, or maintenance, of existing facilities.

Some playing pitches may benefit from improvement works to cope with the extra use as a result of the new development. This could include, but is not limited to:

- improving the quality of pitches;
- increasing the play capacity of nearby pitches;
- providing fencing, lighting, seating and other upgrades to improve a site; and
- providing upgrades to changing rooms to accommodate additional demand.

Financial contributions may also be directed towards specific projects (existing or new), which will be detailed in the individual legal agreement. Projects may be funded from contributions from a number of sources in order to develop facilities which best meet the needs of the local community.



11. Highways

Introduction

As set out in paragraph 118 of the NPPF all developments that will generate significant amounts of movement should be required to provide a travel plan, and the planning application should also be supported by a vision-led Transport Assessment or Transport Statement so that the likely impacts of the proposal can be assessed and monitored.

Transport infrastructure requirements will be funded through a range of different mechanisms which will vary both depending on site-specific circumstances and over the timescale of the Sunderland Local Plan.

CSDP Policy ST3: Development and Transport sets out the infrastructure requirements expected as part of new developments, when required.

Alongside Section 106 agreements, planning conditions are the main mechanism for the provision of essential on-site design requirements and infrastructure. These may include highway infrastructure agreements as covered by Section 38 and Section 278 of the Highways Act 1980, which provide discretionary powers for Highways Authority to enter into an agreement with a developer to adopt a new highway or improve an existing highway.

Highway improvements, secured through a Section 278 legal agreement, will normally only be required where they are essential for the operation of the development and the adjacent highway network. Highway mitigation measures on the wider network will normally be secured through a Section 106 agreement. The requirement for developers to enter into a planning obligation to provide transport

improvements will be considered on a case-by-case basis.

Basis for requiring the contribution

Most developments will inevitably have some impact on the transport network around them, either as a consequence of the construction of the development itself or the activities that take place once the development is complete. New developments usually generate additional travel journeys. In order to accommodate this increase in demand, and to facilitate a move towards more sustainable modes of transport, improvements to infrastructure or amendments or additions to public transport services may be required to support the development.

Developer contributions will be used to encourage greater use of the public transport network supported by demand management measures and making best use of existing infrastructure.

Given the potential transport and highways impacts are site and development specific in nature, the submission of a Transport Assessment or Transport Statement (depending on the impact of the development) and a Travel Plan, where required, will be the primary mechanism for determining what measures are needed to mitigate the impacts of the development.

The Transport Assessment/Statement should identify the potential adverse transport impacts (deemed to result in significant impact on both highway safety and on congestion on the local road network) of the development and how it is proposed to mitigate these impacts and promote sustainable travel.

Where a financial contribution is required, it will normally be used to provide transportation improvements including, but not limited to, highway, pedestrian and cycling improvements in the vicinity of the site or a specific public transport improvement that directly benefits the development. In certain circumstances, financial contributions may be used towards major enhancements or towards wider transport schemes that provide benefits to the wider area as well as to the development. This may include funding to support improvements to the strategic transport network, including the A19, A1(M), A194(M) and A184, depending on the individual circumstances of the scheme and through dialogue with the Council and National Highways.

How the contribution will be calculated

The type and level of contribution required for off-site highway works for major development will be determined through the Transport Assessment. If the development is on previously developed land and is currently, or has recently been in use, then traffic generation from the previous development will be taken into account when determining the impact of the new development.

Where more than one major development is expected to come forward in a particular area, the council will consider the cumulative impact of all the developments to ensure that the cost of transport infrastructure or improvements is shared between developers, ensuring scheme viability is not compromised. This will be the case for both local infrastructure requirements near the developments and also for the wider strategic road network. In these circumstances, the level of contribution from each development will be determined by applying pro-rata contributions based on the vehicular trip generation of each development.

For major developments, it is important that the traffic mitigation measures are provided in a timescale commensurate with the phasing of the development. This will be facilitated through the inclusion of appropriate trigger points within the Section 106 agreement.

The full cost of the transport mitigation measures will need to be met by the applicant(s) unless agreed otherwise by the council or a transport provider.

National Highways are a statutory consultee and will be consulted as a matter of course on planning applications deemed to potentially give rise to an adverse impact on the Strategic Road Network. Based on the assessment of traffic impact through the planning process, National Highways may recommend highway improvements to the strategic network and to junction approaches on the local road network or may seek the introduction of planning conditions containing mitigation measures.

As a statutory consultee, Active Travel England are also consulted on all major planning applications to help local planning authorities to implement good walking, wheeling and cycling infrastructure. Active Travel England help support good active travel design by ensuring developments include walking, wheeling and cycling connectivity to schools and local amenities. In turn, this will help improve health and wellbeing, save people money and reduce carbon emissions.

How the contributions will be spent

The Sunderland Local Plan Infrastructure Delivery Plan (IDP) has identified a range of measures to improve traffic management and reduce congestion at traffic pinch points throughout the city, as well as measures to improve access to sustainable transport options. The Core Strategy and Development Plan

Joint Position Statement (2019) identifies the agreed infrastructure improvements that are required on the Strategic Road Network to mitigate the Core Strategy and Development Plan within the plan period. The North East Combined Authority (NECA) Transport Plan also sets out measures to reduce congestion across the combined authority area and provides recommendations on actions that should be taken to improve bus services and future patronage. These plans, as well as other relevant strategies, should be taken into account when considering what is required to mitigate the impacts of new developments. Such mitigation measures may include, but not be limited to:

- highway and junction improvements;
- new safe and easy to use road crossings, where needed, or the improvement of existing pedestrian/ cycle facilities in close proximity to the development site;
- traffic management and traffic calming initiatives in close proximity to the site;
- introduction of interventions to restrain and reduce traffic volumes;
- provision and improvement of cycling routes;
- new secure cycle parking areas and facilities;
- provision of parking and disabled parking spaces; and
- electric vehicle charging points.

Section 106 contributions may be directed towards revenue costs associated with the future maintenance of the infrastructure, similar to a commuted sum arrangement, for a period of up to 20 years (unless otherwise agreed). Maintenance requirements will include covering costs associated with the upkeep and general repair of traffic signal equipment and vehicle charging infrastructure installed as

part of highway works associated with a development proposal.



12. Public transport

Introduction

As set out in paragraph 118 of the NPPF, all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a vision-led Transport Assessment or Transport Statement so that the likely impacts of the proposal can be assessed and monitored.

Chapter 12 of the CSDP identifies that by focusing on sustainable transport, development will not only improve accessibility but will also help to improve traffic congestion, air quality, road safety, decrease carbon emissions, and support increased levels of physical activity and improved overall health and mental wellbeing.

The council will work closely with Nexus and bus operators to develop a high level and holistic approach to seeking developer contributions to support public transport. This will provide the basis for comprehensive public transport strategies for individual major developments, which will in turn provide a framework for developer contributions. The precise detail of such strategies will be agreed once more detail on the phasing, implementation and site layout of the development and associated infrastructure is clarified.

Basis for requiring the contribution

CSDP Strategic Priority 11 outlines the ambition to promote sustainable and active travel and seek to improve transport infrastructure to ensure efficient, sustainable access.

New developments will usually generate additional travel journeys. To accommodate this increase in demand and to facilitate a change to more sustainable modes of transport, improvements to infrastructure or amendments or additions to public transport services may be required to support the development. The focus will be on encouraging greater use of the public transport network, supported by demand management measures and making best use of existing infrastructure.

How the contribution will be calculated

To determine the developer contribution the following will be the basis for the calculation.

Cost of providing the bus service or facilities, divided by the number of housing units or employee numbers in the proposed development.

When calculating the contribution, the figures to be used will be based on liaison with Nexus and bus operators. The precise level of developer contribution would be subject to negotiation at the planning application stage.

In the case of major developments, it will be necessary to seek a developer contribution to provide a pump-priming bus service in advance of developing sufficient critical mass in terms of population, and infrastructure, to enable commercial bus service provision to be viable. It is anticipated that any development funding for bus services would be for a three-year pump-priming period, with annual tapered reductions, on the assumption that commercially viable services will be able to be provided thereafter.

How the contribution will be spent

The Sunderland Local Plan Infrastructure Delivery Plan (IDP) has identified a range of measures to improve traffic management and reduce congestion at traffic pinch points throughout the city. There are also a number of measures to improve access to sustainable transport options. The North East Combined Authority (NECA) Transport Plan also sets out measures to reduce congestion across the combined authority area and provides recommendations on actions that should be taken into account when considering what is required to mitigate the impact of the development.

Examples of the type of infrastructure which may be required to mitigate the impact of the development include:

- improving or increasing public transport access and capacity;
- highway and junction improvements to aid public transport e.g. prioritisation;
- introduction of interventions to restrain and reduce traffic volumes; and
- works to upgrade and maintain public transport infrastructure in close proximity to the development site, such as bus stops and shelters.

13. Other site-specific planning obligations

There may be instances where a development would result in a material increase in the need, or demand, for other types of infrastructure or services which are not specifically addressed within this document. In such instances the council will negotiate with applicants on a case-by-case basis having regard to site-specific circumstances.

The potential scope of other site-specific planning obligations is extensive and may include a diverse range of infrastructure and services including those set out below.

Heritage assets

CSDP Policy BH1: Design Quality states that developments should achieve high quality design and positive improvement from all development. CSDP Strategic Policy 7 highlights the need to protect and enhance the quality of our built and historic environment, and the delivery of distinctive and attractive places, and the delivery of this is supported through Policies BH7: Historic Environment and BH8: Heritage Assets.

Where detrimental impacts on heritage assets through new development cannot be avoided, mitigation, through direct physical improvements to other heritage assets in the vicinity of the site, to landscape, public realm or green infrastructure improvements to enhance the setting of listed buildings and conservation areas should be provided. Support for the repair, maintenance, renovation and reuse of heritage assets can help to conserve and enhance the area's valued historic environment. The introduction of public art, signposting or interpretation (informed through

all relevant collecting, archiving and researching of information) can help to retain and promote the history and heritage of the area, particularly in instances where new developments result in a loss of, or detrimental impact to, heritage assets or their setting. Such improvements may be sought through on-site provision or via an off-site financial contribution for their delivery.

Public realm

CSDP Policy BH3: Public Realm states that existing and proposed areas of public realm will: 1. create attractive, safe, legible, functional and accessible public spaces; 2. be constructed of quality, sustainable and durable materials which enhance the surrounding context; and 3. where appropriate, incorporate public art in development.

New developments should achieve high quality and inclusive design for all development, which is central to creating successful places in terms of providing the space for movement, interaction and activity, as well as defining the setting and relationship between surrounding buildings. A high quality and well-designed public realm can also serve to promote sustainable transport choices, by encouraging walking and cycling, and facilitating access to public transport hubs and services, resulting in improved physical health and mental wellbeing.

New developments may introduce the need for improvements to the surrounding public realm, within the vicinity of the development, in cases where the development would result in an intensified use of the public realm. As such, a financial contribution may

be sought towards the provision or improvement of public realm on a case-by-case basis from the relevant developer.

Contributions may be directed towards a wide range of projects, including enhancement of the built environment; provision/improvement of public space, such as public squares; signage and interpretation boards; public art; and street furniture.

Health

Population growth associated with major housing development may increase pressure on health infrastructure. Therefore, in line with NPPF paragraph 35, the council may seek contributions towards health infrastructure on an individual application basis, where appropriate and justified.

14. Approach to securing planning obligations

Viability

The council will seek to secure fair and reasonable developer contributions without adversely affecting the ability for new developments to take place in the city. Paragraph 59 of the NPPF states that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the CSDP and the viability evidence underpinning it is up to date, and any change in site circumstances since the CSDP was brought into force.

The council recognises the wider benefits of development to the city in terms of the associated outputs from the development, such as a regeneration or helping to meet housing need.

As outlined in CSDP Policy ID2: Planning Obligations, the council will consider a request from the applicant to reduce the level of planning obligations, on the basis that it is not financially viable to provide or pay (either in whole or in part) any Section 106 planning obligation requirements or charges deemed necessary and appropriate. Such requests must clearly demonstrate to the council what the applicant is prepared to fund in terms of planning obligations, the reasons why the development cannot support the full planning obligation requirements such as, high abnormal costs, including comprehensive evidence that must include a Viability Assessment in order for the council to take it into account as a material consideration.

The viability assessment should be submitted at the earliest possible stage of the planning process to enable the request to be considered and verified by the council.

All viability submissions will be carefully considered by the council. Once submitted, the council's professional advisors will review the information provided to support a reduction in the required planning obligations, including the viability assessment, to initially determine if sufficient information has been provided to support the request. Following this a third party, appointed by the council, will carry out an independent appraisal of the site to determine if acceptable development would be viable which would bring forward development of the site. Any costs incurred through this process will be payable by the applicant.

The land value and developer's return elements of the appraisal will be determined as to what is sufficient to incentivise both parties to sell and develop the scheme. These will broadly be reflective of the returns currently being sought and accepted within the market, including any adjustment to account for the market risk of the scheme.

In considering viability, the price paid or agreed by the applicant for the land will not be taken into account whilst reviewing the viability assessment. Consideration will be given to what a reasonable land value would be which is sufficient to incentivise the landowner to sell or develop the land for the proposed scheme based upon a number of factors including case law, market conditions and guidance.

Negotiation of reduced contributions

The council is under no obligation to accept a reduction in the required level of planning obligations and may ultimately refuse the planning application if the applicant will not provide these, however, if it can be demonstrated that a scheme is unable to fund the required Section 106 contributions and this is verified by an independent third party, the council will consider the cumulative benefit of the scheme and how the need for required obligations can be met from an alternative source than the developer with a view to negotiating a reduced requirement from the scheme.

Viability re-test

Should the council accept a reduction in the policy compliant level of planning obligations, and/or affordable housing being delivered as a result of a viability assessment, the development will be subject to viability re-testing.

The purpose of re-testing viability is to establish if there have been any changes in the assumptions made, as part of the original assessment of viability, which would mean an increased level of obligations could be delivered as a result of greater certainty over costs and values being established as the delivery of the scheme progresses.

Specific terms for the re-testing may be agreed as part of the initial viability application but must reflect the specific scheme in terms of the trigger point(s) at which re-testing occurs. Re-testing will take place at a point in the development of the scheme when costs and values are likely to be known but soon enough to enable any additional contributions and/or affordable housing delivery to be realised and mitigate the impact of the development.

Multiple re-tests may be appropriate for larger schemes which are delivered in phases, however, in all instances re-testing will occur no later than completion of 90% of the whole development and will be detailed within the S106 agreement.

Where it is not feasible to deliver affordable housing requirements on-site following re-testing, a contribution in lieu will instead be calculated.

The overall contribution requested for the scheme, once re-testing has occurred, will be capped at the level requested at the planning application.

For major development sites, where development will be phased, the council may consider viability on a phase-by-phase approach where the requirement could be relaxed in the early phases and viability re-tested prior to the commencement of the future phases of the development.

Claw-back

Where contributions are sought for project delivery in conjunction with a third party, a Grant Funding Agreement (GFA) or other legal mechanism as appropriate may be entered into to ensure delivery in accordance with the section 106 agreement. Such agreements will include an appropriate claw-back mechanism to ensure that, in the event the relevant infrastructure or project is not delivered or retained in perpetuity or for a specified period of time, the Council retains the right to claw-back the monies to enable alternative means of project delivery.

Pre-application engagement

Applicants are strongly encouraged to engage in pre-application discussions with the council in order to determine the nature and scale of contributions that will be required, prior to submitting a planning application.

On submission of a planning application, all relevant supporting documentation should be submitted in accordance with the Validation of Planning Applications Checklist (2024). Where pre-application advice has been sought and the council has indicated that a Section 106 agreement would be necessary, a draft Heads of Terms should be submitted with the planning application. This will ensure that the determination of a planning application is not unnecessarily delayed.

Details of the process for engaging with the Local Planning Authority at pre-application stage can be found on the council's web page www.sunderland.gov.uk/planningadvice or by contacting the Development Management service.

Figure 7 outlines the process for negotiating planning obligations from the pre-application stage.

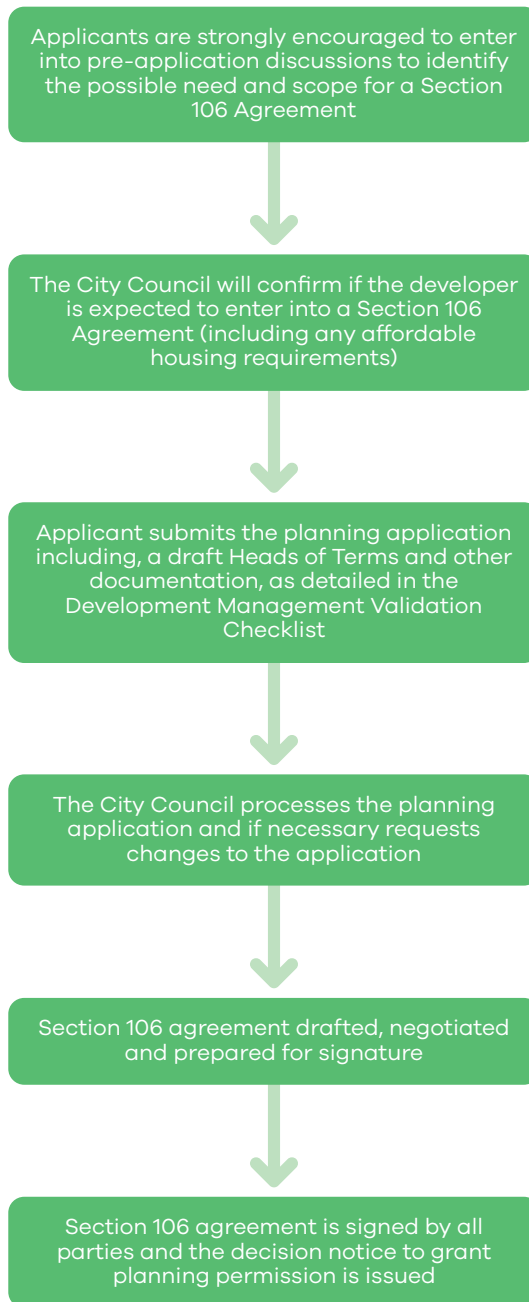


Figure 7 outlines the process for negotiating planning obligations from the pre-application stage.



15. Implementation

Where pre-application advice has been sought and the council has indicated that a Section 106 agreement would be necessary, a draft Heads of Terms should be submitted with the planning application. This SPD should be used alongside council advice to complete the draft Heads of Terms.

For applications where pre-application advice has not been sought from the council, and it is identified that a S106 agreement will be required, the case officer will engage in discussions with the developer at the earliest possible opportunity in order to prevent delays in the decision-taking process. The guidance contained within this document should be used in the preparation and negotiation of the legal agreement by the developer and the council.

Provision of works by applicants

In some instances, the best means of addressing the impact of a development may be for a developer to deliver infrastructure works, as an alternative to making a financial contribution. For example, the developer may provide open space and play facilities on the site as part of the development, or undertake public realm improvements off-site to mitigate the impacts of the development.

Where a developer considers that they can satisfactorily address the impact of a development through delivering infrastructure works themselves, this should be demonstrated to the council at the pre-application stage. If the council considers the scope of the works to be appropriate to address the impact of a development a Section 106 agreement will be required to ensure the agreed works are implemented to an agreed

standard, having regard to the quantity, quality and location of the provision.

Future maintenance, management and retention in perpetuity

Consideration to the future maintenance and management of new facilities and infrastructure provided through new developments or via a legal agreement should be given. Where appropriate, any maintenance and management plan should be submitted in writing to the council to outline the actions to be taken. Alternatively, a commuted sum or monies secured via a Section 106 agreement may be sought by the council for the future maintenance of new infrastructure and facilities to ensure their longevity and retention in perpetuity. In all cases the retention, maintenance and management of new infrastructure will be monitored by the council in perpetuity.

Unilateral undertakings

In certain instances where only the applicant needs to be bound by a planning obligation, and not the council, it may be appropriate for the developer to make a unilateral undertaking in relation to the delivery of the planning obligations.

Resolving planning obligations through a unilateral undertaking can offer advantages in terms of time, cost and resourcing to both the developer and the council. Where a developer is considering making a unilateral undertaking, it should seek the views of the council as to the appropriateness of the proposed approach and the relevant projects which any funding should be directed towards.

Modification and discharge of planning obligations

Applications made to amend Section 106 Agreements should be done so in accordance with the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations.

The PPG states that planning obligations can be renegotiated at any point, where the LPA and developer wish to do so. Where there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application may be made to the LPA to change the obligation where it “no longer serves a useful purpose” or would continue to serve a useful purpose in a modified way.

It is strongly recommended that prior to submitting an application of this nature, pre-application discussions are first undertaken with the LPA.

Hierarchy of requirements and contributions

When it is demonstrated that the full amount of planning obligations cannot be delivered due to viability, the council will determine where the available contributions should be directed in order to best meet the needs of the local area at the time and in accordance with the current policy and national regulations.

Approach to the phasing of contributions

Where necessary, the timing of the provision of infrastructure will be linked directly to the phasing of the development, taking account of viability to ensure that the planned and necessary infrastructure is available to

serve the development when it is first required. In addition, any cumulative impacts of developments will be taken into account.

Index linking of financial contributions

All financial contributions shall be index linked from the date the legal agreement is signed to the date the payment is due using the BCIS All in Tender Price index. CPI index will be applied for commuted sums for management and maintenance and contributions towards staffing costs. In the event either or both of these indexes cease the most appropriate alternative replacement will be used in its place.

The council will consider the need to review the values published within this SPD on an annual basis to reflect inflationary pressures. Any revised values will be published on the council’s website.

Non-payment

Planning obligations will be monitored by the council’s Planning Obligations Officer to ensure compliance. Delivery of all obligations will be required in line with trigger points specified in the individual legal agreement. In the event of late payment, the owner shall pay the contribution (inclusive of indexation) together with interest from the date the payment was due to the date of payment (both dates inclusive) at the base rate of the Bank of England plus 8%², for the time being applied.

2 In line with the [Late Payment of Commercial Debts \(Interest\) Act 1998](#).

Appendix 1: Affordable housing

Discounted Market Value

Prior to marketing a DMV unit, the developer must first submit a report from a Royal Institute of Chartered Surveyors (RICS) valuer to enable the council to certify the price of the property as being affordable.

The owner must market the property for a continuous period of 18 weeks at prospective occupiers who meet the local connection criteria. Whilst the units can be marketed prior to this, the 18 week period shall not commence until the relevant property has been constructed to damp proof course level.

If at the end of the 18 week marketing period the DMV unit is not contracted for sale the owner may dispose of the unit to an eligible person but without the requirement that the eligible person meets the local connection criteria.

Applicants, or in the case of a joint application at least one applicant, must meet one of the following criteria:

- must currently live in the city and have done for the last 12 months;
- must be employed on a permanent basis within the city or are to be employed on a permanent basis in the city or have retired from permanent employment within the city and wish to remain in the city;
- must have a longstanding family connection to the city, such as the children of local residents or elderly people who need to move back to the area to care for or be cared for by relatives or other carers; or
- a member of the Royal Navy, the Royal Marines, the British Army or the Royal Air Force or a former

member who was a member within the previous 5 years, a divorced or separated spouse or civil partner of a member, deceased member or former member whose death was caused wholly or partly by their service.

Applicants should lack their own housing or live in housing which can be demonstrated to be inadequate or unsuitable to meet their existing and future needs, whether because of its tenure, size, type, design, condition, security or cost.

All applications should include a letter from an independent Financial Advisor (FA) who represents or is appointed by a representative of a firm registered with the Financial Conduct Authority (FCA) stating the maximum amount the applicant is able to borrow and confirmation that the applicant is unable to purchase the property at full market value.

Applicants are required to provide information on their household income, savings and any other funds available to them and this should be verified by a FA. The assessment will take into account all capital and savings and any capital generated as a result of the sale of an existing property must be included in the application.

DMV properties are not available to investors on a buy to let basis and on completing the purchase of a DMV property applicants must have no financial interest in any other property.

Process for re-sales

Properties sold as Discounted Market Value should remain as such in perpetuity. To ensure this, a legal restriction will be placed on the property ensuring that the vendor can only sell to a prospective buyer who meets the eligibility and local connection criteria with the same percentage discount that they received when purchasing the property. The council will charge the developer a planning obligation monitoring fee, as detailed in Appendix 3, on granting planning permission which will cover the cost of the first sale and the three subsequent resales. For the fourth and each subsequent resale, the owner of the property at the time will be liable to pay the monitoring fee for the sale in question.

The vendor will need to inform the council of their intention to sell the property and obtain a valuation of not more than 3 months old from a RICS valuer.

The council or its advisor will review the valuation and certify the agreed sales price of the property.

The vendor should inform their estate agent that the property is affordable housing and supply them with a copy of the Section 106 agreement detailing the rate of discount and any eligibility and local connection criteria.

If after marketing the property for a continuous period of 6 months no satisfactory purchaser is found, then the owner may dispose of the dwelling to a purchaser without the requirement that the prospective purchaser meets the local connection criteria.

Appendix 2: Site viability

Assessment of viability

Where an applicant proposes a reduction in the required level of planning obligations of affordable housing, the applicant must submit a viability statement with associated detailed development appraisals and evidence to enable the council to consider the request. The statement should:

- detail the viability based upon delivering a fully policy compliant scheme (base appraisal). This should include the reasoning the development is not viable including if the developer margins cannot be achieved and/or the landowner is not sufficiently incentivised to release the land;
- consider and detail any viable alternatives for the site. This should include retaining the existing use of the land or buildings and any suitable alternative developments which could viably be delivered. This should be based upon what the market would deliver and not only the proposed development. The rationale for not delivering an alternative viable scheme will need to be outlined including matters such as landowner incentive or developer appetite, where appropriate;
- detail all mandatory contributions, for example HRA and BNG, without which the application will not be approved;
- consider if the policy requirements could be met in part, including a reduced contribution and/or the delivery of some affordable housing. This should include any changes to the type and tenure of the affordable housing that could

be delivered on-site. Any financial contributions should be expressed as a generic S106 commuted sum and not allocated against specific requirements; and

- detail the benefits from the proposed scheme such as regeneration of a brownfield site and delivery of new housing and outline the consequences of the scheme should it not be delivered, to enable the council to consider the balance between the benefits of the delivery of the scheme against the impact of not receiving the contributions necessary to deliver the policy requirements, either in whole or in part.

Development appraisal

To support the above, detailed development appraisals must be submitted as part of the assessment of viability. The following list provides many of the usual inputs required for a viability assessment but is not exhaustive. Applicants may wish to include further items depending upon the specifics of the proposed development.

Gross Development Value (GDV)

- detailing the number, size, type, tenure and sales price of the homes, including any incentives that have been applied.
- detailing any other income such as grant or income from commercial development.
- costs of sale (including marketing and legal fees).
- all value assumptions must be supported through comparable

evidence including assumptions on rents and yields that have been used to determine capital values.

Land value

To facilitate the delivery of a successful development, the costs associated with the affordable housing requirements and all other planning obligations should be taken into account when negotiating the purchase price of the land.

In addition, it is expected that all known abnormal costs associated with developing a brownfield site will also be deducted from the land value during negotiation with the landowner.

Applicants should include within their appraisal a land value which reflects the level which would incentivise the landowner to release the land, along with a full justification as to how the figure has been established, taking into account viability guidance set out within the PPG.

Any site acquisition costs including Stamp Duty Land Tax should be stated separately.

Section 106 costs

The base appraisal should detail the full Section 106 requirements requested by the council including costs of all planning obligations and affordable housing. This appraisal should demonstrate what can viably be delivered and any S106 costs should be stated as a generic amount and not linked to a specific obligation. Applicants should assume that any sums are payable pre-commencement.

Build costs

The appraisal should detail the build costs for the scheme as accurately as possible with supporting documentation from professional costs consultants (QS feasibility cost plan etc.) including, where available, quotes received. In the absence

of any scheme specific information cost rates should be used from sources such as BCIS. Where possible, costs plans should be broken down to an elemental level, including:

- core build costs
- prelims
- infrastructure, including utilities, SUDS, plot connection costs etc.
- external works
- abnormal costs including demolition, remediation, retaining structures, ground gas mitigation, ground stability (piling, rafts, deep foundations), utility diversions etc.

All costs must be fully justified. Where allowances are made to meet national or local policy requirements, such as low carbon measures or changes to building control standards, the applicant must demonstrate that such items are a statutory requirement to be delivered. Where changes are proposed to come into effect in the future, the applicant must make reasonable assumptions on the likelihood, cost and effect of such changes.

Professional and statutory costs

The appraisal should detail allowances made for:

- professional fees
- statutory costs (planning, building regulations, section agreements)

Such costs should be based upon industry standards for the type of development and calculations provided by statutory bodies such as the council.

Finance

The appraisal should detail allowances made for scheme finance along with the method of calculation such as cashflow or s-curve, including:

- construction and sales period
- phasing
- interest rates
- arrangement fees

Contingency

A contingency may be included which reflects industry standards and reflects the stage of the scheme and any cost or sale certainty.

Developer's return (overhead and profit)

Applicants should include the projected return expressed as both a percentage of value and cost for different tenures of the development, i.e. open market sales, affordable sales, commercial sales. Rates should follow industry standards and reflect any requirements to deliver a certain tenure type.

Appendix 3: Planning obligation monitoring fees (subject to review on an annual basis)

The amended Community Infrastructure Levy Regulations 2019 permit Local Planning Authorities to charge fees in respect of the cost of monitoring (including reporting under the CIL Regulations) in relation to the delivery of planning obligations.

The monitoring fee will be proportionate and reflective of the monitoring and reporting required and will be calculated based on the number and type of obligations, the trigger points and duration for which monitoring and reporting is required, as detailed below.

| Obligation type | Fee |
|--|--------|
| Non-financial obligations (including Affordable Housing) | £278 |
| Financial Obligations | £557 |
| Affordable Housing - Discounted Market Value Units covering the first and 3 subsequent resales (payable by the applicant) | £1,140 |
| Affordable Housing - Discounted Market Value Units covering the 4th resale onwards (payable by the DMV home owner at the time) | £333 |
| Affordable Housing - First Homes covering the first and 3 subsequent resales (payable by the applicant) | £1,872 |
| Affordable Housing - First Homes per resale covering the 4th resale onwards (payable by the First Homes owner at the time) | £468 |
| Perpetuity clauses | £1,391 |

The point of payment will vary depending on type of planning application, as detailed below.

| Application type | Point of payment |
|--|---|
| Full planning permission (including when this forms part of a hybrid application) | Full fee on signing the agreement |
| Outline planning permission (including when this forms part of a hybrid application) | £500 on signing the agreement and the remainder on approval of a reserved matters application |
| First reserved matters application | Full monitoring fee applicable to the phase minus £500 on signing the agreement |
| Subsequent reserved matters application | Full monitoring fee applicable to the phase on signing in the agreement |
| Deed of Variation | £556 on signing the agreement Where additional triggers or obligations are introduced an addition fee will be calculated using the above table |
| Agreement with all obligations complied with on signing the legal agreement | £89 per obligation type on signing the agreement |

Discharge and Modification of obligation applications

| Application type | Fee |
|---|--|
| Applications for minor modifications where pre-application discussions have taken place with the LPA which indicate a favourable outcome in principle | £300 |
| Applications for all other types of minor modification | £500 |
| Major and/or complex applications | A bespoke fee to be calculated at the Council's discretion |

The fee schedule as set out above will be reviewed on an annual basis and published on the Council's website.

**Sunderland
City Council**

