

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

2<sup>nd</sup> Consultation Draft November 2017

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Cherwell District Council

**2<sup>ND</sup> CONSULTATION DRAFT**

**NOVEMBER 2017**

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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.
- 1.2. This guidance does not cover every possible circumstance and/or obligation that may need to be taken into account, but it provides 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 Community Infrastructure Levy Regulations 2010 (as amended) ('CIL Regulations'), 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.
- 1.5. The CIL Regulations have recently been the subject of review by Central Government. The CIL Review Group was established by the former Communities Secretary and former Minister for Housing and Planning in November 2015. The purpose of the review was to *'Assess the extent to which CIL does or can provide an effective mechanism for funding infrastructure, and to recommend changes that would improve its operation in support of the Government's wider housing and growth objectives.'* The report was submitted to Government in October 2016 and published in March 2017. It is anticipated that an announcement on the Government's response to this review will be made in the 2017 Autumn Statement.
- 1.6. The timing and scope of the Government's review is outside the control of the Council. The guidance in this document is provided within the parameters of existing regulations and adopted local plan policies.

- 1.7. Appendix 15 details the types of infrastructure that will be covered by S106 planning obligations and what will be covered by CIL if a CIL charging schedule is adopted by the Council in the future. The position on CIL will be reviewed in the light of the Government's Autumn Statement 2017 and the responses to consultation on the draft SPD.

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

- 1.8. A planning obligation is secured by either a deed of agreement or a unilateral undertaking made under planning legislation (Section 106 of the Town and Country Planning Act 1990 (as amended)) 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 also run with the land. They can cover almost any relevant issue such as types of infrastructure or services and future maintenance.
- 1.9. Planning obligations should only be used where it is not possible to address the unacceptable impact of development through a planning condition (NPPF<sup>1</sup>, para. 203).
- 1.10. In addition, CIL Regulation 122 states that the use of planning obligations should only be sought where they meet all of the following three 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?**

- 1.11. CIL is a 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.
- 1.12. To introduce CIL the 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 has consulted on both a Preliminary Draft and Draft CIL Charging Schedule. Work has however since been 'paused' on CIL pending the outcome of the Government's review of CIL. Further guidance from the Government is awaited.

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

## **Relationship between CIL and Planning Obligations**

- 1.13. The Government currently intends CIL to provide for infrastructure to support development rather than specifically to make individual development proposals acceptable in planning terms. Government guidance indicates that site specific mitigation will still be sought through the use of planning obligations.
- 1.14. CIL Regulations 122 and 123 place limits on the use of planning obligations and makes the planning obligations policy tests (para. 1.10 above) a statutory requirement. These two regulations seek 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.
- 1.15. The Council will ensure, in accordance with the advice in the National Planning Policy Guidance (NPPG) when seeking contributions that, their combined total impact does not threaten the viability of the sites and scale of development identified in the Development Plan.
- 1.16. The NPPG states that in making decisions, the local planning authority will need to understand the impact of planning obligations on a proposal. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations. This is particularly relevant for affordable housing contributions which are often the largest item sought on housing developments. These contributions should not be sought without regard to individual scheme viability. The financial viability of the individual scheme should be carefully considered.
- 1.17. The NPPG goes on to state that assessing viability should lead to an understanding of the scale of planning obligations which are appropriate. However, the NPPF is clear that where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development.

## **Planning Conditions**

- 1.18. 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.

- 1.19. NPPF paragraph 206 states that planning conditions should only be attached to a planning permission 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**

- 1.20. Section 278 Agreements allow developers to enter in to a legal agreement with the Highway Authority (usually Oxfordshire County Council) to fund alterations or improvements to the public highway where these are of benefit to the public.
- 1.21. 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). The Council will also treat the government's guidance contained in the National Planning Policy Framework (NPPF) as a material consideration, particularly paragraphs 203 to 205.

### **Local Level**

- 2.2. The statutory Development Plan for the District currently comprises:
- The adopted Cherwell Local Plan 2011-2031 (Part1)(adopted July 2015 & incorporating Policy Bicester 13 re-adopted in December 2016)
  - The retained saved policies of the adopted Cherwell Local Plan 1996
  - The adopted Minerals and Waste Local Plan (Part 1 – Core Strategy) (adopted September 2017)
  - The saved policies of the Oxfordshire Minerals and Waste Local Plan 1996
  - 'Made' Neighbourhood Plans (Hook Norton Neighbourhood Plan 2014-2031 & Bloxham Neighbourhood Plan 2015-2031 and any others 'made' during the lifetime of this SPD).

- 2.3. The adopted Cherwell Local Plan Part 1 contains the strategic policies covering the District and includes land allocated for housing and employment development at Bicester, Banbury and the former RAF Upper Heyford.
- 2.4. A Partial Review of the Cherwell Local Plan Part 1 is in preparation which seeks to contribute to addressing the unmet objectively assessed housing need from elsewhere in the Oxfordshire Housing Market Area (HMA), particularly from Oxford City. A proposed submission plan was published for public consultation on 17 July 2017 with comments invited until 10 October 2017. Work has also commenced on the production of Cherwell Local Plan 2011-2031 (Part 2): Development Management Policies and Sites.
- 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 sets out the programme for the preparation of the key planning policy documents.

### **Bicester Garden Town**

- 2.7. In 2014 the Government announced that Bicester had achieved Garden Town status after the 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 for the implementation of the Garden Town 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 well-being.
- 2.11. The built environment has a role to play in supporting health and well-being 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 once adopted will comprise the Council's current approach to planning contributions.
- 3.2 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. It should, however, 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.

#### **Planning Obligations**

- 3.3 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. Oxfordshire County Council, for example, is a major provider of services and infrastructure.
- 3.4 The LPA, and other key agencies, 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**

- 3.5 As part of any pre-application discussions the LPA will seek to agree the requirements and Heads of Terms for any planning obligation.
- 3.6 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.
- 3.7 It is a local validation requirement that draft Heads of Terms accompany any application that requires a planning obligation.
- 3.8 A planning performance agreement can be a useful tool to focus pre-application discussions on the issues that will need to be addressed throughout the course of preparing and determining a planning application, and the timescales and resources that are likely to be required.

### **Unilateral Undertakings**

- 3.9 In cases where a planning obligation is only dealing with financial contributions the LPA will encourage developers to make a unilateral undertaking and to make the relevant contributions on the granting of planning permission and/or at different stages of development.
- 3.10 This approach allows applicants for small schemes to reduce the legal costs and avoid potential delays often associated with legal 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 in 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 as early as possible in the development process and certainly prior to any grant of planning permission.
- 3.13 The LPA recognises that financial viability is a material consideration. In exceptional circumstances it may be necessary for the Council to prioritise the securing of particular developer contributions having regard to the Development Plan, the needs of the locality and the particular characteristics of the site and its locality. However, there may be circumstances in which the material Development Plan policies and/or the needs arising from proposed development are such that contributions will be sought even if a viability assessment accepted by the Council demonstrates that the development would not be viable with the required contributions.
- 3.14 Where a disagreement arises about financial viability and the planning obligations sought, the applicant will be expected to provide the Council with clear and transparent 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. The Council will require this evidence prior to the granting of planning permission.
- 3.15 Section 106 Agreements can deal with issues of viability. For example, a developer may set out their 'predicted profitability levels'. It will be a requirement of the S106 Agreement for there to be a second viability appraisal at some point during the course of the development. If the results of this second viability appraisal show, for example:
- That the predicted profitability levels have increased then the Council will have a right to an overage, i.e. a further payment/provision of infrastructure or affordable housing to that already secured in the S106 Agreement;
  - That the predicted profitability levels have stayed the same, then there will be nothing further to do with the S106 Agreement;

- That the predicted profitability levels have decreased, then the Council will negotiate further with the applicant concerning planning obligations.

3.16 All costs incurred by the Council in financial appraisal and viability assessment are to be met by the applicant.

### **Security and Timing of Payments**

3.17 Financial contributions (apart from legal costs, which are usually paid prior to the completion of the agreement, and standard administration charges) will need to be paid prior to the implementation of planning permission or in accordance with a programme of agreed staged payments.

3.18 Prior to the making of a Planning Obligation, the developer should identify the financial contributions payable and the corresponding triggers or payment dates as specified in the agreement.

3.19 Approximately 21 days prior to 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. In such circumstances, the applicant may also become liable for additional monitoring and enforcement costs.

3.20 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 shown to be arithmetically correct following the resolution of any dispute, then late payment interest will be charged as per paragraph 3.19 above.

3.21 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.

3.22 The Council will not accept payment of any financial contribution unless accompanied by a valid invoice.

- 3.23 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.
- 3.24 The S106 agreement will include a clause detailing how and when any unspent funds will be refunded. Given that a unilateral undertaking, necessarily, does not have the Council as a party, there cannot be any obligations on the Council to return any unspent monies.
- 3.25 All receipts and spending of financial contributions will be recorded and monitored by the Council's Head of Development Management.
- 3.26 Please note that financial contributions payable to Oxfordshire County Council (i.e. those relating to highways and education and relevant administrative and monitoring fees) 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**

- 3.27 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. The Council will therefore require developers to provide a 'cost undertaking' to pay for the Council's reasonable fees.
- 3.28 The Council's reasonable legal fees will need to be met even if the planning obligation is not completed.
- 3.29 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**

- 3.30 The Council monitors all Planning Obligations and will work with developers to ensure that financial contributions and non-financial obligations are delivered on-time. Monitoring fees may be charged in order to undertake such work, given that S106 Agreements/Unilateral Undertakings are made pursuant not just to section 106 of the Town and Country Planning Act 1990 (as amended) but also to section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011.

- 3.31 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.
- 3.32 If it is clear that matters within the planning obligation are not being complied with, the Head of Development Management will instruct the Council's Legal Service to take appropriate action to secure compliance. This could include for example, seeking a court injunction.
- 3.33 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.
- 3.34 All payment levels will be subject to an inflation factor (often RPI or CPI) adjusted according to the fluctuations between the date of the obligation and the quarter period in which payment is due to the District Council. The County Council will also adjust payments to it but these might be subject to different measures of inflation.

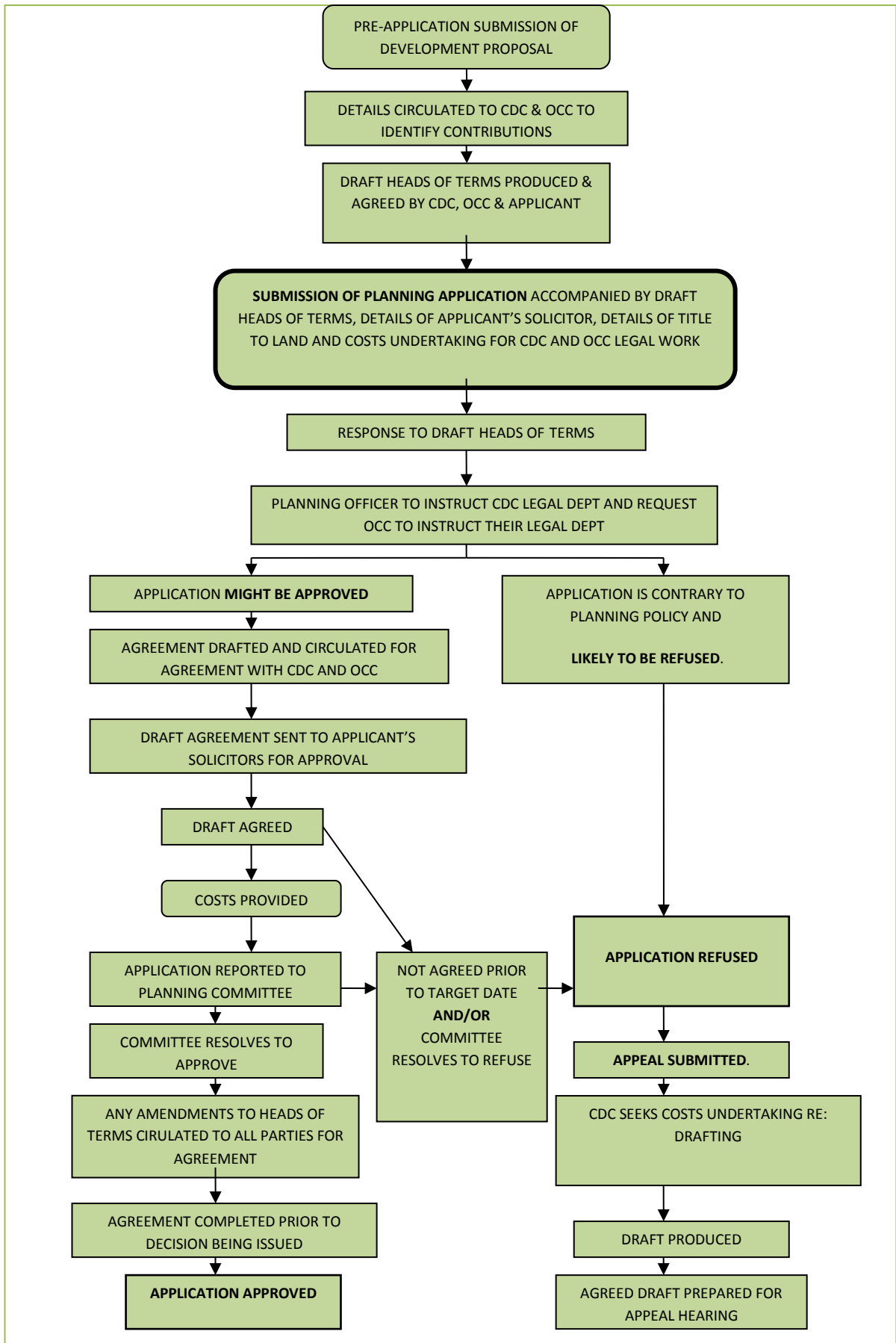
### **Indexation**

- 3.35 Financial contributions are based upon the costs of infrastructure. Financial contributions will therefore be indexed (i.e. index-linked to inflation) to ensure that they retain their original 'real value'. The base date and appropriate index to be applied will be set out in the legal agreement.

### **Dispute Resolution**

- 3.36 Schedule 13 of the Housing and Planning Act 2016 introduced amendments to the Town and Country Planning Act 1990 by the insertion of a new Schedule 9A which will give the Secretary of State the power to appoint someone to resolve issues that are holding up the completion of a planning obligation. Please note that, at the time of publication of this SPD, this provision is not yet in force.
- 3.37 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 the three tests in CIL Regulation 122.
- 4.2. Appendix 15 offers a guide to the types of infrastructure to be covered by S106 planning obligations and what will be covered by CIL (or a similar replacement infrastructure levy) if it is introduced by the Council in the future.

#### **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.
- 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 Housing**



- 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

### **Requirements & Thresholds**

- 4.9. 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.
- 4.10. The adopted Cherwell Local Plan requires all qualifying developments to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate housing. 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.
- 4.11. In calculating any affordable housing contribution the Council will apply ‘vacant building credit’ to qualifying developments. Guidance on qualifying developments will be provided by the Council’s Strategic Housing Team.

### **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. They 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 (use class C3) for older people will be required. All proposals will be expected to provide affordable housing in accordance with policy BSC3.
- 4.15. In some cases the Council may also seek to secure a small number of more specialist housing units which will provide accommodation for those with support needs. These will be sought in areas which are deemed to be appropriate and in discussions with applicants at an early stage.

#### **Affordable Housing Standards**

- 4.16. Any registered provider will normally request that 50% of the affordable rented housing required will be built to Building Regulations Requirements M4(2) Category 2: accessible and adaptable dwellings. In addition, 1% of the affordable housing should be built to Building Regulation Requirement M4(2) Category 3: Wheelchair User Dwelling. This requirement will be assessed on a site by site basis in discussion with the developer.
- 4.17. It is expected that all affordable housing provided under a rented tenure will be built to the nationally described space standards. Intermediate housing which is deemed to be low cost home ownership should be built to the same or better space standards including garden sizes as the equivalent market housing on the site.
- 4.18. It is expected that where appropriate affordable housing should not be clustered in any more than 10 units of one tenure and 15 units of multiple affordable tenures with no contiguous boundary of the clusters. This is expected in the first instance and schemes should be developed with this in mind. However the Council will be flexible and pragmatic on this clustering approach when considering certain site constraints or scheme densities.

#### **Viability**

- 4.19. The Council will seek the provision of affordable housing on all qualifying developments in accordance with Policy BSC 3. However, 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. A detail of how the Council will assess viability issues is set out in Section 3 above.

#### **Commuted Sum Calculations**

- 4.20. Local Plan policy BSC3 states that only in exceptional circumstances will the Council accept commuted sums in lieu of on-site provision.
- 4.21. In the event that the Council accepts a commuted sum in lieu of on-site provision it will be calculated on the basis of the mix of tenures and sizes that the Council considers would have been appropriate for the site. The sum should be of a 'broadly equivalent value' of the developer/landowner contribution if the affordable housing was provided on site. The commuted payment will be based on a sum equal to the difference between an Open market Value (OMV) and Affordable Housing Value (AHV).
- 4.22. Calculations are made as follows:  
***Residual value with 100% market housing minus residual value with the affordable housing requirement based on current policy = equivalent commuted sum.***

#### **Cherwell Local Plan 2011-2031: Partial Review – Oxford's Unmet Housing Need**

- 4.23. In July 2017 the Council published its Proposed Submission Partial Review Plan. This is a focused Plan to provide Cherwell's share of the unmet housing needs of Oxford to 2031. It identifies a number of development sites with specific affordable housing requirements. Supported by a viability assessment the emerging policies in the Plan seek to meet Oxford City's requirements for 50% of its housing to be provided as affordable homes.
- 4.24. Oxford's Local Plan, its Housing Strategy and the Oxfordshire Housing Market Assessment (2014) describe the city's housing needs in detail. As Oxford's affordable housing need is so high the emerging Partial Review prescribes the mix of housing sizes needed for the defined 'affordable' element of the new housing supply. It also requires a higher level of affordable rent/social rented accommodation (80% of the total affordable housing requirement) than Cherwell's 70% requirement.

- 4.25. The affordable housing standards required by the policies in the Partial Review will be applied to section 106 negotiations once they have been adopted.

#### **Further Advice**

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

### **Air Quality**

- 4.27. Promoting sustainable development is a key focus of the adopted Cherwell Local Plan. The need to consider the effects of development on air quality, and how they can contribute towards improvements, is identified as a key challenge to ensuring sustainable development. Commuters in Cherwell travel relatively long distances and reducing travel by car and managing traffic congestion is a major challenge. Maximising the opportunity to shift from dependency on cars to sustainable modes of transport is also identified.
- 4.28. Policy SLE 4 includes a requirement for new developments to provide financial and/or in-kind contributions to mitigate the transport impacts of development. All development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement will be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
- 4.29. In March 2017 the Council approved an Air Quality Action Plan (AQAP) as part of its statutory duties required by the Local Air Quality framework. It outlines the actions to be taken to improve air quality in the District between 2017 and 2020.
- 4.30. There are four Air Quality Management Areas (AQMAs) in the District where air quality does not meet national air quality objectives for nitrogen dioxide. These concentrations are largely related to road traffic emissions.

#### **Requirements and Thresholds**

- 4.31. All new development within or immediately adjacent to Local AQMAs may be subject to section 106 agreements which require the implementation of measures to offset increases in local pollutant emissions, and /or make an appropriate financial contribution towards improvement measures or air quality monitoring.

- 4.32. The following mitigation measures may be required
- Measures during the construction of new development including dust control, site monitoring and plant emissions;
  - Improved access to public transport;
  - The provision of on and off site facilities for cycling and walking;
  - The management of car parking;
  - Traffic management;
  - Road infrastructure;
  - Green Travel Plans;
  - Monitoring of air pollution.
- 4.33. Financial contributions may also be appropriate for cumulative developments, particularly where further study is required to assess potential cumulative air quality impacts arising from a number of developments in close vicinity.
- 4.34. The Council will calculate the contribution sought based on the scale of the development and the trip generation for different uses.
- 4.35. The list of the current Local AQMAs and the actions required are set out in the Council's Air Quality Action Plan which can be viewed on its website.

## **Apprenticeships and Skills**

- 4.36. 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.
- 4.37. 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 2016 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.

- 4.38. 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.
- 4.39. It states that the Council will seek the provision of a stated target number of new construction apprenticeships (or apprenticeship starts) as part of a required Employment, Skills and Training Plan (ESTP) for each proposal for new development. The ESTP will be secured by S106 agreement.
- 4.40. A second key area of employment, skills and training for which S106 agreements will be sought is the 'end user phase' of large commercial development. S106 agreements will be used by the Council to support/provide the training and skills needed by local people to access the new job opportunities created by the development's end user. The ESTP, referred to above, will therefore also be required to address this end user phase.
- 4.41. 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.

## **Cemeteries**

- 4.42. The adopted Cherwell Local Plan Part 1 highlights a key community challenge for both Banbury and Bicester as being the need to provide additional burial site provision. Policy Bicester 9 and Policy Banbury 13 both make provision for additional burial site provision in their respective settlements. Both policies also state that developer contributions will be sought from new developments in the towns towards the establishment of such a facility.
- 4.43. In terms of need, the Local Plan Inspector appointed to examine the submission Cherwell Local Plan observed in relation to Policy Banbury 13, that: *'This policy confirms the local requirement for new burial site provision in Banbury with contributions from major new housing schemes to provide funding to facilitate an extension to the existing cemetery, subject to suitable ground conditions being*

*demonstrated. The evidence of need is unquestioned and therefore the policy is soundly based and requires no modification.'*

- 4.44. In relation to Policy Bicester 9 the Inspector stated *'This policy confirms the urgent local requirement for a new burial site of around 4has in Bicester. It is consistent with the current expectation that it can be provided as part of the Policy BIC 1 scheme, with funding contributions from other housing developments in the locality to help secure delivery. The evidence of need is clear and unquestioned and therefore policy is soundly based and requires no modifications.'*
- 4.45. At Bicester it is anticipated that a site will be provided within the North West Bicester development area (Policy Bicester 1). At Banbury an extension to the north of the existing cemetery at Southam Road was granted planning permission in 2015 (planning application reference 15/01194/F).
- 4.46. Requirements for additional cemetery space will also be identified in the emerging Partial Review of the adopted Cherwell Local Plan, and the Cherwell Local Plan Part 2.

#### **Thresholds and Contributions**

- 4.47. All major new residential developments will be expected to contribute to the provision of new, or the expansion of existing, cemeteries and their maintenance where the need generated by the development cannot be met by existing provision and a scheme has been identified to meet that need.
- 4.48. At Banbury and Bicester the Town Councils in association with the District Council are pursuing schemes for new /extended provision. Specific costs will therefore be available for individual schemes.
- 4.49. Financial contributions will be sought for land acquisition and maintenance on a site by site basis where there is an identified need and the contributions sought will be dependent upon site circumstances (eg ground conditions) and commensurate to the need generated by the development.
- 4.50. In those limited cases where a development is of a scale that necessitates a new cemetery, developers will need to carry out consultation with the local population, and consider national guidance and best practice prior to design and implementation of cemeteries.
- 4.51. The methodology to be used in the calculation of contributions is as follows:

- a) Number of burial plots required to 2031 divided by the average number of plots per hectare = area of land required.
- b) Cost (including land purchase cost (unless land given free of charge), drainage, paths, fencing and storage facilities) of cemetery provision multiplied by % attributable to population growth.
- c) Divided by population growth = cost per person
- d) Multiplied by the average occupancy per dwelling type (2.49) = per dwelling cost (1 bed, 2 bed, 3 bed, 4+ bed)

## **Community Hall Facilities**

- 4.52. Policy BSC 12 of the adopted Cherwell Local Plan sets out the Council's overall approach to the provision of new or extended community hall facilities.
- 4.53. In 2016/2017 the Council commissioned a 'Cherwell Community Spaces and Development Study (CCSDS) to provide evidence and policy proposals to inform community development and community indoor space provision in relation to new housing developments. An interim CCSDS was published in January 2016 and the study was completed in 2017.
- 4.54. The CCSDS Study recommends a local minimum standard of provision for community hall facilities required to meet the needs of the residents generated by new development. This minimum standard is 0.185m<sup>2</sup> per person.

## **Thresholds and Contributions**

- 4.55. The local planning authority will expect all major residential developments to contribute towards the provision of new community facilities or the improvement/expansion of existing facilities where there is not enough spare capacity in existing appropriate facilities to meet the needs generated by the development. This may include financial contributions and/or the provision of land and buildings to enable new community facilities to be provided, or for existing facilities to be extended or improved.
- 4.56. 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.



- 4.57. The threshold for provision of community facilities on site is normally a population that supports a minimum community facility of 345m<sup>2</sup> to include a main hall, kitchen, toilets and adequate storage. Where new development is taking place that demands a larger space then the opportunity should be taken to provide a range of spaces for a wider range of activities.
- 4.58. The Council's accessibility standard is 800m walking distance for facilities in urban areas, and a 15 minute drive time for residents in rural areas. On-site provision may therefore 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.
- 4.59. Where new development gives rise to a need for additional indoor community provision (but not a new freestanding facility) financial contributions will be sought for either off-site provision or the improvement/upgrading of existing facilities where appropriate schemes have been identified. Those needs will be assessed on a pro-rata basis using the standards set out in Appendix 11
- 4.60. 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.

## **Community Development**

- 4.61. Community development is a key objective of the adopted Cherwell Local Plan. Strategic Objective SO10 seeks to provide sufficient accessible, good quality services, facilities and infrastructure, to meet health, education, transport, open space, sport, recreation, cultural, social and other community needs, reducing social exclusion and poverty, addressing inequalities in health, and maximising well-being.
- 4.62. Strategic Objective SO14 seeks to create more sustainable communities by providing high quality, locally distinctive and well-designed environments which increase the attractiveness of Cherwell's towns and villages as places to live and work and which contribute to the well-being of residents.
- 4.63. These objectives are further supported by the statement in paragraph B.86 that the Council wishes to ensure that new development fully integrates with existing settlements to forge one community, rather than separate communities.

- 4.64. Evidence gathered in preparing the 2017 Cherwell Community Spaces Development Study (CCSDS) strongly endorses the value of having a community development worker available at an early stage in a new development to 'kick start' the process of bringing people together, developing new activities and putting in place the building blocks of a strong community.
- 4.65. The Council will therefore seek financial contributions towards the provision of community development workers for major residential developments.

### **Thresholds**

- 4.66. The threshold for contributions will generally be where a new community building is required to meet the needs of the new development, where the development is likely to give rise to a large new community, or where there may be issues of integration with existing communities.
- 4.67. Contributions will therefore not be sought from developments of less than 100 new dwellings.

### **Contributions**

- 4.68. Contributions will be sought on a case by case basis to fund support from a community development worker. The levels of contributions sought are set out in Appendix 12
- 4.69. In addition to contributions towards a staffing resource, contributions will be sought towards a community development fund.

## **Community Safety & Policing**

- 4.70. 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 provision of appropriate community safety and police infrastructure where required.
- 4.71. Thames Valley Police (TVP) is the police force that covers the Cherwell area. TVP operate a police model based upon the creation of Local Police Areas (LPAs). At present the Cherwell Local Police Area has a population of approximately 141,900 made up of 56,700 households (source: 2011 Census). This population generates an annual total of circa 32,500 incidents that require Police action. These are not

necessarily all 'crimes' but are calls to the 999 handling centre which require a police response.

4.72. TVP have advised that the anticipated planned growth in the District will place a significant extra demand on existing resources. The Council will therefore require all major residential and commercial developments, where required and where appropriate, to contribute towards the delivery of the following items of infrastructure to serve new developments and mitigate against their impact upon existing policing resources.

- Staff Set Up Costs – the cost of equipping and setting up new officers required to police new communities and neighbourhoods (not salary).
- Provision of New Vehicles and Bikes – the purchase of new fleet vehicles and bicycles.
- Premises – contributions towards the adaption/alterations or extension of existing premises for new officers to base themselves or work out of.
- Mobile IT – provision of suitable kit and equipment to enhance the mobility and flexibility of officers when working.
- Radio Capacity – additional demand will lead to an additional impact upon existing capacity of infrastructure.
- ANPR Cameras – Automatic Number Plate Recognition Cameras aid in detection but also prevent crime. Funding for the strategic placement of these cameras either in or close to new housing development will be sought where appropriate.
- Control Room and PND Capacity – At present police control room handling is at capacity at peak times. Contributions towards improving the capacity of the existing infrastructure may be required.

4.73. Requirements and contributions will be assessed on a site by site basis when a specific need or item of infrastructure that is directly related to the development is identified.

4.74. The costs relating to the proposed infrastructure items or area-based initiatives will be applied proportionately to the size or the potential occupancy of the development.

4.75. Further advice on the level of contributions sought for community safety/CCTV provision by development type can be found in Appendix 14.

## **Education**

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

- 4.76. 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.
- 4.77. Oxfordshire County Council (OCC) has a statutory responsibility to ensure there are sufficient school and childcare places available for local children and young people living within the county of school age and whose parents wish their children to be educated by the state. It is important that these places are available within a reasonable travel distance for all those of school age occupying new residential development. The County Council produces an annual Pupil Place Plan<sup>2</sup> which sets out how school provision is expected to change over the next few years including anticipated requirements for new schools and school extensions linked to planned housing growth.

### **Planning Obligation Requirements**

- 4.78. The LPA will expect all residential developments 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.
- 4.79. Developments which are of such a scale as to require the provision of a new school will be expected to fully fund the smallest feasible scale of school which would be sufficient to accommodate the projected pupil generation. Where a new school is serving the needs of multiple developments, the cost of the school will be shared proportionately across the relevant developments, subject to the constraints of the CIL regulations.
- 4.80. In some cases the most appropriate scale of new school may be less than the projected pupil generation, in which case the development may also be required to fund expansion of existing schools, where this is necessary.

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<sup>2</sup> Oxfordshire Pupil Place plan 2016-2020

- 4.81. Subject to approval by the Council and Oxfordshire County Council the direct delivery of schools by developers may also be considered acceptable.
- 4.82. 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.
- 4.83. 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.
- 4.84. This requirement will apply to all urban and rural residential developments which are likely to generate demand for school places. Contributions will not be sought towards educational infrastructure from developments of studio or one bed dwellings, institutional accommodation exclusively for undergraduate students or from sheltered/elderly housing and other specialist housing developments where children will not live.
- 4.85. Further advice on the method of calculations and the expected costs are set out in Appendix 2 and Appendix 3 respectively.

## **Flood Risk**

- 4.86. There are extensive areas in the District that have been identified as being at risk of flooding. Flood risk arises from rivers, canals, sewers, surface water and ground water.
- 4.87. Policies ESD 6 and ESD 7 of the adopted Cherwell Local Plan seek to manage and reduce flood risk by using a sequential approach to development. Developers will therefore need to demonstrate that account has been taken of flood risk from all sources, and that the proposed development incorporates mitigation and management measures appropriate to the use and location. The Council also requires developers to improve water efficiency and reduce surface water run-off through the use of a range of Sustainable Drainage Systems (SUDs).
- 4.88. Flood defence measures that are deemed necessary to a development to mitigate specific impacts of that development, (including SUDs) will normally be sought through a planning condition. However, in certain circumstances a section 106 agreement may be required.

## **Health & Wellbeing**

- 4.89. 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.
- 4.90. Improving public health, safety and individual wellbeing is also an overarching transport goal of Oxfordshire County Council's LTP4. This will be achieved by increasing levels of walking and cycling, reducing transport emissions, reducing casualties, and enabling inclusive access to jobs, education, training and services.
- 4.91. New residential development will be expected to contribute towards the provision of additional health care infrastructure generated by its population growth 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.
- 4.92. An on-site new facility would not normally be required unless a need is generated by a patient population of 8,000 or more and only then 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.

### **Contributions**

- 4.93. The LPA will seek a financial contribution towards the improvement and/or extension of existing facilities where appropriate schemes are identified on a site by site basis.
- 4.94. Guidance has been developed on the appropriate sizes for general medical services accommodation. These sizes are based on the number of GPs expected to practice from the premises and therefore, using the average list sizes per GP for Oxfordshire, the number of new patients provided for can be calculated.
- 4.95. Using this information and known development costs it is possible to estimate the cost of provision of the additional floorspace made necessary by new development. The additional floorspace required at an existing surgery per additional GP is approximately 118m<sup>2</sup>.
- 4.96. The calculation of the cost per patient is as follows:

**Floorspace per GP X Cost of floorspace per m<sup>2</sup> = Cost of GP**  
**Cost of GP/GP average list size = Cost per patient**

- 4.97. As primary care practices are run as independent businesses an appropriate mechanism is needed to ensure that any facilities paid by developer contributions remain in community use for at least 15 years. As such any funds secured towards the provision of extensions/improvements or new facilities will be the subject of an agreement with the individual practices.
- 4.98. Any practice that benefits in this manner will be required to repay the funds if the practice does not continue for 15 years after the facilities have been provided.

## **Indoor Sport and Recreation**

- 4.99. Policy BSC12 of the adopted Cherwell Local Plan Part 1 sets out the Council's overall approach to provision and enhancement of indoor sport and recreation.
- 4.100. The Council's PPG17 Indoor Sports and Recreational Facilities Assessment 2006 identified the current and future deficiencies in provision and contain recommendations as to how these deficiencies can be met.
- 4.101. The Council is currently undertaking a review of the District's indoor sport and recreation 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 9.
- 4.102. The PPG17 Assessment recommended local minimum standards of provision and these are set out in Appendix 9.
- 4.103. New development that generates a need for sport and recreation 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.
- 4.104. Where on site provision is required, the LPA will expect the developer to design and gain the necessary planning consents to a specification, in accordance with Sport England requirements, and 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 in the event that the facility is transferred to the Council.

## **Thresholds**

- 4.105. 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 5080 dwellings if the average occupancy is 2.49 per dwelling. (based on the adopted standard of 0.315 badminton courts per 1000 population)

## **Contributions**

- 4.106. 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.
- 4.107. 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.
- 4.108. 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.
- 4.109. Further detailed advice can be found in Appendix 9.

## **Nature Conservation & Biodiversity**

- 4.110. 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.
- 4.111. Relevant habitat and species surveys and their associated reports will be required to measure the biodiversity impact following the locally adopted Defra Offsetting Metrics and submitted to accompany planning applications which may affect a site of known, or potential, biodiversity value or the biodiversity/natural environment of the local area.
- 4.112. In addition to identifying biodiversity impacts, biodiversity surveys and reports should identify opportunities to deliver biodiversity enhancements.



- 4.113. 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.
- 4.114. 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, or equivalent, through a planning condition.
- 4.115. Thames Valley Environmental Records Centre 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 Biodiversity Action Plan (BAP) priority habitats.
- 4.116. 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.
- 4.117. 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 BAP.
- 4.118. The Council will generally seek to fund biodiversity enhancements via a section 106 agreement. This is based on the Council’s position that biodiversity offsets should not be classified as infrastructure<sup>3</sup> because they do not enable the development to function, nor do they provide any facility to those living within or using the new development. This means that the pooling of more than 5 contributions towards one project or plan is possible.

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

- 4.119. 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.

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<sup>3</sup> Defra communication to Warwickshire County Council (02/11/2015)

- 4.120. The evidence base for these policies is the District's PPG17 Open Space, Sport and Recreational Facilities Needs Assessment, Audit and Strategy 2006, the subsequent Green Spaces and Playing Pitch Strategies 2008 and the Open Space Update 2011. 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**

- 4.121. 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 4 for ease of reference. The Local Plan also includes qualitative standards of provision.
- 4.122. 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.
- 4.123. On-site provision will be sought, in the first instance, in accordance with the minimum standards set out in Appendix 4. 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 Section. Agreement will be sought with the relevant town or parish council on the equipment to be purchased.
- 4.124. 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, 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.
- 4.125. 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, the subsequent Green Spaces and Playing Pitch Strategies 2008, and the Open Space Update 2011. Updated information will be published by the Council as it becomes available.

- 4.126. 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. In some instances a capital sum contribution for the build out of provision may be deemed necessary. The Council's 2016/2017 commuted sum requirements are set out in Appendix 6. These are subject to annual updates. Further detailed information and specifications can be accessed by contacting the Council's Street Scene and Landscape Services Section.

### **Local Management Organisations for Open Space Management**

- 4.127. 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 agreement 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 8 and has the agreement of the relevant town or parish council.

### **Public Realm and Public Art**

- 4.128. The public realm and public art can play an important role in enhancing the character of an area, enriching the environment and improving the overall quality of space. Public realm relates to all those parts of the built environment, either publicly or privately owned, located between and within buildings that are publicly accessible such as all streets, squares, and other rights of way as well as open spaces and parks, watercourses and canals. High quality design and good management of the public realm is essential in creating successful and vibrant places and help to integrate new development in to the surrounding area. 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.
- 4.129. One of the core principles of the NPPF is to take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs. It states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. It also advocates planning policies and decisions aimed at achieving places which promote, inter alia, safe and accessible developments,

containing clear and legible pedestrian routes, and high quality public space, which encourages the active and continual use of public areas.

- 4.130. The Government's Planning Practice Guidance (PPG) (para 018) states that 'Public art and sculpture can play an important role in making interesting and exciting places that people enjoy using'.
- 4.131. Policy ESD 15 of the adopted Local Plan states that the conservation of the historic environment and securing high quality urban design are very important in protecting and enhancing the character of the District and ensuring that Cherwell is an attractive place to live and work.
- 4.132. Other adopted policies seek to support the District's town centres and to maintaining their vitality and viability and their associated infrastructure to create vibrant retail environments. In particular Policy Bicester 5 seeks to strengthen Bicester Town Centre. Similarly Policy Banbury 7 and Policy Kidlington 2 set out similar aims for Banbury and Kidlington respectively.
- 4.133. The adopted Banbury Masterplan SPD establishes a strategic vision for Banbury with a strong economy and vibrant and attractive town centre. It identifies areas for public realm, street, junction, environmental and public art improvements.
- 4.134. The adopted Kidlington Masterplan SPD establishes a strategic vision for the village in line with the adopted Local Plan. Key themes explored include opportunities to improve the public realm within the village centre, improvements to Oxford Road and the village gateways. Work is progressing on the Bicester Masterplan with one of its aims being to improve the character and appearance of the centre of Bicester and the public realm.

### **Contributions**

- 4.135. Contributions will be sought towards the creation and/or enhancement of the public realm in the vicinity of new development where the proposed development will have a direct relationship with a public realm improvement scheme identified in the Council's IDP.
- 4.136. The level of financial contributions will reflect the character and scope of the works required and will be negotiated on a case-by case basis.
- 4.137. Financial contributions will be sought for public realm and public art projects listed in the Council's IDP which is updated on an annual basis.

## **Transport & Access**

- 4.138. Oxfordshire County Council is the local highway authority and is responsible for the management and maintenance of the adopted highway network within the District.
- 4.139. 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.
- 4.140. 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, improving public health and wellbeing, and improving the street environment. Specific schemes and projects are set out in the Council's Infrastructure Delivery Plan and the Oxfordshire Infrastructure Strategy.
- 4.141. 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**

- 4.142. 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.
- 4.143. 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.
- 4.144. Detailed technical pre-application discussions with Oxfordshire County Council on the transport assessment are essential for major developments.
- 4.145. 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.

- 4.146. In addition to local transport mitigation, S106 contributions will be required for strategic transport schemes (identified in the IDP) related to cumulative growth using the following formula (subject to the constraints of planning legislation):

X = Cost of Scheme(s)

Y = Held/Committed funding

Z = Local Growth Funding/Alternative Funding

E = Expected Growth

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

- 4.147. As denoted by 'E', where a scheme (to which a strategic transport contribution is requested) serves the needs of multiple developments, the cost of the scheme will be shared proportionately across the relevant developments.
- 4.148. 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.

## **Waste**

### **Waste Collection Containers and Recycling Banks**

- 4.149. The Council is committed to a strategy of minimising domestic waste sent for disposal through the development of recycling services and the reduction and reuse of materials. The Council will seek contributions for the provision of sorting facilities to deal with domestic waste at source. Each new dwelling will be provided with appropriate containers and the collected materials will be taken away to a recycling centre.

- 4.150. The Council's current waste collection service is currently working at full capacity therefore future new development will need capital investment to ensure the service to the customer meets all the requirements set out below.
- 4.151. Building Regulations 2000 (as amended by SI 2001/3335) H6 sets out the following planning requirement:
- Adequate provision shall be made for the storage of solid waste.
  - Adequate means of access shall be provided;
  - For people in the building to the place of storage and from the place of storage to the collection point.

### **Policy Framework**

- 4.152. The NPPF paragraph 7 notes that planning has an environmental role, including the need to minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.
- 4.153. The Cherwell Low Carbon Environmental Strategy, published in December 2011, seeks to deliver the objectives of the Cherwell Community Plan through the protection and enhancement of the local environment in terms of Waste minimisation, reuse and recycling.
- 4.154. Every residential dwelling requires (2017 prices):
- 1 X blue wheeled bin for the collection of dry recyclable material (£20) at the current size of 240 litre
  - 1 X green wheeled bin for collection of residual waste (£20) at the current size of 180 litre
  - 1 X brown wheeled bin for the collection of garden and food waste material (£20) at the current size of 240 litre
  - 1 X brown kitchen caddy for the collection of food waste (£4) and transferral into the brown garden and food waste bin
  - Capital investment in waste collection vehicles to service the new development (£42).
- 4.155 Where blocks of flats are proposed, waste collection should be through the use of communal collection containers or through provision of individual bins held in a communal location.
- 4.156 Communal bins stores should not be provided for groups of houses unless they are serviced by a private road. Communal bins should be housed in a covered storage area and the following issues should be taken into account: -

- Bin stores should be built to a specification that ensures they do not detract from the visual aspects of the local environment.
- Stores should be no more than 5 metres from the kerbside or point where the vehicle would stop (vehicle access has to be proven rather than assumed)
- To provide sufficient space for residents to deposit their waste, a minimum of 1m must be provided in front of the containers
- Where more than one bin is to be placed in a storage area, the bins must be positioned so that they can be easily accessed without users having to move other bins. In short they must not be ranked or more than one deep
- A door or gate of a minimum opening of 1600mm should also be provided. Smaller doors for residents use can be provided in addition to this requirement
- Doors should open outwards, but not over the public highway or parking spaces
- A path leading from the kerbside to the bin store should be provided, with a minimum width of 1.5m. The path should be level or a gentle slope and should not contain steps
- Stores should not be behind gates or security barriers that would prevent them being emptied
- The structure must be robust enough to withstand everyday use
- Stores should not be behind designated parking bays or require the movement of containers past or through legally parked cars
- Communal bin compounds should be far enough away from housing units so as to reduce the impact of noise during bin use and collection but sufficiently close for easy use. Eliminating the need for collection vehicles to reverse will also assist in keeping noise to a minimum
- Dropped kerbs should be provided.

4.157 Bin storage areas should be a minimum 1.8 square metres per dwelling for houses/bungalows and 1.4 square metres per dwelling for flats or multi occupancy properties.

4.158. Local recycling banks or 'bring sites' shall be provided for recyclables not separated in domestic waste collection, such as glass and clothing. Recycling banks must include at least:

- 2 x Green glass banks
- 1 x Brown glass bank
- 2 x Clear glass bank
- 1 x Textile bank



4.159. Recycling banks (bring sites) are required to serve approximately every 500 dwellings. For residential developments a financial contribution towards the capital cost of providing collection banks shall be sought. Recycling banks (bring sites) currently require the provision of 5 containers at a cost of £500 each. This equates to a cost of £5.00 per dwelling.

<b>Size of Development</b>	<b>Contribution per dwelling</b>
Developments between 1 and 199 dwellings	£106.00 for bin and collection vehicle provision. £5.00 towards recycling banks
Developments over 200 dwellings	£106.00 for bin and collection vehicle provision. £5.00 towards recycling banks. On-site provision of recycling bank including provision of land.

4.160 Where on-site contributions are required if this cannot genuinely be provided, a financial contribution equivalent to the cost of providing and equipping a local bring site shall be paid to the Council.

4.161 Waste and recycling bin contributions will be sought on occupation of new dwellings. The provision of recycling bring sites will be sought as early in the development as possible to serve the residents of the development.

4.162 The Council's Environmental Services department will be able to provide further advice on the Council's requirements.