



Planning Policy Committee – 16 December 2013

Publication of the Draft Section 106 Planning Agreements Supplementary Planning Document

Purpose of report

To seek member approval for consultation to commence on a draft Section 106 (S106) Planning Agreements Supplementary Planning Document (SPD).

Attachment(s)

Appendix 1: Draft Section 106 Planning Agreements Supplementary Planning Document
Appendix 2: "APPENDIX C – Calculating site specific open space contributions"

1.0 Background

- 1.1 A joint meeting of the of Planning Policy and Policy and Resources Committees is being held on 9 December 2013 to consider a proposal to approve a Draft Charging Schedule in relation to the Community Infrastructure Levy (CIL), for consultation during early 2014. If approved, consultation will then be followed by submission of the CIL Draft Charging Schedule and supporting documents to the Secretary of State for independent examination (anticipated Spring 2014).
- 1.2 As part of the Draft Charging Schedule consultation, it is necessary to publish a range of supporting documents. Most importantly, this needs to include details about the Council's intentions towards the future use of s106, in order to clearly set out how CIL and s106 will work alongside each other. A replacement for the 2006 Developer Contributions Supplementary Planning Document (SPD) is therefore required to be prepared.

2.0 Progress to date in preparing the new draft S106 SPD

- 2.1 Due to the number of changes in legislation and best practice etc since the 2006 Developer Contributions SPD, officers have created a brand new S106 SPD. An initial draft structure for the S106 SPD was considered by the CIL Working Party on 15 July 2013. Officers then worked on preparing the SPD, alongside the preparation of the Draft Charging Schedule and supporting documents.
- 2.2 Further assistance was provided by the CIL Working Party Draft (19 August 2013), when they considered draft S106 SPD text regarding affordable housing contributions and assessing viability. Other preliminary work has included various meetings and/or workshops held with colleagues and other organisations, for example Northamptonshire County Council, to discuss the emerging content in more detail. The document structure has inevitably evolved through these discussions.

3.0 Draft structure of the new S106 SPD

3.1 The draft S106 SPD covers the following areas:

- The purpose of the SPD
- The policy context
- Affordable housing
- Education
- Transport – e.g. highways, travel plans, public transport, on-site transport infrastructure
- Community facilities – e.g. outdoor open space, sport and recreation, healthcare
- Green infrastructure e.g. flood management, site specific landscaping
- Waste management
- Employment and training opportunities
- Bespoke items e.g. site specific street features
- Assessing viability

3.2 Whilst the intention has been to try to make the document as clear and simple as practical, nevertheless, it is critical that the standards (e.g. thresholds) contained within the SPD are justifiable and supported by a robust evidence base. Accordingly, wherever possible the supporting evidence and/ or narratives are placed in appendices.

3.3 It should also be noted that the 2006 Developer Contributions SPD contained detailed calculators and formulae for education contributions, “in lieu” of affordable housing and open space commuted sums (appendices A-C, respectively of the 2006 SPD). As far as possible, the new S106 SPD seeks to move away from such detailed calculators and formulae. This is because the relevant infrastructure providers are regularly amending the methods that they use to calculate specific development related infrastructure needs and this would therefore quickly make the document out of date.

3.4 The matter of open space contributions is one area where East Northamptonshire Council (together with the Parish and Town Councils) remain a key infrastructure provider and/ or guardian. To ensure that the S106 SPD contains clear and robust standards, recent Town/ Parish Council evidence regarding expenditure on public open spaces has been used to prepare specific development contribution standards in respect of new development related open space provision (i.e. commuted financial sums and/ or maintenance contributions). Based on evidence, appendix C, C-27 proposes to move away from a 60 year maintenance period (contained in the 2006 Developer Contributions SPD), towards a 25 year period.

3.5 The overall focus however, for the S106 SPD, is to ensure that appropriate developer contributions may still be secured, where particular site specific issues (i.e. infrastructure needs) have been identified. The emerging document has been designed to clearly define the circumstances where s106 contributions may be sought, following any decision to formally introduce CIL.

4.0 S106 SPD – the next steps

4.1 The S106 SPD has been prepared in draft, as a supporting evidence base document to the Draft Charging Schedule. Subject to member agreement, it is proposed that the draft S106 SPD should be published for consultation, as a supporting document, alongside the Draft Charging Schedule.

4.2 The draft S106 SPD, as published, will represent a “work in progress”. While it is anticipated that the consultation will focus predominantly upon the Draft Charging Schedule, comments will also be sought regarding the S106 SPD. Any comments received will be given due consideration prior to submission of the Draft Charging Schedule and supporting documents (including the S106 SPD) for examination.

4.3 Members are advised that further information and briefings will be held with Town and Parish Councils about CIL and the 2 SPDs (draft S106, and Open Space update), in order to explain this work.

5.0 Conclusion

5.1 A draft S106 SPD has been prepared, as a “work in progress” to support the Draft Charging Schedule. The latter will be considered at the joint meeting of Planning Policy and Policy and Resources Committees on 9 December 2013. Dependent upon the outcome of the joint meeting it is proposed that the draft S106 SPD be approved for consultation alongside the Draft Charging Schedule, for a 6-week consultation during January/ February 2014.

5.2 Following the 6-week consultation, any comments received regarding the draft S106 SPD will be given due consideration. After this, the draft SPD will need to be submitted to the Secretary of State as part of the supporting evidence base for the Draft Charging Schedule.

5.3 Following the outcome of the CIL Examination and prior to CIL being implemented, the Council may need to carry out further consultation on the draft S106 SPD to take on board any substantive issues raised during the initial consultation or examination. The Planning Policy Committee would be able to adopt the S106 SPD to coincide with the implementation of CIL (anticipated 2015).

6.0 Equality and Diversity Implications

6.1 There are no equality and diversity implications.

7.0 Legal Implications

7.1 The Council is required to set out its approach to the use of S106 at the CIL Examination.

8.0 Risk Management

8.1 The Council’s Draft Charging Schedule, when submitted to the Secretary of State, must be supported by a comprehensive and robust evidence base, including how the Council intend to approach the use of s106. The CIL Examiner (Planning Inspector) will need to be comprehensively informed as to the implications of introducing CIL for the District. Otherwise, there is a risk that the Examiner may reject the CIL proposals, thereby preventing the introduction of CIL.

8.2 The S106 SPD must be prepared and adopted in parallel with CIL, otherwise there is a risk that there will be no means to secure vital site specific development contributions.

9.0 Financial Implications

9.1 There are no financial implications at this stage.

10.0 Corporate Outcomes

10.1 The relevant Corporate Outcomes are:

- A good quality of life – sustainable, healthy, safe
- Strong community leadership – a proactive and listening Council

11.0 Recommendation

11.1 Approval from Members is sought for the publication of the draft Section 106 Planning

Agreements Supplementary Planning Document:

1. For consultation during early 2014 as a supporting evidence base document to the Draft Charging Schedule.
2. For submission to the Secretary of State, as part of the supporting evidence base to the Draft Charging Schedule.
3. Should any minor changes be required in the document prior to consultation commencing, approval be delegated to the Head of Planning in consultation with the Chairman of Planning Policy Committee.

(Reason – to ensure that the Council’s CIL bid is supported by a comprehensive and robust evidence base)

Legal	Power: Planning Act 2008 & Localism Act 2011 The Community Infrastructure Levy Regulations 2010 The Community Infrastructure Levy (Amendment) Regulations 2011 The Community Infrastructure Levy (Amendment) Regulations 2012 The Community Infrastructure Levy (Amendment) Regulations 2013 Community Infrastructure Levy Guidance April 2013 The Town and Country Planning (Local Planning) (England) Regulations 2012 (statutory instruments 2012 No.767)				
	Other considerations: None				
Background Papers: None					
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Date: 09 December 2013					
CFO		MO		CX	

(Committee Report Normal Rev. 22)



East
Northamptonshire
Council

Note title page is to be finalised

SECTION 106 PLANNING AGREEMENTS

SUPPLEMENTARY PLANNING DOCUMENT

CONSULTATION DRAFT

[insert a Cover Photo]

East Northamptonshire Council
Planning Services (Planning Policy)

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1.0 Purpose of the SPD

- 1.1 This Section 106 Planning Agreements Supplementary Planning Document, hereafter known as the “S106 SPD”, has been prepared under the 2004 Planning and Compulsory Purchase Act (the “2004 Act”). The specific preparation process for the S106 SPD is directed by the 2012 Regulations; Regulations 12-14, and 35 and has regard to the updated North Northamptonshire Statement of Community Involvement (SCI), adopted 16 December 2013.
- 1.2 It provides guidance on East Northamptonshire Council’s approach to securing planning obligations from new developments that require planning permission. Once adopted, it will replace the Council’s 2006 Supplementary Planning Document – Developer Contributions.
- 1.3 Upon the adoption of a local Community Infrastructure Levy (CIL), or by 6 April 2015, whichever is the sooner, s106 planning agreements (also known as planning obligations) are to be scaled back to cover only the provision of affordable housing and site specific measures required to mitigate the impact of development. Furthermore, the 2010 CIL Regulations will then prevent the “pooling” of more than five s106 planning obligations towards an infrastructure project or type from a base date of April 2010.

Mechanisms for securing development contributions

- 1.4 New development will be expected to contribute to site related and wider infrastructure needs through a combination of the following mechanisms:
 - Planning conditions (development related);
 - Planning obligations to secure developer contributions or works in kind (development related (s106));
 - Community Infrastructure Levy (CIL) (district wide).
- 1.5 A summary of these 3 key mechanisms is provided at Table 1 (below).

Table 1: Key Mechanisms

Planning Conditions	Planning Obligations (s106) <i>Also known as s106 Agreements (made under s106 of the Town and Country Planning Act 1990).</i>	Community Infrastructure Levy (CIL)
<p>Requirements made by local planning authority for actions that are needed in order to make a development acceptable in planning terms.</p> <p>Cannot be used to secure financial contributions but can be used to ensure that certain elements related to the development proposal, and which may benefit the wider community, are carried out.</p> <p>In the district such conditions might include, for example, the requirement to implement necessary local site-related transport improvements, and undertake appropriate flood risk solutions.</p>	<p>Legally binding agreements entered into between Local Authority and developer, which provide the mechanism by which measures are secured to mitigate the impact of development on local facilities that are geographically or functionally related to it. This can be through financial contributions, works, activities or restrictions relating to the use of land and buildings.</p> <p>Relate only to site specific need.</p> <p>S106 are negotiable; dependent upon the overall viability of a development scheme, the needs of a locality and/ or particular local authority priorities.</p> <p>Phased payment of s106 contributions at set/ defined trigger points as a development is implemented (as defined in each s106 agreement).</p> <p>Contributions can be dependent upon overall site area (ha), site specific constraints (highways, flooding etc), commercial floorspace, and/ or number of dwellings.</p> <p>Paid directly by developer to either County Council (for highways, education or libraries) or ENC for everything else – ENC then distribute the monies to the provider (e.g. Town Council, Health Authority etc).</p>	<p>Non negotiable payment on new development.</p> <p>The CIL functions as a “pooled” local infrastructure fund, which will generate funding to deliver a range of district wide and local infrastructure projects that support residential and economic growth, provide certainty for future development and benefit local communities.</p> <p>CIL payments will contribute towards the funding of projects and infrastructure types identified on a r123 list.</p> <p>The Council’s CIL Draft Charging Schedule sets out the rates to be applied together with details of any exemptions from payment available.</p> <p>Owner/ developer is liable to pay CIL upon commencement of works. Payments made in accordance with adopted instalment policy and cannot be individually tailored to specific site.</p> <p>CIL liability calculated on new internal floorspace (m²) multiplied by charging rate for the development type.</p> <p>Payments collected by “charging authority” (local planning authority) and distributed to infrastructure providers and/ or Town/ Parish Councils (15% of total monies collected, or 25% if there is an adopted Neighbourhood Plan in place).</p>

- 1.6 This SPD sets out how s106 elements will be secured. This includes, for example affordable housing and the resolution of site specific issues, such as the provision of highway improvements or open space to serve a specific development scheme and make it acceptable in planning terms (i.e. “sustainable”).

National guidance regarding when s106 planning obligations may be sought

- 1.7 The emerging online [National Planning Practice Guide](#) (NPPG) sets out the current national guidance as to the particular circumstances where s106 development contributions can continue to be sought following the implementation of CIL. Specifically, the NPPG provides direction as to how far this S106 Planning Agreements SPD can go in setting standardised local s106 financial contributions. This states that: *“Supplementary planning documents should not be used to add unnecessarily to the financial burdens on development and should not be used to set rates or charges which have not been established through development plan policy”* (NPPG, September 2009 update).
- 1.8 For East Northamptonshire, the relevant adopted development plan policies specify that, where appropriate, s106 agreements may apply a financial contribution towards the cost of providing infrastructure necessary to make the application acceptable. As far as possible, this would be through standardised financial charges, however there will still be a need for s106, for example toward maintenance of public open space, primary schools, site specific highway works, site specific green infrastructure etc.
- 1.9 With the exception of outdoor open space, sport and recreation facilities, this document will **not** provide formulae for the provisional calculation/ estimation of s106 developer obligations (e.g. financial contributions). Instead, the relevant statutory undertaker or service provider will advise, through the planning application process, including pre application advice, what the required s106 contribution ought to be. The relevant body may also have its own guidance as to how developer contributions should be calculated. Developers shall refer, for example to the following:
- [Creating Sustainable Communities: Planning Obligations Framework and Guidance](#) (Northamptonshire County Council, March 2011).
- 1.10 Overall, it is critical that this SPD presents a robust and defensible explanation as to the circumstances where s106 planning obligations may still be sought.

2.0 Consultation Process

- 2.1 This consultation draft s106 SPD has been prepared following informal preliminary discussions with key stakeholders during summer and autumn 2013. This consultation document was approved for initial consultation by Planning Policy Committee on **xx December 2013**. If a decision has been taken to adopt and implement CIL (anticipated late 2012/ early 2015), in accordance with The Town and Country (Local Planning) (England) Regulations 2012 (Statutory Instrument 2012 No. 767), Regulations 12(a) and 35, it will be subject to a statutory **six week** public consultation. A list of organisations and bodies which will be consulted as part of this process is included in **Appendix xx**.
- 2.2 A summary of the representations received from the six weeks consultation, and the Council's responses to these, will be set out in a separate document [Statement under Regulation 12(a)]. This document will be available to view on the Council's website, following the conclusion of the six weeks public consultation.
- 2.3 This draft SPD has been prepared to accompany and complement the Council's work for the implementation of CIL. The draft SPD is required to be submitted to the Examiner as part of the evidence base for East Northamptonshire's CIL. **Only** at the time that CIL is implemented for the District will the S106 SPD be adopted and replace its predecessor (2006 Developer Contributions SPD).
- 2.4 It should be highlighted that 2 other consultations are running parallel to this draft S106 SPD consultation. These are on the proposed Community Infrastructure Levy Draft Charging Schedule and an update to the 2011 Open Space SPD. Together these 3 documents set out the Council's approach to the planning requirements relating to new development, once CIL is implemented.

3.0 Introduction to the S106 SPD

- 3.1 Maximising the benefits of new development, especially for the locality, is a fundamental principle of the planning system. The National Planning Policy Framework (NPPF) specifies a “presumption in favour of sustainable development” (paragraph 14); whereby positive improvements to the quality of the built, natural and historic environment and quality of life, alongside economic growth, should be actively sought through planning decisions (NPPF paragraph 9).
- 3.2 Financial and non-financial contributions agreed in a section 106 Agreement have long formed part of the statutory basis for the planning system. Introduced in May 1990 through the 1990 Town and Country Planning Act, s106 agreements have functioned as the principal legal tool for ensuring that, when implemented, new developments are indeed “sustainable” and acceptable in planning terms.
- 3.3 The CIL Regulations (6 April 2010, as amended) specifically define the scope of “planning obligations” (s106 agreements) with regulation 122 setting out the tests that s106 agreements **must** meet. s106 planning obligations must be:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 3.4 Only in the event that all of these tests are “passed” in respect of an individual development scheme can s106 contributions be sought.
- 3.5 When a charging authority starts charging CIL, or after 6 April 2015 whichever is sooner, the pooling of contributions through s106 will be restricted to five separate planning obligations towards a specific infrastructure project (e.g. a new primary school) or type of infrastructure. Any planning obligations entered into on or after 6 April 2010 (the date the original CIL regulations came into force) will be included in the limit.
- 3.6 CIL Regulation 123 prevents the use of planning obligations (s106 Agreements) for infrastructure or projects that will be funded in whole or in part by CIL, to ensure no duplication between the two types of developer contributions occur. As part of the process of introducing CIL, the Council has to publish a list of projects and infrastructure types that it intends will be funded in whole or in part through CIL, known as the Regulation 123 or “r123” list).
- 3.7 Although CIL and s106 Agreements function differently, it is intended that these should complement one another. Both operate separately, although the amount of CIL payable on a development is a material planning consideration. Table 1 (above) briefly provides a summary of key points relating to CIL and s106 agreements, and for completeness the table also makes reference to planning conditions.
- 3.8 If East Northamptonshire Council adopt CIL, it is critical that the Council also adopt new SPD that explicitly explains the circumstances in which s106 contributions may be sought.

Differentiating between CIL and S106 contributions

3.9 The introduction of CIL means it is essential that the Council is able to clearly and unambiguously identify the types of infrastructure which will be funded through CIL and that which will continue to be funded through s106 contributions. The following overarching principles should be noted:

- S106 contributions are limited to site specific need arising from a new development scheme e.g. affordable housing and on-site public open space etc
- S106 contributions cannot be sought in relation to any specific projects identified on the r123 list
- CIL and s106 contributions are mutually exclusive – where CIL contributions are triggered for infrastructure categories identified in the r123 list, then no further s106 contributions may be requested for these types of infrastructure
- Developer contributions for affordable housing are expressly excluded from CIL and will therefore continue to be sought wholly through s106 Agreements

4.0 Affordable housing

- 4.1 Government policy regarding CIL explicitly states that: “*new affordable housing will continue to be delivered through planning obligations [i.e. S106 Agreements] rather than the levy [i.e. CIL]*” (The Community Infrastructure Levy Summary, Communities and Local Government, November 2010, p4).
- 4.2 In order to identify where affordable housing contributions will be required, it is necessary to specify the adopted circumstances where s106 contributions towards new affordable housing may be sought. Affordable housing contributions will be set in accordance with:
- **Definition** – national definition for “affordable housing”;
 - **Tenure** – Affordable housing “types”; e.g. social rented, intermediate housing.
 - **Thresholds** – No of units/ site area (ha) for which affordable housing contributions may be sought;
 - **Affordable housing % target** – Proportion of new housing for an individual development scheme to be provided as “affordable” housing;
 - **Phasing** – “Trigger points” for when affordable housing contributions will be made;

Affordable housing standards

- 4.3 Policy 1 (below) describes the relevant affordable housing standards for the District:

POLICY 1: Affordable housing standards

Location	Threshold	Affordable housing % target	Phasing
Oundle and Thrapston urban areas (RNOTP)	15 dwellings	Up to 40%	All affordable units be completed and ready for occupation prior to 80% of the total number of units being completed
RNOTP rural areas	10 dwellings/ 0.28 ha (whichever greater)	Up to 40%	All affordable units be completed and ready for occupation prior to 80% of the total number of units being completed
Higham Ferrers, Irthlingborough, Raunds, Rushden urban areas	15 dwellings	Up to 30%	All affordable units be completed and ready for occupation prior to 80% of the total number of units being completed
Non-RNOTP rural areas (south of the District)	10 dwellings/ 0.28 ha (whichever greater)	Up to 30%	All affordable units be completed and ready for occupation prior to 80% of the total number of units being completed
S106 contributions will be sought in accordance with the above standards. ENC Housing Strategy Officers and/ or the North Northamptonshire Housing Co-ordinator will advise and assist in negotiations in the event that a reduced affordable housing contribution is proposed by an applicant.			

Affordable housing definition

- 4.4 Affordable housing, defined by the National Planning Policy Framework (NPPF), consists of: “*Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market*” (NPPF, Annex 2). National policy also expressly states that: “*Homes that do not meet the...definition of affordable housing, such as ‘low cost market’ housing, may **not** be considered as affordable housing for planning purposes*” (NPPF, Annex 2). On this basis, S106 contributions may only be made in respect of new housing that fulfils the national definition.

Tenure

- 4.5 The most appropriate tenure will be specified on a site by site/ case by case basis. Housing Strategy officers will provide detailed site specific advice, in accordance with the Council’s [Housing Strategy 2012-2017](#).

5.0 Education

- 5.1 Education contributions have long formed a significant element of s106 contributions. Northamptonshire County Council (Local Education Authority), through its Strategic Plan for Schools 2010 – 2021 (November 2010), has set out the capital funding programme for schools and projections for school roll forecasting that forms the basis upon which education contributions are sought.
- 5.2 The introduction of CIL has required the County Council to reconsider how future developer contributions to education will function as s106 contributions from no more than 5 developments will be able to be pooled to fund the same infrastructure project.
- 5.3 Education funding for existing secondary and middle schools are anticipated to be dealt with through CIL. All other education funding (including the site specific need for a new secondary school) will be covered by s106 agreements. The following points are considered when identifying which developments will trigger education contributions:
- **Thresholds** – Minimum No of units/ site area (ha) for which education contributions may be sought;
 - **Phasing and triggers for education contributions.**

Standards for education contributions

POLICY 2: Standards for education contributions

Threshold (single scheme)	Minimum pooled contribution for 5 separate schemes (e.g. 5 x 10 dwellings scheme = 50 dwellings etc)	Likely contribution type (financial contribution, new classroom, new primary school, new nursery school etc)	Payment of agreed contribution
10 dwellings	50 dwellings	Single form of entry (i.e. contribution towards a single new class of children)	Upon completion of development(s). Only likely to be required if local primary schools are operating at/ near to capacity
60 dwellings	300 dwellings	Single form of entry	Upon completion of development(s). Likely to be necessary for this quantum of development.
140 dwellings	700 dwellings	New primary school	For 3 or more pooled schemes, upon completion of 300 th new dwellinghouse (43% complete)
0.28ha (outline application)	1.4ha (minimum site area)	Single form of entry	Upon completion of development(s). Only likely to be required if local primary schools are operating at/ near to capacity

Threshold (single scheme)	Minimum pooled contribution for 5 separate schemes (e.g. 5 x 10 dwellings scheme = 50 dwellings etc)	Likely contribution type (financial contribution, new classroom, new primary school, new nursery school etc)	Payment of agreed contribution
1.68ha (outline application)	8.4ha (minimum site area)	Single form of entry	Upon completion of development(s). Likely to be necessary for this quantum of development.
3.92ha (outline application)	19.6ha (~20 ha) (minimum site area)	New primary school	When development is deemed to be 43% complete

- 5.4 It is critical to note that 10 dwellings/ 0.28ha represent the trigger points at which any new development would become eligible for s106 contributions. Smaller development schemes (i.e. <10 dwellings/ 0.28ha) will not be eligible for S106 contributions.
- 5.5 S106 contributions will be sought in accordance with the above standards. Northamptonshire Development, Infrastructure and Funding (DIF) Development Management officers will advise as to specific s106 financial contributions to be sought for education, and take a lead in negotiations in the event that a reduced contribution is proposed by an applicant.

6.0 Transport

- 6.1 Previously, many s106 Agreements have involved securing large numbers of developer payments into a pooled contribution fund for a specific transport infrastructure project, for example the East Northamptonshire Greenway (Higham Ferrers/ Rushden area). The introduction of CIL will prevent this arrangement as contributions from only 5 developments will be able to be pooled for a specific project. As such, transport projects, for example strategic cycle routes, strategic footpath links etc will now be funded via CIL.
- 6.2 Nevertheless, many items of transport infrastructure are site specific, and would directly relate to a specific scheme (or cluster of up to five separate schemes). These site specific items will continue to be funded by s106 agreements using the following criteria:
- **Thresholds** – Minimum No of units/ site area (ha)/ floorspace (m²) triggers, for which site specific s106 transport contributions may be sought;
 - **Highways** – Specific junction alterations, improvements, or other changes to the road network, to enable development to go ahead;
 - **Travel Plans**¹ – The NPPF requires that all developments which generate significant amounts of movement should be required to provide a Travel Plan (paragraph 36, NPPF);
 - **Public transport** – Provision of new bus stops or other on-site public transport infrastructure (e.g. dedicated bus routes/ lanes) to service new development scheme;
 - **Sustainable transport infrastructure (cycling/ walking)** – Where a specific new physical project/ link is needed to serve a development.

Standards for transport contributions

- 6.3 The County Council states that in the case of residential developments, contributions will be “*Established via TA (Transport Assessment), to demonstrate Nil detriment, in conjunction with County Council*” (Planning Obligations Framework and Guidance, Appendix 1/ p41). In the case of non residential contributions, this will be based upon a standard contribution per m², dependent upon the estimated number of trips (journeys) anticipated to be completed through a particular class (type) of use (see Planning Obligations Framework and Guidance, p42).
- 6.4 Policy 3 (below) describes the relevant criteria for securing s106 contributions towards site specific transport infrastructure. The following thresholds will trigger a requirement for a TA, although schemes that are likely to generate significant traffic quantities/ transport issues which fall **below** these thresholds may also require a TA:
- **10 dwellings or more** (i.e. “Major” planning applications);
 - **0.5ha or larger** (outline residential development schemes, where number of units is unspecified);
 - **1000m² floorspace/ 1ha site area or larger** – industrial, commercial or leisure developments

¹ The Government’s [Guidance on Transport Assessment](#) (March 2007) describes a Travel Plan as “a package of site-specific initiatives aimed at improving the availability and choice of travel modes to and from a development. It may also promote practices or policies that reduce the need for travel” (paragraph 4.80).

POLICY 3: Standards for site specific transport contributions

Minimum Threshold (single scheme)	Site specific transport measures sought	Generic standard for assessing contribution	Mechanism by which S106 contributions will be assessed and sought
10 dwellings	Site specific transport infrastructure	Nil detriment	Established via Transport Assessment (TA). NCC/ Highways Agency to advise re appropriate contributions, based on review of TA.
0.5ha – residential	Site specific transport infrastructure	Nil detriment	Established via Transport Assessment (TA). NCC/ Highways Agency to advise re appropriate level of contributions, based on review of TA.
100 dwellings	Site specific transport infrastructure	Nil detriment	Established via Transport Assessment (TA)/ Travel Plan. NCC/ Highways Agency to advise re appropriate level of contributions, based on review of TA.
1000m ² gross floorspace/ 1ha site area	Site specific transport infrastructure	Nil detriment	Established via Transport Assessment (TA)/ Travel Plan. NCC/ Highways Agency to advise re appropriate level of contributions, based on review of TA.
<p>S106 contributions will be sought in accordance with the above standards. Northamptonshire County Council Sustainable Transport Officers and Highways Agency Officers will advise about specific transport measures required to make the development acceptable. The relevant ENC and NCC/ HA officers will take the lead in negotiating appropriate site-specific transport measures.</p>			

- 6.5 For schemes requiring a Transport Assessment², this will provide the evidence for determining what site-specific transport infrastructure will be necessary to make the development acceptable in planning terms. Where applicable, a travel plan will then function as an action plan, defining what specific measures will be required, in order to render a particular development scheme “sustainable”.

² In circumstances where a TA is not required, it is not anticipated that s106 contributions will be sought. This SPD specifically requires the preparation of a TA where substantial traffic quantities are likely, even below the standard s106 thresholds. Where a TA has been required, this must always form the basis for determining developer contributions towards site specific transport infrastructure.

Items of transport infrastructure to be excluded from s106 contributions

6.6 The following types of transport infrastructure are **excluded** from s106 contributions:

- New link roads, except where these are solely required in order to service a cluster of up to five new developments;
- Public transport improvements, except where these are identified through a Transport Assessment and/ or Travel Plan as being necessary to make a particular new development (or cluster of up to five schemes) “sustainable”;
- Walking and/ or cycle routes, except specific measures identified through a Transport Assessment and/ or Travel Plan as being necessary to make a particular new development “sustainable”.

7.0 Community Facilities

7.1 The funding of community facilities through s106 contributions will continue to be sought towards particular site specific community infrastructure. Where such site specific contributions are sought, these must be sought for provision in the short term, and maintenance in the medium to longer term.

Outdoor open space, sport and recreation

7.2 The adopted Local Plan and the draft Open Space SPD (December 2013) define specific local provision (area/ quantity and accessibility) standards in respect of the following (outdoor) open space, sport and recreational facilities:

- Parks and gardens
- Natural and semi-natural open space
- Amenity green space
- Children and young people
- Outdoor sports facilities
- Allotments

7.3 Provision of public open space in association with new developments will be sought on the basis of the adopted local standards, together with the current “Fields in Trust” (formerly National Playing Fields Association) standards, set out in “Planning and Design for Outdoor Sport and Play” (also known as the “Six Acre Standard”).

7.4 **Thresholds** – The adopted Local Plan defines the thresholds below in respect of s106 contributions for site specific outdoor open space, sport and recreational provision. These are also reflected in the draft Open Space SPD, which covers the whole District:

- **15 or more dwellings; or**
- **0.42ha or larger.**

7.5 Appendix B provides a detailed analysis of, and justification for, the s106 contributions set out in this SPD. The following categories of open space, sport and recreational facilities will continue to be required at a site specific level, so must therefore continue to be provided through s106 obligations:

- **Provision for children and young people;**
- **Allotments and community gardens;**
- **Natural and semi-natural open space; and**
- **Amenity green space**

7.6 Open space contributions will be provided through three separate means:

- On-site provision, e.g. amenity green space, locally equipped areas for play
- Commuted financial contribution (one-off payment), in lieu of (i.e. in place of) on-site provision
- Commuted financial contribution, to cover future maintenance

POLICY 4: Standards for s106 contributions towards site specific open space and recreational facilities

Minimum Threshold (single scheme)	Open space contributions sought for:	Means of provision	Mechanism by which open space and recreation contributions will be sought
15 dwellings	Provision for children and young people	On site provision	Provision by housebuilder as part of agreed scheme (i.e. site specific infrastructure)
		Commuted financial contribution	One-off payment to Parish/ Town Council (£40.00/m²)
	Allotments and community gardens	On site provision	Provision by housebuilder as part of agreed scheme (i.e. site specific infrastructure)
	Natural and semi-natural open space	On site provision	Provision by housebuilder as part of agreed scheme (i.e. site specific infrastructure)
	Amenity green space	On site provision	Provision by housebuilder as part of agreed scheme (i.e. site specific infrastructure)
		Overall maintenance contribution (25 years)	On-off payment to Parish/ Town Council @ £600 per dwelling
0.42ha (non-residential)	Natural and semi-natural open space	On site provision	Provision by developer as part of agreed scheme (i.e. site specific infrastructure)
	Amenity green space	On site provision	Provision by developer as part of agreed scheme (i.e. site specific infrastructure)
S106 contributions will be sought in accordance with the above standards. Parish and Town Councils will advise about site specific open space and recreational facilities required to make the development acceptable. The relevant Parish and Town Councils will take the lead in negotiating appropriate site-specific measures.			

7.7 It is noted that only provision for children and young people is considered to be appropriate to be funded through commuted sums. In practice, the relevant Parish/ Town Council will take a decision to adopt an individual area of open space/ green space; based upon whether that Parish/ Town Council is satisfied that the scheme has been implemented appropriately. Upon adoption of any new green/ recreational open spaces by a Parish/ Town Council payments must commence in accordance with the relevant s106 agreement/ agreements.

7.8 With the exception of certain categories of open space, sport and recreational facilities (i.e. site specific provision for children and young people; allotments and community gardens; natural and semi-natural open space; and amenity green space), other types of community facilities are specified in the draft r123 list. As such, it is anticipated that community facilities will mainly be funded through CIL, unless the scale of development is such that masterplanning for a particular scheme reveals that an entire bespoke new facility will be required to service a new development (i.e. sustainable urban extensions and/ or new town proposals).

- 7.9 **Healthcare** – On 1 April 2013, NHS Primary Care Trusts (previously responsible for the strategic management of local GP services) were replaced by Clinical Commissioning Groups (CCGs). CCGs have responsibility for designing local health services by commissioning (or buying) health and care services for defined local areas, through "*the process of assessing the needs of a local population and putting in place services to meet those needs*" (Department of Health definition for "commissioning"). East Northamptonshire is covered by the following CCGs:
- NHS Cambridgeshire and Peterborough CCG
 - NHS Corby CCG
 - NHS Nene CCG
- 7.10 The three CCGs are responsible for most aspects of providing new health services and facilities, such as community health, mental health and acute care (hospitals). CCGs do not, however, cover general practice; i.e. GP premises and all matters relating to developer contributions. These matters are now dealt with by NHS England.
- 7.11 **Community centres, village halls, places of worship or indoor leisure and recreation facilities** – A planning application or masterplan for a major development scheme may specify a requirement for a new community hall, place of worship or other leisure/ recreational facility as part of a new neighbourhood centre. Developments of a sufficient scale could enable discrete site specific local provision exclusively related to the development and, as such, could be funded through a s106 Agreement unless specific projects are already identified through the r123 list.
- 7.12 **Libraries** – Unless a new library is to be provided explicitly as part of a major new development, s106 payments can no longer be sought in respect of the upkeep, maintenance or re-stocking of existing libraries.
- 7.13 **Policing** – Similarly, general local policing will form part of CIL. Local crime management measures (such as security cameras) that are identified as a specific necessity, to service a particular new development may be secured through one off s106 agreements. In the case of local crime management measures, these are often identified through the design processes.

8.0 Green Infrastructure

8.1 The NPPF Core planning principles include a defined role for planning, to “*contribute to conserving and **enhancing** the natural environment*” (paragraph 17). The NPPF also explains the role of planning, to achieve places which promote “*safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas*” (paragraph 69).

8.2 The delivery of appropriate green infrastructure as part of new development schemes remains a key mechanism by which enhancement of the natural environment may be delivered. The NPPF defines green infrastructure as: “*A network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities*” (Annex 2). Site specific green infrastructure (i.e. green infrastructure associated with specific development schemes that will continue to be provided through s106 Agreements) will normally consist of:

- Green corridors, including on-site pedestrian and cycle linkages;
- Amenity/ public open space;
- Site specific structural landscaping, e.g. tree planting, noise bunds;
- Flood management measures, e.g. Sustainable Drainage Systems (SuDS).

8.3 It is necessary to define thresholds for securing s106 contributions. It is also essential to provide a clear explanation as to circumstances where s106 contributions may be sought.

Standards for site specific green infrastructure contributions

8.4 S106 contributions will continue to be sought in accordance with the criteria set out in Policy 5, below.

POLICY 5: Criteria for green infrastructure contributions

Threshold (single scheme)	Site specific green infrastructure measures sought	Factors affecting green infrastructure delivery	Timeline for green infrastructure delivery
10 dwellings/ 0.28ha (whichever greater)	Structural landscaping (normally developed in association with open space provision); i.e. Natural and semi-natural open space, Amenity green space	Location – adjacent land uses (Design/ Conservation Officers/ Lead Local Flood Authority (LLFA) to advise)	Structural landscaping – required at site preparation stage

Threshold (single scheme)	Site specific green infrastructure measures sought	Factors affecting green infrastructure delivery	Timeline for green infrastructure delivery
1000m ² gross floorspace/ 1ha site area	Structural landscaping; i.e. Natural and semi-natural open space, Amenity green space	Location – adjacent land uses (Design/ Conservation Officers/ LLFA to advise)	Structural landscaping – required at site preparation stage
<p>S106 contributions will be sought in accordance with the above standards. East Northamptonshire Council Design and Conservation Officers will advise about specific landscape measures required to make the development acceptable, and the LLFA (County Council) will advise in respect of drainage issues. The relevant ENC and NCC officers will take the lead in negotiating appropriate structural landscaping measures.</p>			

8.5 Site specific green infrastructure measures (i.e. structural landscaping and drainage features) will be considered on a site by site basis. The s106 Agreement may (in association with bespoke planning conditions) define specific trigger points for the delivery of particular green infrastructure items.

Sustainable Drainage Systems

8.6 The Flood and Water Management Act 2010 (Schedule 3: Sustainable Drainage) has established a new consenting regime for the approval and implementation of SuDS, due to come into effect in April 2014. Sustainable drainage is defined, through Schedule 3 of the 2010 Act, as:

- “...managing rainwater (including snow and other precipitation) with the aim of:
 - a) reducing damage from flooding,
 - b) improving water quality,
 - c) protecting and improving the environment,
 - d) protecting health and safety, and
 - e) ensuring the stability and durability of drainage systems”. (Schedule 3(2))

8.7 The County Council, as LLFA, will become the SuDS Approval Body (or “SAB”), with effect from April 2014. SuDS Approval will become an entirely separate consenting regime to planning and will be administered through the County Council’s Highways Team. SuDS Approval will be implemented as follows:

- **April 2014** – SuDS Approval required for all Major planning applications; i.e. >9 dwellings/ 0.5ha (residential) and >1000m² floorspace (non-residential)
- **April 2017** – SuDS Approval required for all planning applications involving construction works where site specific drainage measures are required

8.8 In practice, site specific green infrastructure will also function as SuDS (i.e. “multi-functional green infrastructure”). However, the 2010 Act requires that the County Council must adopt public SuDS once these have been approved and implemented in accordance with the approved scheme. As such, from April 2014 SuDS cannot be explicitly secured through s106 contributions, given that these are subject to an entirely separate consenting regime. The County Council is considering further funding options for SuDS maintenance, once adopted.

9.0 Bespoke Items

- 9.1 In addition to the previously mentioned types of contributions, there are a number of other matters where s106 agreements may be sought. Any such agreement must be specific to the proposed development and meet the tests within r122 of the 2010 CIL regulations (as amended). Bespoke items may not be asked for by means of a s106 agreement if that item is already specified in the r123 list.

Waste management and training opportunities

- 9.2 Where site specific measures are required in order to render a development scheme acceptable in planning terms (i.e. sustainable), these must continue to be provided through s106 contributions. Under normal circumstances, the following measures may be secured through s106 Agreements in association with major development schemes; i.e. >9 dwellings (residential) or 1000m² floorspace (non-residential):

- Site specific waste management facilities (e.g. communal bin storage areas) – design/ development principles regarding the domestic waste storage and collection are set out in the [Domestic Waste Storage and Collection Supplementary Planning Document](#) (adopted July 2012);
- Securing employment and training opportunities arising from new development schemes through initiatives such as “Construction Futures”.

“One off” items

- 9.3 Provision must be made to secure specific items, which **must** be determined to be necessary to make a specific development scheme sustainable. Four recent examples of such items are highlighted below to provide a guide to what this could cover, although it must be emphasised that this list is not exhaustive):

- The handing over of land or structures to a Town or Parish Council (or another body)
- The restoration of land/ building to a previous state/ use
- The imposition of a restriction of occupation for a dwelling
- The linking of a dwelling to a particular person or business

10.0 Assessing viability

10.1 Since the onset of the economic downturn in 2008, and especially following adoption of the NPPF in March 2012, viability assessment has been given increased prominence and weight in negotiating developer contributions. The NPPF highlights the need to take account of viability and costs in decision-taking. National policy (NPPF) requires that:

- *“To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable”* (NPPF, paragraph 173).

10.2 In accordance with the requirements of the NPPF, viability is now an overriding factor in considering appropriate developer contributions. In using this s106 SPD, it is essential that users understand:

- Context for s106 negotiations around viability;
- The role of viability assessments;
- Prioritising s106 contributions.

10.3 Each of these matters will be briefly considered below with the full details being covered in **Appendix XXX**

Context for s106 negotiations around viability

10.4 S106 contributions are negotiated and discussed between the Council and an applicant through the formal planning application process or at the pre-application stage. These negotiations are a collaborative process, involving a number of key stakeholders:

- Applicant/ agent;
- ENC (Members and officers);
- Parish and Town Councils;
- Relevant statutory undertakers/ infrastructure providers.

10.5 When general agreement has been reached between an applicant and the Council, the outcome of these s106 negotiations form part of the officer’s Committee Report on the planning application to the Development Control Committee.

10.6 The nature and required level of s106 contributions are put to the potential applicant during pre-application discussions (initial negotiations re draft Heads of Terms a pro forma for this can be found in Appendix E). The pre-application stage represents a key opportunity for the promoter/ potential applicant to highlight any issues regarding the possible viability of the proposed scheme.

Affordable housing contributions and viability

- 10.7 Affordable housing contributions form the largest single element of s106 contributions, in financial terms. Accordingly, negotiations around viability frequently relate to affordable housing (i.e. the proportion of affordable housing to be provided as part of any residential scheme). The following section will therefore focus upon viability assessments within the context of securing affordable housing contributions, but could equally be applied to other contributions.

Figure xx: Typical process for negotiating s106 Agreements

1. Pre-application stage:

- The nature and required level of s106 contributions are put to the potential applicant during pre-application discussions (initial negotiations re draft Heads of Terms)
- The pre-application stage represents a key opportunity for the promoter/potential applicant to highlight any issues regarding the possible viability of the proposed scheme; i.e. matters where anticipated s106 contributions may be unable to be met in full
- Negotiations should be advanced, as far as possible, at the pre-app stage so that the application can be accompanied by a draft Heads of Terms that already takes these discussions into account and that a viability report can be prepared for an applicant at the outset to justify any shortfall



2. Application stage (either outline or full)

- Validation requirements set out in LLIR (part 10) – submission of draft Heads of Terms required as part of any application within the s106 thresholds set out in this document
- Relevant consultees will then advise whether s106 contributions are required and, if so, how much



3. Application process – S106 negotiations around viability

- Case officer will feedback s106 requests from relevant consultees and/ or infrastructure providers to the applicant
- Applicant will consider s106 requests – may accept s106 request, in which case Heads of Terms can be agreed straightaway; otherwise, applicant may wish to lower the offer
- **A reduced offer by the applicant against any item will require explanation and may trigger a requirement to prepare a viability assessment, in order to provide a justification for a reduced s106 contribution**
- Case officer will facilitate negotiations between applicant and relevant consultee(s)



4. Officer recommendation – Development Control Committee

- If agreement can be reached between the applicant, relevant consultees and the case officer, the application may be presented to the Development Control Committee with a recommendation for approval
- If no agreement can be reached well within the target timeframe (or any such extended timeframe that may have been agreed), it is likely that the officer will recommend refusal

The role of viability assessments

- 10.8 As said, the NPPF highlights the role of viability assessments as a key element of decision making. As such, a number of guides and viability modelling tools are available. It is critical that an applicant pays due regard to the most up-to-date build costs, land values or other relevant viability data. Whatever data sources used, and/ or assumptions made, must be clearly explained within the submitted viability assessment.
- 10.9 An applicant can use a robust and justifiable viability assessment in order to identify where the s106 contributions being sought by the Council and/ or relevant infrastructure provider will affect the viability (and therefore deliverability) of a scheme. Further guidance and advice can be found in **Appendix XX**.
- 10.10 However, a number of viability assessment tools are available. For example, the Homes and Communities Agency (HCA) has developed a Development Appraisal Tool. This is designed to systematically assess the viability of an individual site. It takes into account local assumptions for costs and value, and records the dates at which these assumptions impact on a project cash flow over the life cycle of the development. This will help to identify the residual land value (i.e. point at which a scheme may be deemed to be “viable”).
- 10.11 Atlas and the Royal Institute of Chartered Surveyors (RICS) have also produced the definitive guide to viability assessment. This RICS guidance, “Financial viability in planning” (August 2012), includes an indicative outline of what to include in a viability assessment (Appendix C); e.g. site preparation costs, consultants costs, build costs. Once again it is emphasised that any viability assessment submitted in support of an application will be subject to rigorous scrutiny.

Renegotiating s106

- 10.12 New clauses inserted into the 1990 Town and Country Planning Act through the 2008 Growth and Infrastructure Act (clause 7) introduce a new application and appeal procedure for the review of planning obligations on planning permissions which relate to the provision of affordable housing. The changes require a council to assess the viability arguments, with a view to the possible renegotiation of previously agreed affordable housing levels, in a s106 Agreement.
- 10.13 The Government (CLG) has also produced guidance - Section 106 affordable housing requirements – Review and appeal (CLG, April 2013), which explains the requirements for any viability test and the form of evidence required to fulfil the obligations of Sections 106BA and 106BC.
- 10.14 S106 Agreements will continue to be the sole means of securing development contributions for affordable housing. Securing strong, vibrant and healthy communities by providing the supply of housing required to meet both present and future generations remains a key dimension of sustainable development (NPPF paragraph 7).
- 10.15 Recognition needs to be made as to the competing priorities for s106 contributions. In setting priorities for s106 negotiations, consideration should be given to the following questions (**Table xx**, below).

Question	Commentary/ examples
<i>Could outcomes (i.e. planning gains) be secured through alternative funding mechanisms?</i>	In addition to s106, CIL and other funding mechanisms may provide opportunities to deliver development benefits. Examples include Affordable Housing Guarantees (HCA), Annual Capital Fund (Department for Education – Schools), New Homes Bonus etc.
<i>What other mechanisms exist to deliver specific items or elements of infrastructure?</i>	In some cases, other mechanisms may be used to achieve a desired outcome, outside of s106 contributions and/ or CIL. Affordable housing may be delivered in the form of rural exceptions housing or through the Community Right to Build (introduced through the 2011 Localism Act). Delivery of key infrastructure to support particular development schemes may be achieved through arrangements such as the Growing Places Fund (administered by Northamptonshire Enterprise Partnership) or devolved Department for Transport capital funding arrangements.
<i>What priority outcomes are identified through the Corporate Plan, Sustainable Communities Strategy (SCS) and/ or Local Plan?</i>	The SCS defines a vision, for a: “ <i>network of thriving communities where people enjoy a high quality of life</i> ” (p6). The Corporate Plan, influenced by the SCS, specifies Regeneration and Economic Development and Sustainable Development as top priorities. These defined priorities need to be taken into account during s106 negotiations.
<i>What local priorities are identified?</i>	Where these have been prepared, community/ Parish Plans and/ or Masterplans etc provide a means by which particular local issues should influence where s106 contributions should be focused.
<i>Could the development “function”, or be delivered, without particular s106 contributions?</i>	It is reiterated that consideration must be given to whether a particular s106 contribution being sought is, indeed, wholly related to a development scheme.

Glossary of terms (TBC)

Term	Definition
Community Infrastructure Levy (CIL)	“Pooled” local infrastructure fund. Developers of eligible development schemes (i.e. those which fall within the scope of CIL) will be required to pay CIL at the time that the development commences.

Appendix A – Policy Outcomes

The adopted Local Plan for East Northamptonshire

A-1 The adopted Local Plan for East Northamptonshire consists of the following Development Plan Documents (DPDs):

- [North Northamptonshire Core Spatial Strategy](#) (CSS), adopted June 2008 – overarching strategic planning policies;
- [Rural North, Oundle and Thrapston Plan](#) (RNOTP), adopted July 2011 – site specific and other more detailed local planning policies, for the part of the District north of the A14, plus Denford, Great Addington, Little Addington and Woodford parishes;
- [East Northamptonshire District Local Plan](#), adopted November 1996 – most policies from the 1996 Local Plan are now superseded by CSS and RNOTP policies, although a limited number remain in force.

Corporate Plan 2011-15

A-2 East Northamptonshire Council's [Corporate Plan 2011-15](#) was approved on 27 April 2011. This sets out the Council's key priorities and outcomes for the next four years. These outcomes are summarised as:

- Improvements for the community
- Effective processes
- How we [East Northamptonshire Council] learn and grow

A-3 S106 Agreements help to deliver a range of specific policy objectives and these are closely related to corporate outcomes. The specific outcomes to be delivered by this SPD are:

S106 Agreements SPD outcomes	Links to corporate outcomes
<ul style="list-style-type: none"> • <i>Maximising the benefits of new development for the District</i> 	<ul style="list-style-type: none"> • Good quality of life: sustainable; clean; healthy; safe • High quality service delivery • Effective partnership working • Strong community leadership • Effective management • Knowledge of our customers and communities
<ul style="list-style-type: none"> • <i>Updating the policy framework re securing developer contributions to take account of proposed introduction of CIL</i> 	<ul style="list-style-type: none"> • Effective partnership working • Effective management

S106 Agreements SPD outcomes	Links to corporate outcomes
<ul style="list-style-type: none"> • <i>Providing clarity and removing ambiguity re types of infrastructure for which S106 contributions may continue to be sought, following the introduction of CIL</i> 	<ul style="list-style-type: none"> • Good quality of life: sustainable; clean; healthy; safe • Council services which provide good value for money • Effective management • Knowledge of our customers and communities
<ul style="list-style-type: none"> • <i>Setting a clear framework (e.g. thresholds/ “trigger points”) for calculating developer contributions</i> 	<ul style="list-style-type: none"> • Effective partnership working • Strong community leadership • Effective management
<ul style="list-style-type: none"> • <i>Recognising the increased importance of viability in S106 negotiations; providing improved guidance as acceptable/ appropriate viability evidence</i> 	<ul style="list-style-type: none"> • Council services which provide good value for money • Effective management • Knowledge of our customers and communities • Councillors and staff with the right knowledge, skills and behaviours
<ul style="list-style-type: none"> • <i>Providing clear guidance re prioritising S106 contributions</i> 	<ul style="list-style-type: none"> • Good quality of life: sustainable; clean; healthy; safe • Council services which provide good value for money • Effective management • Knowledge of our customers and communities

Sustainable Communities Strategy for East Northamptonshire 2008-2015

A-4 During its preparation (2010-11), the Corporate Plan was also guided by the [Sustainable Communities Strategy 2008-2015](#) (SCS). The latter was prepared by “ENable”, the former Local Strategic Partnership. The 2008 SCS for East Northamptonshire, which remains in force, emphasises quality of life within the overall vision. Of particular significance; “*Improved health and wellbeing*”, “*Appropriate housing that meets the needs of communities*” and “*Improved natural and physical environment*” are all highlighted as important outcomes. Overall, it is emphasised that the S106 Agreements SPD is closely tied to the delivery of priority SCS and corporate outcomes, as explained above.

Appendix B – Justification for standards, e.g. s106 thresholds

B-1 In order to ensure that the s106 Agreements SPD is robust, justifiable and evidence based, it is necessary to set out the background to the standards that are being applied. This Appendix (Appendix B) provides a commentary, in order to justify the standards that have been applied in the SPD.

Justification for affordable housing standards

- B-2 The adopted Local Plan was based upon an assumption that the strategic affordable housing need should be met through the implementation of strategic development land allocations. The North Northamptonshire Core Spatial Strategy (CSS) implies a “sequential approach” to the delivery of affordable housing, whereby if: “...*an identified local affordable housing need cannot be met by applying targets to general housing sites, it may be necessary to make an exception to normal policy, or to identify affordable housing allocations in detailed development plan documents*” (paragraph 4.26). In other words, planning obligations are generally deemed to be the preferred mechanism by which new affordable housing should be provided.
- B-3 The Rural North, Oundle and Thrapston Plan (RNOTP) follows a similar theme, insofar as this anticipates that around 485 affordable dwellings (out of an indicative need for 500 dwellings) are expected to be delivered at allocated sites in Oundle, Thrapston and King’s Cliffe (paragraph 6.12). Similarly, the 1996 District Local Plan anticipates that affordable housing contributions may be secured through schemes of more than 10 units. The Local Plan therefore places planning obligations at the heart of affordable housing delivery, so these **must** remain a key factor in securing affordable housing across the District.
- B-4 **Thresholds** – Defining an appropriate affordable housing threshold was a major consideration through the previous Local Plan process, particularly for the RNOTP. The RNOTP Inspector, following the initial round of Examination hearing sessions (October 2008) concluded that “*the evidence base should demonstrate the extent to which the affordable housing target for the plan area and the **site-size thresholds** and proportions reflect an assessment of the likely economic viability of land for housing within the area taking account of risks to delivery and the likely availability of finance*” ([Inspector’s Note on further work required in order to establish that the DPD is sound](#), 31 October 2008).
- B-5 Alternative site-size thresholds were expressly assessed through the RNOTP process. Table B1 (below) explains the background to alternative affordable housing thresholds.

Table B1: Alternative thresholds		
Minimum threshold	Source of threshold	Commentary
3 dwellings (rural area)	North Northamptonshire Strategic Housing Market Assessment (August 2007)	While a 3-dwelling threshold would be necessary to address rural housing need, viability testing has found that developer contributions from sites under 15 units would be hard to achieve (RNOTP, paragraph 6.8)
10 dwellings	1996 District Local Plan, Policy H4; RNOTP Policy 13	Saved Local Plan policy; retained at a District level as a means to negotiate affordable housing for schemes of more than 10 dwellings
15 dwellings	National planning policy (former Planning Policy Statement 3: Housing); RNOTP Policy 13	Former national threshold for affordable housing contributions. Not taken forward into NPPF, although adopted Local Plan (CSS and RNOTP) policies are based around the former 15 dwelling standard
0.28 ha	2006 Developer Contributions SPD	Introduced through 2006 Developer Contributions SPD, to reflect former national housing standard (30 dwellings per ha)/ CSS standard (35 dwellings per ha). The latter equates to 10 dwellings, where the CSS standard is applied.

- B-6 Bespoke viability evidence prepared for the RNOTP Examination clearly revealed it is unlikely that affordable housing provision would be viable for any scheme smaller than **15 dwellings** (i.e. the former national standard). Nevertheless, contributions may still be sought, based upon the adopted Local Plan in its entirety. The RNOTP Examination found that 1996 Local Plan Policy H4 remained a relevant consideration in setting an affordable threshold; therefore a standard of 10 dwellings was retained (RNOTP Policy 13) for the rural parts of the Plan area.
- B-7 The 0.28 ha standard, introduced through the 2006 Developer Contributions SPD, also reflects the overall CSS density standard (minimum 35 dwellings per ha; i.e. **10 dwellings**). Given that this density standard is specified in the adopted Local Plan (i.e. CSS paragraph 4.25), it is considered appropriate to retain reference to this within this s106 SPD, at least for the rural areas.
- B-8 **Affordable housing % target** – The adopted CSS sets an overall target of **40% affordable housing** for new development schemes (Policy 15(b)). Further detail is set out in the RNOTP which has incorporated a similar standard; **up to 40%** of the total dwellings proposed (Policy 13). This adopted Local Plan standard must, therefore, form the starting point in negotiating affordable housing contributions from new developments.
- B-9 More recently, in the case of the south part of the District (i.e. that part of the District **not** covered by the RNOTP), the Council resolved to “*adopt targets of up to 40% for the north of the district (Rural North, Oundle and Thrapston Plan area) and 30% for the south of the district*” ([Minute 436, Policy and Resources Committee, 14 March 2011](#)). While this variation to CSS Policy 15 does not represent a formal change to the adopted Local Plan, it does represent an official expression of Council policy. On this basis, the Policy

and Resources Committee resolution would be a “material consideration” in negotiating s106 affordable housing contributions.

- B-10 **Phasing** – The s106 SPD phasing standard has been used in the majority of s106 Agreements since adoption of the 2006 Developer Contributions SPD so, as such, should still be regarded as “fit for purpose”.
- B-11 **Overview and conclusions** – This analysis of the existing affordable housing standards has revealed that these remain “fit for purpose”, providing a balance between viability and need. While viability considerations have been given significantly increased importance through the NPPF (paragraph 173) it remains essential that sufficiently clear and robust policies remain in place, in order to maximise opportunities to deliver affordable housing.

Justification for primary education s106 standards

- B-12 Education contributions are solely sought in respect of new **residential** developments. The basis for determining the extent and level of contributions is dependent upon whether a proposed development will cause a demonstrable need for the expansion of school facilities within the local and surrounding area. Traditionally, therefore, education contributions have been regarded wholly site specific; insofar as a set number of new households would be forecast to generate a need for a specific number of additional school places. The County Council's “Creating Sustainable Communities: Planning Obligations Framework and Guidance” document (March 2011) sets out the definitive local standards for calculating s106 education contributions so, as such, it is not intended to repeat these standards within this SPD.
- B-13 **Defining future CIL and s106 arrangements** – Northamptonshire Development, Infrastructure and Funding (DIF) has anticipated that, following the implementation of CIL, s106 contributions would thereafter only be sought primarily in respect of **primary** education, including pre-school provision (nursery places for children aged three years or over). Recent information provided by Northamptonshire DIF specifies that:
- Department for Education guidelines indicate an average s106 contribution of £3000 for a three bed dwelling (although varies on a case by case basis);
 - Primary school location and provision tends to be extremely site specific;
 - Emerging new primary school projects, e.g. Goulsbra Road, Rushden will come forward **before** the implementation of CIL (i.e. wholly under the existing s106 arrangements);
 - Future developer contributions towards the five secondary schools, together with three Middle Schools in the District should form part of CIL;
 - All primary schools, publicly-funded nursery, pre-school and/ or infant school provision for children aged three years or over should continue to be funded through s106 contributions.
- B-14 Central Government funding such as the Annual Capital Fund ([Targeted Basic Need Programme](#), July 2013) is anticipated to become increasingly important for the LEA due to increased birth rates and in-migration. These are not, however, issues that can be covered through S106 contributions as they are not arising from the proposed development.
- B-15 **Thresholds** – The 2006 Developer Contributions SPD introduced standard trigger thresholds (10 dwellings/ 0.28ha site area) for securing s106 education contributions. In

preparing this s106 SPD, consideration has been given to whether the previous standards remain appropriate and relevant. Table B2 below explains the background to the previous thresholds for education contributions.

Table B2: Thresholds		
Minimum threshold	Source of threshold	Commentary
10 dwellings	Department for Communities and Local Government (CLG) <u>Planning Statistical Release</u> – updated quarterly	CLG defines “minor” developments as schemes of more than 10 dwellings and “major” developments as 10 dwellings or above. This standard remains in force for local planning authority statistical returns to CLG re planning applications.
0.28 ha	2006 Developer Contributions SPD	Introduced through 2006 Developer Contributions SPD, to reflect former national housing standard (30 dwellings per ha)/ CSS standard (35 dwellings per ha). The latter equates to 10 dwellings, where the CSS standard is applied.

B-16 Given that the 10 dwelling threshold continues to function as the national standard for differentiating between “minor” and “major” development schemes, it is considered appropriate to maintain this as the set threshold for securing S106 contributions for primary education. Nevertheless, it should be noted that the 2006 Developer Contributions SPD also referred to the need to monitor planning permissions for <10 dwellings if a clear cumulative impact of these upon local schools was found to be the case. Similarly, the 0.28 ha standard, introduced through the 2006 Developer Contributions SPD, reflects the overall CSS density standard (minimum 35 dwellings per ha; i.e. **10 dwellings**).

B-17 **Phasing and triggers for education contributions** – Northamptonshire DIF has emphasised that every application is reviewed on its own merits taking into account capacity in existing schools so it is difficult to provide “one size fits all” triggers in respect of education provision. Nevertheless, the County Council (DIF) has provided the following approximate trigger standards:

- **700 houses** would generate the need for a single form entry (1FE) primary school (i.e. provision for a single new class of children);
- **4000 homes** would generate the need for a new secondary school.

B-18 Generally speaking, the County Council does not support expansion of schools by a single classroom. Instead, the preference is to make provision for expansion by whole forms of entry (i.e. the required number of single classes) although there are too many variable factors to be able to give a specific trigger point for when additional forms of entry might be required.

B-19 **Overview and conclusions** – Analysis of standards for s106 education contributions has revealed that these remain “fit for purpose”, providing a balance between viability and need. While viability considerations have been given significantly increased importance through the NPPF (paragraph 173) it remains essential that sufficiently clear and robust policies remain in place, in order to maximise opportunities for s106 contributions towards (in this case) primary education.

Justification for transport infrastructure s106 standards

- B-20 Transport contributions relate to all development types for which additional traffic or journeys would be generated (be that vehicular or pedestrian).
- B-21 **Thresholds** – The 2006 Developer Contributions SPD specified the following thresholds for securing S106 transport contributions, and it is necessary to consider whether these remain appropriate and “fit for purpose”:
- **10 dwellings or more** (i.e. “Major” planning applications);
 - **1000m² gross floorspace/ 1ha site area or larger** – industrial, commercial or leisure developments (Travel Plan threshold for retail or leisure developments);
 - **2500m² gross floorspace** – Travel Plan threshold for major employment or services (i.e. ‘B’ Class uses).
- B-22 In practice, site specific transport infrastructure requirements are normally determined through reference to the Transport Assessment and/ or Travel Plan. The circumstances (i.e. scale of development), where Transport Assessments/ Travel Plans will be required, are set out in the Council’s [Local list of information requirements](#) (LLIR), May 2011.

Table B3: Thresholds		
Minimum threshold	Source of threshold	Commentary
Transport Assessments		
10 dwellings	Department for Communities and Local Government (CLG) PSF returns (Planning Statistical Release – updated quarterly); LLIR	CLG defines “minor” developments as schemes of >10 dwellings and “major” developments as 10 dwellings or above. This standard has also been applied by ENC, through the LLIR (part 24).
0.5ha – residential	LLIR	ENC standard, in respect of outline applications, where the number of units proposed is not specified
1000m² gross floorspace/ 1ha site area	Department for Communities and Local Government (CLG) PSF returns (Planning Statistical Release – updated quarterly) ; LLIR	CLG defines “major” non-residential developments as schemes where the floor space to be built is 1000m ² or where the site area is 1ha or above. This standard has also been applied by ENC, through the LLIR (part 24).
Travel Plans		
100 dwellings	LLIR	Adopted ENC standard, whereby Travel Plans are required to be submitted
1000m² gross floorspace – all major developments comprising jobs, shopping, leisure and services	2006 Developer Contributions SPD; LLIR	Higher thresholds for Travel Plans for employment or services were previously introduced through the 2006 Developer Contributions SPD (2500m ² gross floorspace) to reflect the fact that these would tend to generate less traffic overall than retail or leisure developments. However, the LLIR has effectively superseded this, through requiring Travel Plans for all major non-residential schemes (i.e. >1000m ² floorspace).

- B-23 The NPPF signals a move away from defined national thresholds for securing s106 transport contributions. In part, this reflects the introduction of CIL, where minor developments that (till now) have generally been exempt from planning obligations will contribute.
- B-24 The s106 SPD recognises that, for certainty and clarity, it is useful to specify thresholds at which s106 contributions will be sought. Equally, however, it is important that the defined thresholds allow for sufficient flexibility, e.g. in circumstances where developments will have significant transport implications, as may be specified through pre-application advice.
- B-25 **Highways** – The Highway Authority (Northamptonshire County Council) and/ or Highways Agency will provide specific information on a case by case basis as to what site specific highway measures will be required to service a new development. The County Council will consider, in the first instance, specific highways measures to mitigate the effects of the development identified through the submitted Transport Assessment. Such measures include:

- Access and specific new junction arrangements;

- New distributor loop/ link roads, serving one or more (up to five) separate new developments³;
- Off-site mitigation works where these are deemed necessary (e.g. capacity improvements at nearby junctions)
- Other transport impacts, which require specific highway mitigation.

B-26 S106 contributions will be sought, where appropriate, for specific measures identified through the submitted Transport Assessment. In seeking contributions, these must fulfil **all** three of the Regulation 122 “tests”. Highway improvements may only be sought through s106 Agreements in order to make a new development (or cluster of developments) “work”; i.e. “sustainable”.

B-27 **Travel Plans** – The NPPF highlights the importance of Travel Plans as a means of achieving sustainable development. Travel Plans may identify solutions where particular transport issues have been identified through the Transport Assessment. For example, it may be that particular measures identified through a Travel Plan would help address a particular local traffic problem associated with a planning application, which might otherwise have to be refused on local traffic grounds.

B-28 Travel Plans are specific to individual development schemes (planning applications). As such, any site specific actions identified through a Travel Plan should continue to be eligible for s106 contributions. Contributions may be sought on this basis, **except** where a specific transport infrastructure project has been included on the r123 list.

B-29 **Public transport** – S106 Contributions towards site specific public transport provision may continue to be made. Public transport measures such as new bus stops, additional services and/ or diversion of bus routes to serve a new development must be identified through the Travel Plan.

B-30 The County Council’s Transport Planning team will advise whether any such schemes would comply with the aims and objectives of the [Northamptonshire Transport Plan](#) (adopted March 2012) and will provide direction as to whether a particular item, identified in the Travel Plan, is a prerequisite to ensuring that a development scheme is acceptable in planning terms.

B-31 **Sustainable transport infrastructure (cycling/ walking)** – The provision of new walking and/ or cycling corridors and routes linked to new development schemes may continue to be funded through s106 Agreements. Guidance will be sought from the County Council’s Transport Planning Team and North Northamptonshire Design Officer in respect of what site specific walking or cycling connections would need to be provided in order for a development to “function” effectively, currently through reference to the following:

- Northamptonshire Transportation Plan (March 2012) – especially Strategic Policy 3, which states that: “*We [the County Council] will ensure that all new developments are well connected by public transport and walking, cycling and motor vehicles routes, to the existing transport network or one that can be reasonable expected to be created*”;

³ On-site roads/ streets will be constructed by the house builder(s) and the Highway Authority must be satisfied with how these have been built before they can be adopted

- [Manual for Streets](#)/ Manual For Streets 2 (2007 and 2010 respectively, Department for Transport/ Communities and Local Government) and Northamptonshire Place and Movement Guide (November 2008) – focus upon putting well-designed residential streets at the heart of sustainable communities, and recognising the importance of assigning higher priority to pedestrians and cyclists, while allowing for vehicle movements, thus creating places that work for all members of the community;
- [Draft North Northamptonshire Urban Structures Study](#) (July 2013) – maximise connectivity within the urban areas.

B-32 On-site walking and cycling infrastructure will be negotiated during the design stage, and addressed through planning conditions. In cases where a specific feature (i.e. pedestrian or cycle route) is deemed essential for a development scheme to function, it will be appropriate to secure its implementation through s106 contributions.

B-33 **Overview and conclusions** – Site specific transport infrastructure will continue to be sought through s106 contributions. However, wider transport projects will be exclusively funded through CIL.

Justification for green infrastructure s106 standards

B-34 **Thresholds** – The 2006 Developer Contributions SPD specified the standard thresholds for securing appropriate s106 contributions, towards flood risk management, and environment and amenity measures (paragraphs 12.21 and 16.25). In preparing the S106 SPD, it has been necessary to consider whether the previous standards remain appropriate and relevant. Table B4 below explains the background to the previous thresholds for green infrastructure contributions.

Table B4: Thresholds		
Minimum threshold	Source of threshold	Commentary
10 dwellings	Department for Communities and Local Government (CLG) PSF returns (Planning Statistical Release – updated quarterly); LLIR	CLG defines “minor” developments as schemes of >10 dwellings and “major” developments as 10 dwellings or above. This standard remains in force for local planning authority statistical returns to CLG re planning applications.
0.28ha – residential	2006 Developer Contributions SPD	Introduced through 2006 Developer Contributions SPD, to reflect former national housing standard (30 dwellings per ha)/ CSS standard (35 dwellings per ha). The latter equates to 10 dwellings, where the CSS standard is applied.
1000m² gross floorspace/ 1ha site area	Department for Communities and Local Government (CLG) PSF returns (Planning Statistical Release – updated quarterly) ; LLIR	CLG defines “major” non-residential developments as schemes where the floor space to be built is 1000m ² or where the site area is 1ha or above. This standard has also been applied by ENC, through the LLIR (part 10).

B-35 It must also be noted that open space contributions (see Appendix C) will also continue to provide a key mechanism by which site specific green infrastructure provision will be secured.

- B-36 It is important that the defined thresholds allow for sufficient flexibility, e.g. in circumstances where developments will require specific measures in order to make these acceptable. In many cases, such measures will be identified and specified through pre-application advice.
- B-37 **Flood management measures** – Dealing with flood risk issues in association with new development forms a critical element of the development management process. The Flood and Water Management Act 2010 designates Northamptonshire County Council the Lead Local Flood Authority (LLFA) and SuDS Approval Body (SAB), with the role of approving, adopting and maintaining SuDS connecting more than one property. The SuDS Approval Body (County Council) is also responsible for providing approval before connection to the public sewerage system can be made. These responsibilities will become effective with effect from April 2014.
- B-38 The introduction of the new SuDS Approval regime will replace previous mechanisms for securing s106 contributions for flood management measures. Once this is fully operational, it will effectively operate as a parallel process with planning permission, like building regulations approval and issuing land drainage consents. A developer will **not** then be able to commence construction until SuDS approval has been obtained.
- B-39 **Site specific landscaping** – The [Trees and Landscape Supplementary Planning Document](#) (adopted February 2013) provides detailed guidance for the delivery of high quality, well maintained landscapes which contribute to the surrounding environment (SPD outcomes, paragraph 1.28). This sets out criteria for assessing proposed landscape measures, in order to ensure that these give new developments a stronger sense of place and character, and a feeling of increased quality.
- B-40 In determining the need for developer contributions in relation to the natural environment, the Council will pay particular regard to the Northamptonshire Environmental Character and Green Infrastructure Suite (NECGIS); prepared by the River Nene Regional Park. The NECGIS aims to guide positive environmental change for the future, for the benefit of everyone. It is intended to place the environment at the heart of planning and enable a proactive approach to planning, design and project delivery.
- B-41 Where development creates the need for specific landscaping measures to safeguard the environment, s106 contributions will continue to be required to cover the cost of providing such measures. In practice, this is likely to be undertaken through mechanisms such as the open space maintenance contributions. It must be emphasised that securing an appropriate maintenance period is vital for protecting natural assets which very often require long-term management to retain their value.
- B-42 **Overview and conclusions** – Site specific green infrastructure will continue to be sought through s106 contributions. Other aspects of green infrastructure such as strategic green corridors or flood management measures will be secured through other mechanisms.

Appendix C – Calculating site specific open space contributions [see separate document]

Appendix D – Typical s106 contributions table

	Developer contributions set out in SPD/requested by consultees	Proposed by applicant and consultee comments	Agreed Heads of Terms
1	<p><i>Affordable housing:</i></p> <p>SPD sets target at 40%, lower % acceptable where sufficient justification provided – viability and/or housing needs.</p>	Applicant offered 30%.	Applicant offer accepted based on viability and /or housing needs.
2	<p><i>Primary education:</i></p> <p>NCC Development Management:</p> <p>Primary Education</p> <p>1bed = £xx 2 bed = £xx per unit 3 bed = £xx per unit 4 bed = £xx per unit 5 bed = £xx per unit</p> <p>towards the provision of new primary places</p>	Principle agreed. The applicant has offered 2 bed=£xx, 3 bed=£xx and 4 bed=£xx. The applicant has been requested to clarify the discrepancy in amounts offered per dwelling.	Up to a maximum of £xx
3	<p><i>Transport and Highways:</i></p> <p>NCC requirement:</p> <p>Highways Agency requirement:</p>	<ol style="list-style-type: none"> 1. Public transport bus service improvement to secure the extension of route xx bus service through the development through a service level agreement. 2. Travel Plan Framework 3. Works to: <ul style="list-style-type: none"> Provide xx Road traffic calming Improvements to xx roundabout/ junction Improvements to xx pavement/ cycle way Improvements to xx right of way <p>£xx for A14/ A45 junction improvements in association with new development</p>	<p>Bus service improvements agreed with applicant</p> <p>Off-site traffic calming, signalisation and footway/cycleway improvements to be provided. Financial contribution to NCC towards implementation of measures within the Green Travel Plan and the employment of a Travel Plan Co-ordinator all agreed with applicant</p> <p>£xx contribution for specified A14/ A45 junction improvements</p>

	Developer contributions set out in SPD/requested by consultees	Proposed by applicant and consultee comments	Agreed Heads of Terms
4	<p><i>Open Space:</i></p> <p>Town/ Parish Council request: £xx per unit as per SPD</p>	<p>LAPs, LEAPs and NEAPs to be provided in accordance with SPD including future maintenance to an agreed standard.</p> <p>To be maintained by Town/ Parish Council or Management Co.</p> <p>Commutated sum for maintenance based on formula as set out in ENC SPD.</p> <p>Allotments to be provided within overall open space area-to be maintained by Town/ Parish Council or management Co.</p>	<p>xx ha of on-site openspace and allotments for maximum capacity of dwellings</p> <p>xx ha Amenity & incidental openspace</p> <p>Management Co. or Town/ Parish Council to maintain. Commuted sum contribution based on ENC SPD formula.</p> <p>Agreed by Applicant</p>
5	<p><i>Healthcare:</i></p> <p>NHS Clinical Commissioning Group (Previously Primary Care Trust) request: Contributions required to improve xx Surgery</p>	<p>Agreed sum of £xx to match the offer made for the recently approved adjacent xx development, based on the fact that the CCG has asked for this budget as sufficient to meet the cost of the works for additional provision at the surgery to meet the full needs of all the additional dwellings allocated for the town.</p>	<p>£xx Contribution agreed with applicant</p>
6	<p><i>Drainage:</i></p> <p>Design officer/ County Council request</p>	<p>Provision of Sustainable Urban Drainage (SUDs) scheme to be maintained in perpetuity by the developer or a utility company.</p> <p>Agreed to 4 conditions to be attached for foul and surface water drainage and contamination issues.</p>	<p>SUDs to be provided and maintained in perpetuity by developer or a utility company.</p>
7	<p><i>Monitoring fee:</i></p> <p>£xx</p>	<p>Applicant comments awaited</p>	<p>To be agreed</p>

Appendix E – Key contacts – details of key infrastructure providers [to be prepared]

Appendix F – Consultees [to be prepared]

Planning Policy Committee

16 December 2013

Update Sheet

General point:

In order to avoid any potential for confusion about the status of the 2 SPDs when consultation commences on the CIL Draft Charging Schedule, it is proposed to re-label them as preliminary draft SPDs.

Open Space Supplementary Planning Document Update:

- Reference to off-site open space provision needs to be updated to reflect the CIL r123.
- The document needs to include reference to maintenance contributions.
- Page 24, NEAPs definition needs to reflect CIL r123 – needs to relate to site specific requirements.
- New text will be included in the document to enable Town/Parish Councils to have first refusal to manage open space.

Draft Section 106 Planning Agreements Supplementary Planning Document:

- Page 12, Policy 2 table – 2nd column to be removed - this aimed to provide an example, but could be misinterpreted.
- Page 14, needs to insert the trigger for on site secondary schools, 4,000.
- Wording needs to be amended about the role of town and parish councils in the negotiation process e.g. page 18 bottom of Policy 4 table – ENC are responsible for this, not Town and Parish Councils.
- Page 18, Policy 4 etc, content needs to cross-reference to the Open Space SPD and CIL r 123.
- Sustainable Urban Drainage section starting p21 to be removed and replaced with explanation of the changes that are due to take place soon re- SuDs responsibilities/approvals system.
- P32 justification of affordable housing thresholds B5, B6 and table to be removed as identifies old information that related to policies – this could confuse the reader if read in conjunction with the Draft Charging Schedule background evidence.
- Term “Phasing” could cause confusion and instead will be replaced with “trigger point” or “delivery”, as appropriate to the context.
- General point, the document needs to make additional cross-references to CIL and r123 for clarity.