

# **Developer Contributions Supplementary Planning Document (SPD)**

Consultation Draft November 2016

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Cherwell District Council

**DRAFT FOR EXECUTIVE  
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## **1. INTRODUCTION**

### **Purpose of this Document**

- 1.1. The purpose of this Developer Contributions Supplementary Planning Document (SPD) is to set out Cherwell District Council's approach to seeking Section 106 planning obligations and their operation alongside the Council's emerging Community Infrastructure Levy (CIL). This document should be read alongside the Council's Community Infrastructure Levy Draft Charging Schedule.
- 1.2. This guidance does not cover every possible circumstance and/or obligation that may need to be taken into account, nor does it cover the CIL implementation process but it does provide a clear indication of the Council's essential requirements from new development in respect of the provision of infrastructure, community facilities and services. It will enable developers to understand planning obligation requirements and costs from an early stage in the development process and to make appropriate provision when formulating costs and undertaking financial appraisals.
- 1.3. Since the introduction of the CIL Regulations in 2010, developers are expected to contribute towards the provision of infrastructure through a combination of mechanisms: paying a levy through CIL (if adopted at local level), S106 obligations, planning conditions and S278 highway contributions.
- 1.4. The CIL Regulations mean that since 6 April 2015 the use of Section 106 obligations has become more restricted, with the Council only able to pool a maximum of five separate obligations (entered into on or after 6 April 2010) for a specific infrastructure project or a type of infrastructure. The Council has prepared a draft list of infrastructure items that it intends to fund (wholly or partly) through CIL. This is known as the 'Regulation 123 List' and it is included in Appendix 2 for information. Section 106 developer contributions cannot be collected for infrastructure items included in the 'Regulation 123 List'.

### **What are Planning Obligations?**

- 1.5. A planning obligation is either a deed of agreement or a unilateral undertaking made under planning legislation in association with a planning permission for new development. It is normally applied to aspects of development that cannot be controlled by imposing a planning condition or by the use of other statutory controls. Planning obligations are legally binding and enforceable if planning permission is granted. They can cover almost any relevant issue such as types of infrastructure or services and future maintenance.

- 1.6. Planning obligations should only be used where it is not possible to address the unacceptable impact of development through a planning condition. (Paragraph 203 NPPF<sup>1</sup>).
- 1.7. In addition, the CIL Regulations 122 states that the use of planning obligations should only be sought where they meet all of the following tests:
- They are necessary to make a development acceptable in planning terms
  - They are directly related to a development
  - They are fairly and reasonably related in scale and kind to the development.

### **What is CIL?**

- 1.8. CIL is a discretionary tariff charged on new development that the Council can choose to adopt to support the provision of infrastructure. Once adopted CIL is fixed, non-negotiable and enforceable.
- 1.9. Cherwell District Council must set a CIL rate or rates in a Charging Schedule, and follow two stages of consultation and an Examination in Public prior to adoption and implementation of CIL. The Council is currently consulting on a Draft CIL Charging Schedule.

### **Relationship between CIL and S106s**

- 1.10. The Government intends CIL to provide for infrastructure to support development rather than making individual planning applications acceptable in planning terms. Site specific mitigation will still be sought through Planning Obligations.
- 1.11. CIL Regulations 122 and 123 place limits on the use of planning obligations and makes the planning obligations policy tests (refer to Para'1.7 above) a statutory requirement. These two regulations are set out to avoid overlaps between CIL and planning obligations and to limit the pooling of planning obligations towards infrastructure provision that could be funded by CIL. The Government's intention is for local authorities to operate CIL and Planning Obligations in a complementary way.
- 1.12. When seeking contributions, the Council should ensure their combined total impact does not threaten the viability of the sites and scale of development identified in the Development Plan.

### **Planning Conditions**

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<sup>1</sup> National Planning Policy Framework

- 1.13. Planning conditions cannot require the transfer of land ownership or the payment of monies. They are attached to a planning permission and set out details or required standards, timeframes, and works which must be carried out at prescribed stages in the development process. They may also require further details to be submitted in order to make a proposal acceptable.
- 1.14. NPPF paragraph 206 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

### **Section 278 Agreements**

- 1.15. Section 278 Agreements allow developers to enter in to a legal agreement with the Highway Authority to fund alterations or improvements to the public highway where these are of benefit to the public.
- 1.16. The pooling restriction on planning obligations does not apply to S278 agreements. However, the CIL regulations prohibit CIL being spent on a highway scheme where a S278 agreement has been made.

## **2. POLICY FRAMEWORK**

### **National Level**

- 2.1. The statutory framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990 (as amended); Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended) and the National Planning Policy Framework (NPPF), particularly paragraphs 203 to 205.

### **Local Level**

- 2.2. The statutory Development Plan for the District currently comprises:
  - Policies in the adopted Cherwell Local Plan 2011-2031 (Part1)(adopted July 2015)
  - The retained saved policies of the adopted Cherwell Local Plan 1996
  - The saved policies of the Oxfordshire Minerals and Waste Local Plan 1996
  - Hook Norton Neighbourhood Plan 2014-2031
- 2.3. The adopted Cherwell Local Plan Part 1 contains the strategic policies covering the District and identifies strategic sites for housing and employment development at Bicester, Banbury and the former RAF Upper Heyford.

- 2.4. Work has commenced on the production of Cherwell Local Plan 2011-2031 (Part 2): Development Management Policies and Sites. Work has also commenced on a Partial Review of Cherwell Local Plan Part 1 which seeks to address the unmet objectively assessed housing need from elsewhere in the Oxfordshire Housing Market Area (HMA), particularly from Oxford City.
- 2.5. Other key planning policy documents include:
- Supplementary Planning Documents (SPDs). SPDs expand upon and provide further detail to policies in Development Plan Documents.
  - The Infrastructure Delivery Plan (IDP). The IDP is a live document adjusted over time and contains the infrastructure required to support **Policy INF 1: Infrastructure** of the adopted Cherwell Local Plan Part 1. An IDP was appended to the adopted Local Plan. IDP updates can be found on the Council's website.
- 2.6. The Council's Local Development Scheme provides up to date information on the progress of these documents.

### **Bicester Garden Town**

- 2.7. In 2014 the Government announced that Bicester had achieved Garden Town status after Cherwell District Council had successfully demonstrated plans to meet the necessary criteria of providing affordable homes, schools and jobs while preserving the countryside.
- 2.8. Since then an initial grant has been awarded to fund the necessary feasibility studies which will guide the delivery of the 13,000 homes, 21,500 jobs and supporting infrastructure as set out in the adopted Cherwell Local Plan Part 1.

### **Healthy New Towns**

- 2.9. In 2015 the Government launched its Healthy New Towns Programme. This programme offers to radically re-think how we live, and takes an ambitious look at improving health through the built environment.
- 2.10. In 2016 Bicester was successful in being selected as one of the 10 exemplar healthy new towns. The Bicester Healthy New Town Programme aims to enable people who

live or work in Bicester to live healthier lives and to prevent ill health in the future. The two key priorities for the programme are:

- To reduce the number of people who are overweight or obese because it is the cause of so many health problems.
- To reduce the number of people who feel socially isolated because that has an important impact on mental wellbeing.

2.11. The built environment has a role to play in supporting health and wellbeing of communities in the whole of Cherwell District and it is a Council priority to ensure new developments supports this aim.

### **3. PROCEDURES**

#### **General Approach**

3.1 The Developer Contributions SPD and the CIL Charging Schedule once adopted will comprise Cherwell District Council's approach to planning contributions.

3.2 The Council will seek CIL payments in accordance with its CIL Charging Schedule. Once in place, this charge is non-negotiable.

3.3 Although the scope for securing S106 planning obligations has been reduced since April 2015 due to the pooling restrictions, it is expected that planning obligations will still be sought for:

- Affordable housing; and
- Infrastructure which is required to mitigate the direct impact of a development. However, it should be noted that this is a general guide and development proposals will continue to be assessed on a case by case basis with the individual circumstances of each site being taken in to consideration when identifying infrastructure requirements. Infrastructure will not be sought by a S106 agreement if it is included in the Council's Regulation 123 list.

#### **Planning Obligations**

3.4 The Local Planning Authority (LPA) will assess each application to determine if a planning obligation is needed and if so what it should address. It will do this in consultation with other public bodies responsible for infrastructure provision.

3.5 The LPA will use planning obligations to:



- Secure general planning requirements that are necessary to allow the development to be permitted and where this cannot be achieved by way of planning conditions;
- Ensure that there is a satisfactory infrastructure to allow the development to proceed and that the infrastructure provided will be maintained; and
- Offset relevant adverse impacts, for example, on the environment, education, social, recreational and community facilities and transport that arise from the development where the development might otherwise have been refused because of those adverse impacts.

### **Pre Application Discussions**

- 3.6 As part of any pre-application discussions the LPA will seek to agree the requirements and Heads of Terms for any planning obligation.
- 3.7 It is the Council's strong preference, where applications and associated planning obligations are more complex, that negotiations occur, and agreement on Heads of Terms is achieved, prior to the submission of a planning application. Pre application discussions can help to resolve potential problems and issues which may otherwise delay the determination of a planning application.
- 3.8 It is a local validation requirement that draft Heads of Terms accompany any application that requires a planning obligation.

### **Unilateral Undertakings**

- 3.9 In cases where a planning obligation is only dealing with a standard financial contribution the LPA will encourage developers to make a unilateral undertaking and to make the relevant contributions on the granting of planning permission.
- 3.10 This approach allows applicants for small schemes to reduce the legal costs and avoid potential delays often associated with planning agreements. The Council provides a standard form for a unilateral undertaking and this can be found on its website.

### **Cross Boundary Applications**

- 3.11 Where an application site falls partly into another local planning authority area the Council will, as far as possible, work to coordinate proportionate planning obligation requirements with that authority. If however, agreement cannot be reached, the Council will seek obligations for the portion of the site that falls within the District.

## **Viability**

- 3.12 A key objective of this SPD is to alert applicants of the likely level of planning obligations that can be expected from proposed developments well in advance of any planning application being submitted. The developer can then factor these requirements in to any potential land transaction and/or scheme at an early stage. Viability issues should be considered in pre-application discussions.
- 3.13 The LPA recognises that financial viability is a material consideration. It may therefore, in exceptional circumstances, consider prioritising obligations when a proven viability case has been demonstrated by the developer. The relative priority given to competing requirements will be assessed having regard to the Development Plan, the needs of the locality and the particular characteristics of the site and its setting.
- 3.14 Where a disagreement arises about financial viability and the level of planning obligations sought, the applicant will be expected to provide the Council with evidence to support their case. In most instances this will involve the Council reaching an understanding based on a detailed open book financial appraisal, undertaken by an independent assessor. Where there are significant financial issues arising for other public bodies responsible for providing infrastructure (including Oxfordshire County Council), the LPA will expect that body to be actively involved in this assessment process and conclusions.
- 3.15 All costs incurred by the Council in financial appraisal and viability assessment are to be met by the applicant.

## **Security and Timing of Payments**

- 3.16 Financial contributions (apart from legal costs and standard administration charges) will usually need to be paid prior to the implementation of planning permission or in accordance with a programme of agreed staged payments.
- 3.17 Upon completion of a Planning Obligation, the developer should identify the financial contributions payable and the corresponding triggers or payment dates.
- 3.18 Upon reaching a trigger or payment date, the developer should notify the Council of their intention to pay the financial contribution. If the developer notifies the Council of their intention to pay the financial contribution after the trigger or payment date has elapsed then late payment interest will be charged at a rate of 4% above the standard base rate or as otherwise stated in the Planning Obligation. The applicant may also become liable for additional monitoring and enforcement costs.

- 3.19 The Council will then calculate the total financial contribution payable including any interest and/or indexation due and will provide a copy of this calculation to the developer. This calculation will be valid for a period of 14 days from the date of issue unless otherwise agreed in writing. If the calculation has not been agreed within 14 days and is arithmetically correct, then late payment interest will be charged as per paragraph 3.17 above.
- 3.20 Once the developer has agreed the calculation, the Council will issue an invoice to the developer for the agreed sum. The invoice issued will be subject to the Council's standard payment terms.
- 3.21 The Council will not accept payment of any financial contribution unless accompanied by a valid invoice.
- 3.22 Upon receipt, financial contributions will be held in a specific account before being transferred to the relevant internal departments or third parties (e.g. other public sector body, parish council etc.) responsible for spending the contribution.
- 3.23 All receipts and spending of financial contributions will be recorded and monitored by the Council's Planning Obligations Officer.
- 3.24 Please note that the information above is only relevant to financial contributions payable to Cherwell District Council. Financial contributions payable to Oxfordshire County Council (i.e. those relating to highways and education etc.) will be subject to a different process and developers are advised to contact the Oxfordshire County Council Developer Funding Team ([developer.funding@oxfordshire.gov.uk](mailto:developer.funding@oxfordshire.gov.uk)) for further information.

#### **Fees**

- 3.25 The Council's legal costs of preparing the Planning Obligation will be borne by the developer. These costs will be based on an hourly rate and will depend upon the complexity of the agreement and the length of time taken to settle the draft and proceed to completion.
- 3.26 The Council's reasonable legal fees will need to be met even if the planning obligation is not completed.
- 3.27 Standard unilateral undertakings will be subject to an administration charge covering legal costs and if necessary the transfer of money to third parties.

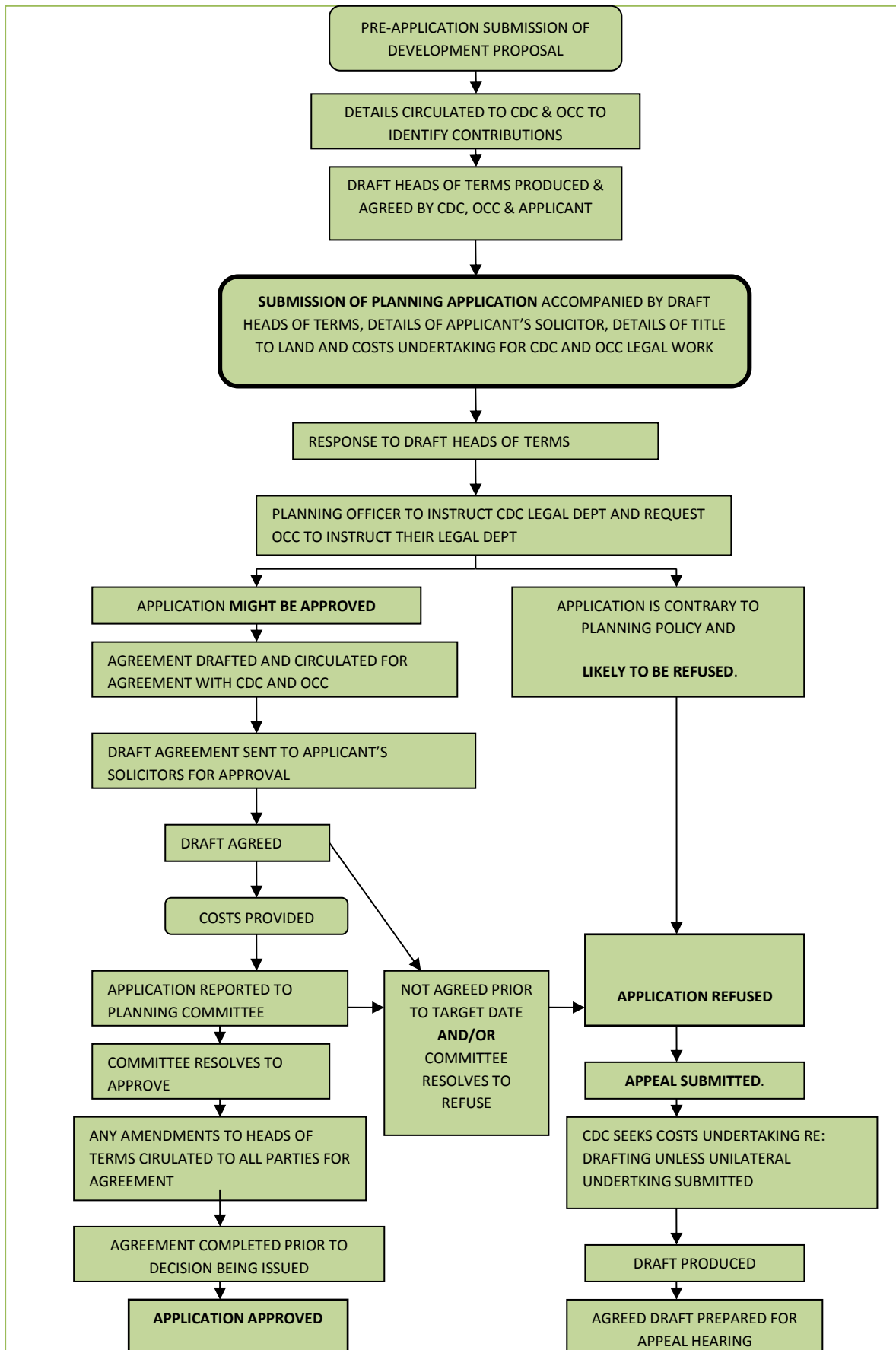
### **Monitoring and Enforcement**

- 3.28 The Council monitors all Planning Obligations and will work with developers to ensure that financial contributions and non-financial obligations are delivered on-time.
- 3.29 Where there is evidence of non-compliance with a Planning Obligation (such as the non-payment of financial contributions, failure to comply with an obligation, or failure to notify the Council of a due payment or event as required), the Council will seek to recover all reasonable administration costs incurred. This could include, for example, site visits, the recovery of any unpaid monies and/or correspondence.
- 3.30 If it is apparent that matters within the Planning Obligation are not being complied with, despite efforts by the Council to remind the developer of their obligations, then the Planning Obligations Officer will instruct the Council's Legal Service to take appropriate action to secure compliance. This could include for example, seeking a court injunction.
- 3.31 Where a formula has been set for the calculation of contribution levels, any cost figures used will be updated regularly to take account of inflation and are the sums required at the time of negotiation.
- 3.32 All payment levels will be subject to an inflation factor adjusted according to the fluctuations between the date of the obligation and the quarter period in which payment is due to the District Council.

### **Dispute Resolution**

- 3.33 Changes introduced by the 2016 Housing and Planning Act relating to Schedule 13 of the Town and Country Planning Act 1990 (as amended) give the Secretary of State the power to appoint someone to resolve issues that are holding up the completion of a planning obligation.
- 3.34 Figure 1 overleaf provides an overview of the Planning Obligation process

Figure 1: Planning Obligation Process



#### 4. SPECIFIC PLANNING OBLIGATION GUIDANCE BY TYPE

- 4.1. This section gives specific advice for various types of infrastructure commonly required by the Council to support development. However, as stated previously it does not cover every circumstance and/or obligation that may be needed to make a development acceptable in planning terms. In all cases the LPA will ensure that the infrastructure sought complies with CIL Regulation 122.
- 4.2. Table 2 below offers a guide to the types of infrastructure to be covered by S106 planning obligations and what will be covered by CIL. It should not be confused with the CIL Regulation 123 list. Table 2 has helped inform the preparation of CDC’s Draft CIL Regulation 123 list prepared alongside the CIL Draft Charging Schedule and contained in Appendix 2.

**Table 2: Guide to Funding Mechanisms by Infrastructure Type.**

Type	CIL	S106	Condition	S278
<b>Housing</b>				
Affordable Housing		✓		
Commuted offsite payments for the provision of affordable housing		✓		
<b>Transport (includes PRow)</b>				
Site specific Highway and Access Impacts		✓		✓
Non-site specific Highway improvements	✓ Unless identified project compliant with pooling restrictions; would need clarification in Reg. 123 list.			
Site specific sustainable transport		✓		
Non-site specific sustainable transport	✓ Unless identified project compliant with pooling restrictions; would need clarification in Reg. 123 list.			
Highways Depots	✓			
<b>Education</b>				
On site Education (Primary, Secondary, 6 <sup>th</sup> Form, Special Educational Needs)		✓		
Education (Primary, Secondary, 6 <sup>th</sup> Form, Special Educational Needs)	✓ Unless identified project compliant with pooling restrictions; would need clarification in Reg. 123 list.			
Onsite early years provision		✓		
Early years provision	✓ Unless identified project compliant with pooling restrictions; would need			

Type	CIL	S106	Condition	S278
	clarification in Reg. 123 list.			
Apprenticeships			✓	
<b>Utilities</b>				
Sustainable Urban Drainage Systems		✓	✓	
On site provision of Refuse bins, recycling banks/'bring in' sites			✓	
Off-site provision of Recycling banks/'bring in' sites	✓			
Strategic Waste Management (WRC)	✓ Unless identified project compliant with pooling restrictions; would need clarification in Reg.123 list.			
Strategic Flood Defence	✓			
Enhancements to the sewerage network beyond that covered by the Water Industry Act and sewerage undertakers (*)	✓			
Fire and Rescue	✓			
<b>Community safety and policing</b>				
Onsite provision of community safety and policing infrastructure		✓		
Off-site Community safety and policing infrastructure	✓			
<b>Health</b>				
Onsite provision of health infrastructure		✓		
Off-site provision of health infrastructure	✓			
<b>Air Quality</b>				
Measures during construction of new development including dust control, site monitoring and plan emissions			✓	
<b>Indoor sport, recreation and community facilities</b>				
Onsite Community centre/hub		✓		
Offsite Community centre/hub	✓			
Community Development Funding	✓			
Site specific Indoor Sports		✓		
Indoor Sports	✓			
Integrated Youth Support Service	✓			
Libraries	✓			
Day care Provision for the Elderly	✓			
Adult Learning	✓			
Museum Resource Centre (MRC)	✓			
<b>Open space recreation and Biodiversity</b>				
Site specific Open space, play space, outdoor sport, allotments, recreation and landscaping		✓		
Country parks, open space, play space, outdoor sport, allotments, recreation and	✓			

Type	CIL	S106	Condition	S278
landscaping				
Cemeteries	✓			
Onsite Nature Conservation and Biodiversity		✓	✓	
Nature Conservation and Biodiversity	✓ Unless identified project compliant with pooling restrictions; would need clarification in Reg.			
Sustainable Construction			✓	
<b>Public Realm</b>				
Site specific Public Art			✓	
Public Art	✓			
<b>Heritage</b>				
Archaeology			✓	
Heritage-related projects	✓			

## Affordable Housing

- 4.3. Cherwell District has a high level of need for affordable housing. The Council’s Housing Strategy 2012-17 recognises the need for affordable homes, and aims to ensure that Cherwell is well –placed to maximise investment by registered providers and to respond to opportunities as they arise.
- 4.4. The NPPF defines affordable housing as social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. This definition has been amended by the Housing and Planning Act 2016 which changes the definition to include ‘starter homes’.
- 4.5. The various types of affordable housing can be described as follows:

### Social Rented Housing

- 4.6. Rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime. It may also include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency as a condition of grant.

### Affordable Rented Housing



- 4.7. Rented housing provided by a registered provider of social housing, that has the same characteristics as social rented housing except that it is outside the national rent regime, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80% of local market rents.

### **Intermediate Rent**

- 4.8. Housing at prices and rents above those of social rent, but below market price or rents and which meet the criteria set out above but does not include affordable rented housing. These can include shared equity products or other low cost homes for sale such as;
- Shared Equity
  - Shared Ownership
  - Discount Sale

### **Starter Homes**

- 4.9. The Housing and Planning Act 2016 states that a starter home is a dwelling which is only available for purchase by a qualifying first time buyer and which is made available at a price which is at least 20% less than the market value. The current maximum price cap outside London is set at £250,000 <sup>2</sup>.

### **Requirements & Thresholds**

- 4.10. Policy BSC 3 of the adopted Cherwell Local Plan Part 1 requires the following provision:
- At Banbury and Bicester all proposed developments that include 11 or more dwellings (gross), will be expected to provide at least 30% of new homes as affordable homes on site.
  - At Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as **affordable homes on site.**
  - Financial contributions in lieu of on – site provision will only be acceptable in exceptional circumstances.
  - Where there is a requirement that part of an affordable home should be provided, a financial contribution of equivalent value will be required for that part only. Otherwise, financial contributions in lieu of on-site provision will only be acceptable in exceptional circumstances.

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<sup>2</sup> Housing & Planning Act 2016

- 4.11. All qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.

### **Housing Mix**

- 4.12. Adopted Local Plan policy BSC4 sets out the Council's housing mix requirements. In general there is a need to provide a mix of housing to reflect the needs of an ageing population, a growth in smaller households and the demand for family housing.
- 4.13. In all qualifying developments the mix of housing will be negotiated having regard to the Council's most recent evidence and evidence from developers on local market conditions.
- 4.14. Extra Care Dwellings will be important in meeting the needs of an older population. It comprises self-contained accommodation for older and disabled people which enables independent living by providing a range of support facilities on the premises and 24 hour care services. Housing sites of at least 400 dwellings will be expected to provide a minimum of 45 self-contained extra care dwellings as part of the overall mix. However, if the Council agrees that extra care housing would not be desirable in a particular location an equivalent amount of alternative specialist housing for older people will be required. It should not necessarily be assumed that the Extra Care/Older Persons housing should be made up entirely of affordable housing, rather the affordable housing should be considered an element. In any case the detail should be discussed and agreed with the Council.

### **Affordable Housing Standards**

- 4.15. It is expected that 50% of the affordable rented housing will be built to Building Regulations Requirements M4(2) Category 2: accessible and adaptable dwellings. In addition, 1% of the affordable housing is to be built to Building Regulation Requirement M4(2) Category 3: Wheelchair User Dwelling. However, this requirement will be assessed on a site by site basis in discussion with the developer.

### **Viability**

- 4.16. The Council will apply its policy requirements to all developments in the first instance. However, it will adopt a negotiated approach to all aspects of affordable housing delivery. If developers consider that the Council's policy requirements on affordable housing give rise to development viability issues they will need to fully justify their reasons.

### **Further Advice**

- 4.17. Detailed advice on the provision of affordable housing is available by contacting the Council's Strategic Housing Team.

### **Education**

*(Including primary, secondary, pre-school, further education and special needs education)*

- 4.18. The NPPF (para' 72) states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. This approach is further developed in the adopted Cherwell Local Plan Part 1 (Policy BSC 7) which seeks the provision of educational facilities throughout the District to accommodate population growth.
- 4.19. Oxfordshire County Council (OCC) has a statutory responsibility to plan for school places. It is important that these places are available within a reasonable travel distance for all those of school age occupying new residential development.

### **Planning Obligation Requirements**

- 4.20. The LPA will expect all residential developments of 10 or more dwellings to contribute towards the provision of education infrastructure where there is not enough spare capacity in existing appropriate schools to meet the needs generated by the development. This may include financial contributions and/or the provision of land and buildings to enable new schools to be provided or for existing schools to be extended. A list of planned projects is set out in the Council's IDP which is updated on a yearly basis.
- 4.21. Decisions as to whether or not there is sufficient spare capacity in a school are made with reference to current and forecast numbers on the roll and school capacity. Empty places at a school do not necessarily equate to there being excess capacity at that school. Any assessment of adequate and appropriate capacity will not normally include temporary accommodation.
- 4.22. In circumstances where it is not possible to provide school places within a reasonable walking distance an additional contribution towards the cost of providing transport for children to school may be required. The contribution will reflect the cost of providing the transport for a defined period of time.
- 4.23. Further advice on the method of calculations and the expected costs are set out in Appendix 4.

## **Transport & Access**

- 4.24. Oxfordshire County Council is the local highway authority and is responsible for the management and maintenance of the adopted highway network within the District.
- 4.25. The County Council is also the local transport authority. It produces the Oxfordshire Local Transport Plan and has various responsibilities for public transport. It is also the traffic authority responsible for traffic management and road safety. It has further responsibilities in relation to school transport and public rights of way.
- 4.26. The Oxfordshire Local Transport Plan provides the strategic framework for transport in the County. It sets out likely transport infrastructure requirements and priorities for Cherwell aimed at tackling congestion, promoting sustainable travel, safer roads and improving the street environment. Specific schemes and projects are set out in the Council's Infrastructure Delivery Plan.
- 4.27. The Council's strategy, as set out in the adopted local plan, for managing growth is to locate development in sustainable locations and identify appropriate and deliverable measures to meet the transport needs of the District.

## **Planning Obligation Requirements**

- 4.28. All new developments in the District will be required to provide financial and/or in-kind contributions to mitigate the transport impacts of the development. This will support delivery of the infrastructure and services needed to facilitate travel by sustainable modes. It will also enable improvements to be made to the local and strategic road and rail networks.
- 4.29. Where there is likely to be a transport impact the LPA will require the submission of a Transport Assessment. The type and level of any contributions towards transport infrastructure provision will be considered in the Transport Assessment and negotiated with the Highway Authority.
- 4.30. Detailed technical pre-application discussions with Oxfordshire County Council on the transport assessment are essential for major developments.
- 4.31. Direct infrastructure provision, financial and other contributions (including those for bus services) towards mitigating measures will be included in a planning obligation. The implementation of any physical changes to the highway network required to accommodate, or mitigate, the effects of a proposal will be managed through a highways agreement with the Highway Authority. For major schemes it will be

necessary to define the highways agreements at the time planning permission is granted. In such cases the highways agreement will be referred to in, and linked to, the planning agreement. This will ensure certainty and transparency of implementation requirements and costs for all parties.

- 4.32. For specific transport schemes identified in the IDP the following formula will be used to calculate S106 contributions. Where:

X = Cost of Scheme(s)

Y = Held/Committed funding

Z = LGF Funding/Alternative Funding

E = Expected Growth (dwellings/employment floor space)

$$\text{S106 Contribution} = (X - Y - Z) \div E$$

- 4.33. The LPA may also require the preparation, agreement and implementation of a Travel Plan to mitigate the impact of the development on the transport system and environment. This will be a standard requirement for major developments and, depending on the nature of the development, the Plan may be secured by either a condition or planning obligation. Travel Plans for major development will normally include targets for modes of travel to and from the site and monitoring arrangements. There will be a need for financial commitments and incentives and/or penalties for non-compliance.

### **Open Space, Play Facilities, Outdoor Sport & Recreation**

- 4.34. Proposals for new development will be expected to contribute to open space, sport and recreation provision in accordance with Policies BSC10, BSC11 and BSC12 of the adopted Cherwell Local Plan Part 1.

- 4.35. The evidence base for these policies is the District's PPG17 Open Space, Sport and Recreational Facilities Needs Assessment, Audit and Strategy 2006 and the subsequent Green Spaces and Playing Pitch Strategies 2008. The Council has now commissioned studies to update this information. Should these studies result in amendments to the open space standards, these standards will be updated in the Cherwell Local Plan Part 2.

### **Local Standards and Thresholds**

- 4.36. The Council's strategies referred to above establish the current and future deficiencies in open space, sport and recreation provision together with recommendations as to how these deficiencies should be met. The Strategies recommend local minimum

standards of provision and these are embodied in the adopted Cherwell Local Plan Part 1. They are set out in Appendix 5 for ease of reference.

- 4.37. Obligations will only be sought in cases where the proposed development will result in a net increase in demand for recreational facilities. If the development is for a purpose which is unlikely to generate demand then no contribution will be sought. The LPA may, however, seek contributions from applicants for commercial development as working population increases as a result of commercial development can add to demand for facilities. People travelling in to the District for work will often use facilities close to their place of work.
- 4.38. On-site provision will be sought, in the first instance, in accordance with the minimum standards set out in Appendix 5. Detailed guidance on the Council's specification and design requirements for different types of open space/facility can be requested from the Council's Street Scene and Landscape Services Team.
- 4.39. If the proposed development results in an increase in demand for recreational facilities, and the developer is unable to provide open space as part of the development, or the development falls below the thresholds, and there are identified shortfalls in the area, the LPA will seek a financial contribution towards off-site provision. This may include contributions to the improvement/enhancement of existing areas/facilities where appropriate schemes have been identified.
- 4.40. A list of deficiencies in open space, sport and recreation and priorities by Ward is set out in the Council's PPG17 Assessment – Open Space, Sport and Recreational Facilities Needs Assessment Audit and Strategy 2006 and the subsequent Green Spaces and Playing Pitch Strategies 2008. Updated information will be published by the Council as it becomes available.
- 4.41. Commuted sums for maintenance of the open space or play facility will also be sought. This sum will be based on the LPA's actual maintenance costs, to cover the future maintenance of open space, sport, and recreation and play facilities, together with a sum to cover management costs for a 15 year period. A multiplier is used to account for the costs which will vary over the 15 year period and the 'discount effect' of a lump sum up front. The Council's 2016/2017 commuted sum requirements are set out in Appendix 9. Further detailed information and specifications can be accessed by contacting the Council's Street Scene and Landscape Services Team.

### **Local Management Organisations**

4.42. It is the Council's strong preference that public open space, outdoor sports pitches and play areas on new developments continue to be adopted by the Council in conjunction with the relevant town or parish council with a commuted sum. The Council will only consider a local management organisation proposed by a developer if it meets the list of conditions set out in Appendix 12 and has the agreement of the relevant town or parish council.

### **Indoor Sport, Recreation and Community Facilities**

4.43. Policy BSC12 of the adopted Cherwell Local Plan Part 1 sets out the Council's overall approach to provision and enhancement of indoor sport, recreation and community facilities.

4.44. The Council's PPG17 Indoor Sports and Recreational Facilities Assessment 2006 together with the 2016 Interim Cherwell Community Spaces and Development Study identified the current and future deficiencies in provision and contain recommendations as to how these deficiencies can be met.

4.45. The Council is currently undertaking a review of the District's indoor sport, recreation and community facilities provision. If this additional analysis work results in amendments to the Council's standards, they will be updated in the Cherwell Local Plan Part 2. Once in place, Local Plan Part 2 standards will replace Appendix 7.

4.46. The PPG17 Assessment recommended local minimum standards of provision and these are set out in Appendix 7.

4.47. New development that generates a need for sport, recreation and community facilities that cannot be met by existing provision will be expected to contribute towards the provision of new facilities or the improvement/expansion of existing facilities.

4.48. Where on site provision is required, the LPA will expect the developer to design and gain the necessary planning consents to a specification agreed by the LPA. The developer will then be expected to build the facility in accordance with the approved scheme. A commuted sum for the future maintenance of the facility will also be sought.

### **Thresholds**

4.49. The threshold for provision of indoor sport and recreation facilities on-site is a population that supports a 4 court facility or 683m<sup>2</sup> of floor space. I.e. 12648 people or 5292 dwellings if the average occupancy is 2.39 per dwelling.

4.50. In relation to community centre facilities, on site facilities will be sought on sites of 1000 or above residential units. However, the Council's accessibility standard is 800m or 10 minutes' walk for such facilities, therefore on site provision may be sought for smaller developments, depending upon the proximity of existing community centres. The size of the on-site provision will be commensurate with the scale of the development. This will be assessed on a case by case basis.

### **Contributions**

4.51. If on-site provision is not possible, or appropriate, or where the development falls below the threshold, financial contributions will be sought for either off-site provision or the improvement/upgrading of existing facilities where appropriate schemes have been identified.

4.52. Costs relating to the proposed improvements will be proportionate to the size or potential occupancy of the development. The levels of contributions will be reduced where the developer makes appropriate provision on-site of particular services or facilities.

4.53. The appropriate contribution is calculated by reference to the expected population in the development and the facilities required to support the population, multiplied by a standardised cost for the provision of the facility. Where contributions are sought for the expansion or improvement of existing facilities then the costs applying to the proposed improvements will apply.

4.54. Further detailed advice can be found in Appendix 7.

### **Nature Conservation & Biodiversity**

4.55. Policies ESD10 and ESD11 of the adopted Cherwell Local Plan Part 1 sets out the Council's approach to the protection and enhancement of biodiversity and the natural environment, including Conservation Target Areas.

4.56. Relevant habitat and species surveys and associated reports will be required to accompany planning applications which may affect a site of known, or potential, biodiversity value or the biodiversity/natural environment of the local area.

4.57. In addition to identifying biodiversity impacts, biodiversity surveys and reports should identify opportunities to deliver biodiversity enhancements.



- 4.58. Detailed advice for preparing a biodiversity survey can be found in Oxfordshire County Council's guidance entitled 'Biodiversity and Planning in Oxfordshire' which is available on its website.
- 4.59. Where mitigation for the ecological impacts of a development can be achieved on-site, the LPA would normally secure this through a planning condition. Arrangements for the long term management and maintenance of this mitigation will normally be secured by a S106 agreement. In certain circumstances the LPA may seek a Local Ecological Management Plan (LEMP) through a planning condition.
- 4.60. Thames Valley Environmental Records Centre (TVERC) has identified ten Conservation Target Areas (CTAs) in the District. They have been identified to focus work to restore biodiversity at a landscape scale through the maintenance, restoration and creation of UK BAP priority habitats.
- 4.61. General targets for maintenance, restoration and creation of habitats have been set for each area. These will be achieved through a combination of biodiversity project work undertaken by a range of organisations, agri-environment schemes and biodiversity enhancements secured in association with development. These targets are in the process of being made more specific in terms of the amount of each habitat type to be secured within each CTA.
- 4.62. Where on-site mitigation or compensation cannot be achieved contributions may be sought towards a scheme that closely offsets the impact of the development, and which also meets the aims of the Council's Biodiversity Action Plan (BAP).
- 4.63. The Council will generally seek to fund biodiversity enhancements in association with development through CIL. However, where specific projects have been identified, and where they are excluded from the CIL 123 List, financial contributions may be sought via a section 106 agreement.

### **Apprenticeships & Skills**

- 4.64. Securing the economic future of the District is the main priority of the adopted Cherwell Local Plan Part 1. The main focus of the Plan is strengthening the local economy, job creation, inward investment and company growth, as well as building cohesive communities. In particular, the Plan notes that as relatively large numbers of people in Cherwell are without qualifications and basic skills the level of education and training needs to improve. The Plan contains five strategic objectives for developing a sustainable economy. Strategic Objective 3 (SO3) aims, amongst other things, to support an increase in skills and innovation. Furthermore, paragraph B14 states that

the Council will support proposals to strengthen the skills base of the local economy which will include the promotion of local training providers.

- 4.65. The need to increase the number of apprenticeships locally is picked up by both the Oxfordshire Local Economic Partnership (OxLEP) and the South East Midlands Economic Partnership (SEMLEP). OxLEP's Strategic Economic Plan 2014 is committed to delivering 1150 more apprenticeships to 2020 within Oxfordshire. The SEMLEP Strategic Economic Plan 2015-2020 is seeking just over 94,000 apprenticeship starts within the SEMLEP area. Of these, it is anticipating that 7017 will be created within the Cherwell District. It notes in particular that there is a shortage of skills and an aging workforce in the construction sector across the SEMLEP area and that there are significant opportunities for jobs growth in these sectors.
- 4.66. The Council approved an Interim Position Statement on Planning Obligations for Construction Apprenticeships and Skills in April 2016. This document provides detailed advice and guidance on the Council's approach to securing construction apprenticeships and skills through the planning system. For ease of reference this document is reproduced at Appendix 13.
- 4.67. It states that the Council will seek the provision of a stated target number of new construction apprenticeships (or apprenticeship starts) as part of an Employment, Skills and Training Plan (ESTP) for each proposal for new development, to be secured by a condition or S106 agreement.
- 4.68. Appendix 13 sets out the type of development and the thresholds on development that will trigger this requirement. However, if proposed developments fall below these thresholds and developers still wish to provide new construction apprenticeships, the Council will support them in doing so.

## **Public Art**

- 4.69. Public art can play an important role in enhancing the character of an area, enriching the environment and improving the overall quality of space. It can help to establish an identity for an area making it memorable and providing useful landmarks, particularly if it draws inspiration from local themes or associations.
- 4.70. The Government's NPPG<sup>3</sup> (para 018) states that 'Public art and sculpture can play an important role in making interesting and exciting places that people enjoy using'.

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<sup>3</sup> Planning Practice Guidance

- 4.71. The adopted Cherwell Local Plan Part 1 requires the provision of public art on most of its allocated strategic sites.
- 4.72. Public art policies for non-strategic sites will be developed as part of the emerging Cherwell Local Plan Part 2. In addition, the Council will update its adopted 2007 Public Art Policy to provide detailed advice and guidance on the Council's approach to securing public art through the planning process.

### **Health Care**

- 4.73. Policy BSC 8 of the adopted Cherwell Local Plan Part 1 sets out the Council's approach to securing health and well-being throughout the District. In addition, the Bicester Healthy New Town Programme aims to enable people who live or work in Bicester to live healthier lives and to prevent ill health in the future.
- 4.74. New residential development will be expected to contribute towards the provision of additional health care infrastructure generated by population growth arising from new residential developments where there is insufficient existing capacity, well located to serve the development. This may include financial contributions and/or the provision of land and buildings to enable the provision of doctor's surgeries and other health facilities to serve the local population, or the upgrading or extension of existing facilities in some locations.
- 4.75. An on-site new facility would not normally be required unless a need is generated for 4 or more whole time equivalent (WTE) GPs and then only if other nearby practices lack the capacity to expand. On smaller residential sites and where the new development increases demand on existing facilities, the need for new provision is likely to be replaced by extending existing facilities.
- 4.76. The Council will generally seek to fund off-site provision or improvement of facilities through CIL.

### **Community Safety & Policing**

- 4.77. The supporting text to the adopted Cherwell Local Plan Part 1 states that the Council will ensure that new developments, area renewal and town centre expansions are safe places to live, work and visit by using tools such as 'secured by design' and by requiring CCTV provision when appropriate.

- 4.78. The Council will therefore require all major residential and commercial developments to contribute towards the provision of additional on-site infrastructure, for example, CCTV cameras. The Council and its community safety partners may also seek financial contributions towards area based initiatives to help reduce crime and disorder.
- 4.79. Requirements and contributions will be assessed on a site by site basis when a specific need or item of infrastructure is identified.
- 4.80. Further advice on the level of contributions sought by development type can be found in Appendix 14.