

## Planning Obligations Supplementary Planning Document

### Errata Sheet

This errata note corrects a number of factual reference errors contained within the originally published Planning Obligations Supplementary Planning Document. These are solely designed to add clarity rather than change any of the substance of the guidance.

Page Number	Paragraph Number	Error	Correction
23	5.34	M4 (3) (2) (b) of the Building Regulations 2015	Part M, Category 3 (Wheelchair user dwellings) M4(3) (2) (b) of Schedule 1 (para 1) to the Building Regulations 2010 (as amended)
23	5.35	M4 (3) (2) (b) of the Building Regulations 2015	Part M, Category 3 (Wheelchair user dwellings) M4(3) (2) (b) of Schedule 1 (para 1) to the Building Regulations 2010 (as amended)
38	8.30	public sports use will be undertaken by the Council	public sports use such as linework and similar, will be undertaken by the Council
38	8.31	Table 9	Tables 9 and 10
54	14.20	The indices to be used are the BCIS PUBSEC Tender Price Index of Public Sector Building Non-Housing Indices.	The indices to be used are the BCIS PUBSEC Tender Price Index of Public Sector Building Non-Housing Indices and BCIS All-in Tender Price Index for contributions relating to housing.
55	14.29	All monitoring fees	All Essex County Council monitoring fees



# Chelmsford Local Plan

## Planning Obligations Supplementary Planning Document

January 2021

Please see Errata Sheet for corrections to paragraphs 5.34, 5.35, 8.30, 8.31, 14.20 and 14.29





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## **I- Introduction**

### **Purpose of this Document**

**1.1** This Planning Obligations Supplementary Planning Document (SPD) sets out the City Council's approach towards seeking planning obligations which are needed to make development proposals acceptable in planning terms. It replaces the Planning Obligations SPD approved on the 26<sup>th</sup> February 2014.

**1.2** This SPD identifies topic areas where planning obligations may be applicable depending on the scale of development and sets out the required obligations or contributions.

**1.3** It should be noted that not all the obligation types within this SPD will apply to all types of development. This SPD has been produced to apply to varying scales of development, but proposals will be assessed on a site by site basis with the individual circumstances of each site being taken into consideration.

**1.4** The combination of this SPD and the Council's Community Infrastructure Levy (CIL) Charging Schedule set out a clear position to developers, landowners and stakeholders, of the scope and scale of planning obligations applicable to different scales and types of development.

**1.5** The implementation guidance provided in this document supplements the requirements set out in the Local Plan.

### **How we have got to this point?**

**1.6** A first draft of this SPD was published for six weeks public consultation in Summer 2018 and submitted as an evidence base document supporting the Independent Examination of the Local Plan.

**1.7** The SPD was subsequently revised to reflect revisions to national planning policy guidance, changes to the Community Infrastructure Levy Regulations, modifications to the Local Plan following the Independent Examination, and new local strategies and policy guidance.

**1.8** A 2020 revised draft SPD was published for four weeks public consultation in Autumn 2020.



## 2- Policy Background

### National Planning Policy Overview

**2.1** The statutory framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended. Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and paragraphs 54 to 57 of the National Planning Policy Framework (NPPF) February 2019 set out the Government's policy on planning obligations.

### The National Planning Policy Framework (NPPF)

**2.2** The NPPF advises that planning authorities should consider the use of planning obligations where they could make an otherwise unacceptable development acceptable. They should only be used where it is not possible to address unacceptable impacts through planning conditions.

**2.3** Community Infrastructure Levy Regulation 122 (2) sets out what a planning obligation can constitute and paragraph 56 of the NPPF re-iterates that planning obligations should only be sought where they meet all the following tests:

- they are necessary to make a development acceptable in planning terms;
- they are directly related to a development;
- they are fairly and reasonably related in scale and kind to a development.

**2.4** The national Planning Practice Guidance (PPG) offers a web-based resource to support the NPPF.

### The Community Infrastructure Levy (CIL)

**2.5** The CIL is a charge which local authorities can place on developers to help fund infrastructure needed to support new development in their areas. Unlike Section 106 Planning Obligations, CIL receipts are not earmarked for particular infrastructure. Instead, CIL monies are pooled into one fund, which can be used for any infrastructure needed to support new development across the Council's administrative area.

### Chelmsford City Council Community Infrastructure Levy (CIL)

**2.6** The City Council approved its CIL Charging Schedule on 26 February 2014 with an effective date of 1 June 2014. The Charging Schedule sets out a levy of £125 per sq.m for residential development, and £87 and £150 per sq.m for retail development, and a zero rating for all other types of development. The rate of CIL has increased each year since it was approved in line with an index of inflation.





## Infrastructure Delivery Plan

**2.7** The Chelmsford Infrastructure Delivery Plan (IDP) has been undertaken by independent consultants to inform Chelmsford's Local Plan. The Chelmsford IDP shows what infrastructure is required and how it will be provided; who is to provide the infrastructure; and when the infrastructure could be provided.

**2.8** The infrastructure needed to support the Local Plan is split into four funding categories:

- site related infrastructure needed to mitigate and support new development secured through Section 106 planning obligations;
- specific infrastructure which addresses the needs arising on a small number of large sites and is most appropriately funded through pooled Section 106 contributions;
- infrastructure which addresses the needs arising from many sites and is most appropriately funded through CIL;
- secondary infrastructure, such as local open space, which is paid for by the developer but considered as standard so factored into their secondary development allowances. Some of the items identified as secondary infrastructure are secured through Section 106 planning obligations.

**2.9** The funding categories of items of infrastructure required to support the Local Plan are set out in Appendix I.

## Chelmsford City Council Local Plan

**2.10** Development proposals should be considered in line with the City Council's Local Plan. Proposals which require planning obligations should be considered in accordance with the relevant policies. This SPD supports and supplements the Local Plan and is an important material planning consideration in the decision-making process.

**2.11** The overarching reasoning and justification for requiring planning obligations are set out in the Strategic Policies that underpin and guide the Council's Spatial Strategy in the Local Plan.

**2.12** The site policies are within three Growth Areas, with a policy for each site allocation. These policies set out the amount and type of development provided within each site allocation. They also set out what specific supporting infrastructure and other requirements are needed for each site.

**2.13** Other policies within the Local Plan provide specific and detailed justification for various types of planning obligations e.g. Policy DM2 - Affordable Housing and Rural Exception Sites, such policies are referred to in the relevant sections of this SPD.



## Corporate Objectives

**2.14** 'OUR Chelmsford, OUR Plan, sets out the priorities for Chelmsford City Council in the coming years. The Plan states that the ambition remains for Chelmsford to be recognised as a leading regional centre, leading by example and helping to make our society safer, greener, fairer and better connected.

**2.15** The provision of planning obligations, through this SPD, seeks to address the priorities of 'OUR Chelmsford, OUR Plan' by:

<b>Fairer and inclusive Chelmsford</b>	Promoting sustainable and environmentally responsible growth to stimulate a vibrant, balanced economy, a fairer society and provide more housing of all types.
<b>A safer and greener place</b>	Making Chelmsford a more attractive place, promoting Chelmsford's green credentials, ensuring communities are safe and creating a distinctive sense of place.
<b>Healthy, active and enjoyable lives</b>	Encouraging people to live well, promoting healthy, active lifestyles and reducing social isolation, making Chelmsford a more enjoyable place in which to live, work and play.
<b>Connected Chelmsford</b>	Bringing people together, empowering local people and working in partnership to build community capacity, stronger communities and secure investment in the city.

**2.16** The Plan can be downloaded here:

<https://www.chelmsford.gov.uk/your-council/our-chelmsford-our-plan/>



### 3- Obligation Types

**3.1** The following sections of this document set out the obligation types which may be required as part of any Section 106 Agreement. Each section sets out the policy background to requiring such obligations, the relevant points at which such a contribution may be required, when the obligation is expected to be provided, any exceptions and any other relevant information.

**3.2** Appendix I offers a guide to what items of infrastructure will be covered by Section 106 Planning Obligations and what will be covered by CIL. It should be noted that this is a guide only and was published prior to the introduction of the Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019.

**3.3** As of the 31 December 2020, the Council will be required to publish an Infrastructure Funding Statement each year setting out the infrastructure projects or types of infrastructure that the authority intends to fund, either wholly or partly, by the levy or planning obligations. Infrastructure Funding Statements will also report on CIL and planning obligations revenue received, allocated and spent; as well as reporting on progress of works that has received funding.

**3.4** Essex County Council's (ECC) Developer's Guide to Infrastructure Contributions (Revised 2020) provides details of the impacts that development may have on ECC services and infrastructure, and guidance to developers regarding how Section 106 agreements and CIL may be used to secure works, finance and/or land to mitigate impacts. Table I of the Guide outlines changes from the previous version. A copy of the Guide can be found here:

<https://www.essex.gov.uk/planning-advice-guidance/guidance-for-developers>

**3.5** Planning obligations should be clearly identified as early as possible in the planning process. This includes the Masterplan process required for all strategic scale development, the pre-application process which is encouraged for all forms/scales of development and planning performance agreements to ensure all parties are clear what is required of them at each stage of the planning application process.

**3.6** Due to the scale and complexity of delivering the infrastructure required for the Chelmsford Garden Community, bespoke infrastructure delivery mechanisms may be appropriate and will be considered through the existing garden community governance structure and consulted upon as part of the Development Framework Document (Masterplan) for the site.

## 4- Housing

### Policy Background

**4.1** The NPPF states that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

**4.2** Strategic Policy S6 demonstrates the Council's commitment to plan positively for new homes and to help significantly boost the supply of housing to meet the needs of the area.

**4.3** To ensure the provision of an appropriate mix of dwelling types and sizes that contribute to current and future housing needs and create mixed communities, Table I below will be used to inform the mix of market housing proposed as part of new residential development.

**Table I Size of new market housing**

<b>Size of new owner-occupied and private rented accommodation required in Chelmsford up to 2037</b>	
<b>Dwellings Size</b>	<b>Indicative Mix</b>
One Bedroom	6.2%
Two Bedroom	28.0%
Three Bedroom	46.3%
Four or more bedrooms	19.5%
Total	100%

**4.4** Policy DM26 provides information on the design specification for dwellings, which includes a requirement for all new dwellings to comply with the Nationally Described Space Standards. As this applies to all new dwellings, evidence of compliance with this requirement will need to be provided prior to the validation of a planning application.

**4.5** Policy DMI (Aii) and Policy DMI (Bi) describe the development thresholds and proportions of new dwellings that will be required to meet the enhanced access and adaptability standards set out in M4(2) and M4(3) of the optional requirement in the Building Regulations. These requirements will be secured through planning conditions.

**4.6** Further information on the implementation of Policy DMI (Bi) is provided in Section 5 Affordable Housing.



**4.7** Policy DMI (Ci) requires, within all new developments of more than 100 dwellings, 5% self-build homes, which can include custom housebuilding. This requirement will be secured through a planning obligation.

**4.8** Policy DMI (Ci) also requires all new development of more than 100 dwellings to provide Specialist Residential Accommodation (including Independent Living and non-nomadic gypsy and traveller needs), taking account of local housing needs. This requirement will also be secured through a planning obligation.

### **Definition of Self-build and Custom Housebuilding**

**4.9** The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where individuals, an association of individuals, persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

**4.10** In considering whether a home is self-build or a custom build home, local authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout. It does not include the building of a house or plot acquired from a person who builds the house mainly to plans or specification decided or offered by that person.

**4.11** There are various types of self-build and custom build projects including:

- Individual self/custom build - individuals purchase a serviced plot of land and build a house to live in. They may do some or all the build themselves or employ a builder, architect or project manager to oversee the build.
- Group self/custom build - a group of people come together to design and develop a custom build housing development which they then live in. They may build this themselves or with help from a developer to manage the project.
- Developer-led custom build - a developer divides a larger site into individual serviced plots and provides a design and build service to purchasers. This gives people a chance to customise existing house designs to suit their needs and can sometimes offer a chance to finish the house internally.
- Community-led - community led housing projects that help a group of people to build mostly affordable homes together, either individually or in cooperation with a builder or housing provider. This could utilise Community Land Trusts, which often take a long-term formal role in the ownership, stewardship and management of the homes to ensure they remain affordable in perpetuity. Alternatively, housing co-operatives can own or lease properties and rent them to their members who also manage and control the housing.
- Cohousing - a cohousing project involves a legally recognised group of people creating their own neighbourhood of homes, with shared facilities such as a communal house.



## **What is the method of calculation for the quantum of Self-build and Custom Housebuilding?**

**4.12** The Self and Custom Housebuilding Act 2015 places a duty on the Council to keep a register of individuals, and associations of individuals, who are seeking to acquire self-build serviced plots of land in the Council's area for their own self-build and custom housebuilding.

**4.13** The register provides information on the number of individuals and associations on the register; the number of serviced plots of land sought; the preferences people on the register have indicated, such as general location within the authority's area, plot sizes and type of housing intended to be built. This information will be reported each year in the Council's Authority Monitoring Report.

**4.14** At the time a formal pre-application is submitted, the Council will review the requirements to provide 5% self-build and custom housebuilding against its register. It will not be necessary to review the requirements again if a full or detailed planning application is submitted within six months of the pre-application advice being provided. The Council would not seek more than 5% self-build and custom housebuilding.

**4.15** The calculation of the self-build and custom housebuilding requirement will be undertaken in terms of the gross number of self-contained dwellings. Where the percentage of self-build and custom housebuilding sought does not result in whole numbers of units, the number of self-build and custom housebuilding dwellings or plots will be rounded up.

**4.16** In this guidance, reference to a 'serviced plot' means one self-build and custom housebuilding dwelling, regardless of the type of self-build and custom build project.

## **What is the definition of a Serviced Plot of Land?**

**4.17** National Planning Practice Guidance provides a definition of a serviced plot of land as a plot of land that either has access to a public highway and has connections for electricity, water and waste water, or, in the opinion of the relevant authority, can be provided with access to these, within the duration of a development permission granted in relation to that land.

**4.18** Access to a public highway can include sections of private or unadopted road, it does not mean that the plot is immediately adjacent to the public highway just that there is the guaranteed right of access to the public highway.

**4.19** Connections for electricity, water and waste water means that the services must either be provided to the boundary of the plot, so that during construction connections can be made or adequate alternative arrangements are possible, such as the use of a cesspit rather than mains drainage.

## **Mix of Self-build and Custom Housebuilding**

**4.20** At the time a planning application is submitted, the Council will review the preferences of the people on the register to advise developers and landowners on the type of self and custom housebuilding required.

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**4.21** Providers should provide a mix of serviced plots to meet the range of demand and affordability evidenced by local demand on the register.

**4.22** Where there is evidence of local demand for serviced plots but they are not possible e.g. flatted schemes, the Council will require the provision of 'complete shell' or 'self-finish' units where the purchaser can then define internal layouts, finishes and fixings as well as any exterior landscaping for flats with private gardens.

### **SI06 Agreement**

**4.23** To ensure that self-build and custom housebuilding provision are delivered in a way that meets local need, the Council will seek to secure a Section 106 obligation which sets out the amount, type, mix and priority mechanisms that the self-build or custom housebuilding must achieve.

**4.24** The priority mechanism will include a restrictive marketing period of 3 months. In this 3 month period a household containing at least one adult that lives or works in the administrative area of Chelmsford City Council that can demonstrate, to the satisfaction of the vendor, that they have the financial means to purchase a serviced plot at the advertised price, will be given priority over other potential purchasers that do not live or work in Chelmsford.

**4.25** The Section 106 agreement will mirror the terms of the CIL Regulations 2010 (as amended) exemption provisions and ensure that the self-builder and custom housebuilder must remain as the occupant of the dwellings for a minimum of 3 years after completion in order to benefit from the exemption.

**4.26** The Section 106 agreement will seek to secure that self-build and custom housebuilding provision will need to be made available and actively marketed before occupation of 50% of market housing provision.

**4.27** Providers of self-build and custom housing building will be required to market appropriately serviced plots and ensure they remain available for at least 12 months at a price which is comparable to other serviced plots marketed in the administrative area of Chelmsford in the same 12-month period. If after 12 months a serviced plot has been made available and actively marketed but has not sold, the plot can either remain on the open market or be built out by the Developer in accordance with the Design Code and other relevant Local Plan policies. Plot providers reverting self-build and custom housebuilding back to market housing will be responsible for the full CIL liability.

**4.28** Self-build and custom housebuilding will not be considered as part of the affordable housing obligations set out in Policy DM2, irrespective of whether the accommodation is subject to suitable restrictions on occupation and price, because it is meeting a different identified housing need.



## Design Requirements

**4.29** To ensure that self-build and custom housebuilding is of high-quality design, sites with multiple serviced plots or other forms of self-build and custom housebuilding provision, will be required to be supported by a Design Code at outline or full planning stage. The implementation of a Design Code will be secured through a planning condition rather than a planning obligation.

**4.30** A Design Code should be submitted by the provider at the outline planning stage and should set out a clear set of design rules and parameters that future development will comply with. Design Codes will vary depending on the amount of development proposed and the context of a site. They will need to be agreed with the local planning authority.

**4.31** A Design Code should include the information set out in the 'Design Code Template for Self-Build and Custom Housebuilding' which has been published alongside the 'Making Places SPD'.

**4.32** The Council will support the use of Plot Passports for self-build and custom housebuilding development where supported by a design code.

**4.33** Plot Passports provide potential plot purchasers with a simple and concise summary of the design parameters for a specific plot. They should clearly show the location, permissible building lines, heights, footprints and access to services as well as separation distances to adjacent plots. A Plot Passport should also be clear about the number of dwellings that can be built on a single plot as well as specifying car parking provision and access arrangements. Plot Passports will need to state how, and for what period, purchasers that reside or work in the Council's administrative area are prioritised.

**4.34** The Council recognises that modular housing, which is built off-site, can help deliver custom housebuilding that is more cost effective than traditional housebuilding methods. The Council will support modular housing where it complies with design codes, policies and standards in the Local Plan.

**4.35** All residential development, including self-build and custom housebuilding must comply with the relevant Local Policies set out in the Local Plan. Each serviced plot will need to submit a full or reserved matters application where the design and appearance of an individual home will be considered.

## CIL Exemptions

**4.36** The CIL Regulations 2010 (as amended) defines self-build housing for CIL exemptions purposes as housing built or commissioned by a person and occupied by that person as their sole or main residence for the duration of the claw back period (3 years).

**4.37** Qualifying self-build developments will be required to accept liability for CIL and declare that their development is intended to be self-build, prior to commencement of development. The self-builder must remain as the occupant of the dwelling for a minimum of 3 years after completion. If the dwelling is sold or let within three years of completion, the Council will claw back the CIL liability. Occupancy is monitored through Council Tax and electoral role records.

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## **Definition of Specialist Residential Accommodation**

**4.38** Specialist Residential Accommodation can cater to the specific needs of a variety of people within the community, including older people; students; people with disabilities; people with support needs and non-nomadic Gypsy and Travellers who for cultural reasons, choose to live in caravans.

**4.39** Disabilities can include, but are not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs, which may generate a range of housing requirements which can change over time.

**4.40** National Planning Practice Guidance recognises that local planning authorities may also wish to consider groups outside of the scope of the definitions in paragraphs 4.39 and 4.40 above, in order to meet specific needs within their communities.

**4.41** The Specialist Residential Accommodation required by these groups varies from independent self-contained accommodation with limited support, such as sheltered housing, to residential care homes that provide non self-contained residential accommodation for people who need regular care and support.

**4.42** Accommodation with support can be delivered in a range of settings, including individual flats or houses, shared accommodation or clusters. The term 'Supported Living' refers to the way support is organized, rather than specifying one type of accommodation that is required.

**4.43** Specialist Residential Accommodation does not necessarily have associated support requirements but could cater to the specific needs of the groups requiring it through the built form of the accommodation provided, such as purpose-built student accommodation or pitches for non-nomadic Gypsy and Travellers.

## **What is the method of calculation for the quantum of Specialist Residential Accommodation?**

**4.44** Because of the wide range of forms Specialist Residential Accommodation can take and the wide range of needs the accommodation can cater to, the Council will advise on the quantum of Specialist Residential Accommodation required at the time a formal pre-application is submitted.

**4.45** The quantum of Specialist Residential Accommodation sought will depend on the scale, type and commercial model of Specialist Residential Accommodation required.

**4.46** Policy DMI (Ci) applies to all new development of more than 100 dwellings. It does not apply to standalone Specialist Residential Accommodation below the 100-dwelling threshold.



## Mix of Specialist Residential Accommodation

**4.47** At the time a formal pre-application is submitted, the Council will consider the Specialist Residential Accommodation needs identified in the Council's Housing Strategy as well as the latest assessments of need, including the Strategic Housing Market Assessment, Joint Strategic Needs Assessment and the Essex Gypsy and Traveller and Travelling Showpeople Accommodation Assessment.

**4.48** The Council will also consult Essex County Council (ECC) to seek advice on their priority Specialist Residential Accommodation needs. Further information on the characteristics of suitable sites/buildings for older people and adults with learning disabilities is available in Appendix K of Essex County Council's Developers' Guide to Infrastructure Contributions (Revised 2020).

**4.49** The Council will provide advice on affordability evidenced by the local demand where this is not available in published assessments of need or statements of need, such as the Council's Housing Strategy, Position Statements regarding Independent Living for Older People and Adults with Disabilities, published by ECC. Where affordability information is not provided in these statements / strategies; the default need is set out in Section 5 of this SPD.

**4.50** Paragraphs 4.48-4.50 applies to all new development of more than 100 dwellings. It does not apply to standalone Specialist Residential Accommodation.

## SI06 Agreement

**4.51** To ensure that Specialist Residential Accommodation is delivered in a way that meets local need, the Council will seek to secure a Section 106 obligation which sets out the amount, type, mix and tenure and priority mechanisms of the Specialist Residential Accommodation to be provided in perpetuity.

**4.52** Where Specialist Residential Accommodation is meeting a housing need identified by Essex County Council and non-nomadic Gypsy and Travellers, a priority mechanism for households that reside, work or have strong family connections with persons living in the administrative area of Chelmsford City Council from whom they require support, will be prioritised for a period of three months.

**4.53** The Section 106 agreement will seek to secure that Specialist Residential Accommodation is made available before occupation of 50% of market housing provision, to ensure timely delivery of the Specialist Residential Accommodation. The Specialist Residential Accommodation obligation could be met through the provision of a suitable serviced site or completed dwellings.

**4.54** Where Specialist Residential Accommodation is required to be delivered under Policy DMI, it will not be considered to count towards the affordable housing requirement set out in Policy DM2, irrespective of whether the accommodation is subject to suitable restrictions on occupation and price, because it is meeting a different identified housing need.



## Design Requirements

**4.55** Specialist Residential Accommodation can cater to the specific needs of a variety of people within the community and design requirements will consequently vary significantly.

**4.56** Accessible and adaptable housing enables people to live more independently while also saving on health and social costs in the future. Accessible and adaptable housing will provide safe and convenient approach routes into and out of the home and outside areas, suitable circulation space and suitable bathrooms and kitchens within the homes.

**4.57** Wheelchair user dwellings include additional features to meet the needs of occupants who use wheelchairs or allow adaptations to meet such needs.

**4.58** Inclusive design should not only be specific to the building, but also include the setting of the building in the wider built environment, for examples the location of the building on the plot; the gradient of the plot; the relationship of adjoining buildings; and the transport infrastructure. Further guidance on inclusive design of public spaces and the wider built environment is provided in the 'Making Places SPD'.

**4.59** Design principles such as those set out in the Housing our Ageing Population Panel for Innovation (HAPPI) Report (2009) are applicable for older people and age-friendly places.

**4.60** Gypsy, Traveller or Travelling Showperson sites will need to provide a suitable living environment for the proposed residents, with safe and convenient access to the local highway network. Mains water, electricity supply, drainage and sanitation should be available on-site or be made available on-site. Sewerage should normally be through mains systems, however, in some locations this may not always be possible and in that case suitable alternative arrangements can be made. All sanitation provision must be in accordance with current legislation, regulation and British Standards. Specifically designated play area should be provided that meets the normal Council standards. Whilst there are no prescribed standards for the design and layout of traveller sites, site location and design should take into account the Ministry of Housing, Communities and Local Government's Designing Gypsy and Traveller sites: good practice guide and where appropriate, relevant legislation.

**4.61** The term 'pitch' refers to the space required on a site to accommodate a Gypsy and Traveller household. There is no set size for an individual pitch. They can vary like house sizes depending on the number of family members.

**4.62** A pitch should, however, be large enough to provide at least all the following:

- hardstanding for one static caravan;
- hardstanding for one travelling caravan;
- two parking bays for larger vehicles;
- an amenity building containing a kitchen, lounge and dining area, shower and utility room; and separate toilet facilities;



- an external shed;
- a secure enclosure for metal gas bottles; and
- clothes drying area.

**4.63** The term ‘plot’ refers to the space required on a site to accommodate a household of Travelling Showpeople. A number of plots are also sometimes referred to as ‘yards’. The Local Plan expects 0.2 hectares per plot to be provided and the Showmen’s Guild has published some model standards for sites, which are considered to form good practice guidance.

**4.64** The area of land set aside for accommodation by one family unit and the area of land set aside for the storage and maintenance of equipment collectively forms a single plot. The storage and maintenance space can sometimes be a communal area, however, for security reasons there may be a preference for them to form part of individual plots.



## 5- Affordable Housing

### Policy Background

**5.1** The NPPF states that where local planning authorities have identified that affordable housing is needed, they should set policies for meeting this need.

**5.2** Paragraphs 20, 34, 61-64 of the NPPF and Strategic Policy S6 and Policy DM2 of the Local Plan set out the justification for requiring planning obligations in respect of securing affordable housing.

**5.3** Strategic Policy S6 sets out the Council's housing requirement. This is evidenced by the Council's Objectively Assessed Housing Need Study (OAHN) which sets the overall need for housing, and the Strategic Housing Market Assessment (SHMA), which identifies the need for new affordable homes.

**5.4** Policy DM2 (A) requires the provision of 35% of the total number of residential units to be provided and maintained as affordable housing within all new residential development sites which comprise of 11 or more residential units.

**5.5** Planning obligations will be used to secure the following elements related to the provision of affordable housing:

- the number of units;
- the type of units;
- tenure of units;
- location of units;
- parking provision;
- commuted sums in lieu of provision (where appropriate).

**5.6** All affordable housing provided in areas covered by The Housing (Right to Acquire or Franchise)(Designated Rural Areas in the East) Order 1997 (SI 1997/623) and The Housing (Right to Enfranchise)(Designated Protected Areas)(England) Order 2009 (SI 2009/2098) will be subject to the retention restrictions imposed by these Orders.

**5.7** The statutory right of tenants to acquire their affordable homes for rent (the "Right to Acquire") does not apply to any affordable dwellings for rent which are situated within a Designated Rural Area.



**5.8** Where shared ownership leases of dwellings in Designated Protected Areas are concerned, the Registered Provider must ensure that all shared ownership leases contain a provision which either restricts staircasing to no more than 80%; or in instances where the leaseholder is permitted to acquire more than 80% (i.e. staircase to 100%), enables and obliges the Registered Provider to repurchase the property when the leaseholder wishes to sell.

**5.9** These Orders currently include the whole Parishes of Chignal; East Hanningfield; Good Easter; Great and Little Leighs; Great Waltham; Highwood; Little Baddow; Little Waltham; Margaretting; Mashbury; Pleshey; Rettendon; Roxwell; Sandon; South Hanningfield; Stock; West Hanningfield and Woodham Ferrers and Bicknacre. A significant part of the Parish of Writtle is also included.

### **Definition of Affordable Housing**

**5.10** The definition of affordable housing is set out in Annex 2 of the National Planning Policy Framework. This includes affordable housing for rent, starter homes, discounted market sales housing and other affordable routes to home ownership.

### **What is the method of calculation of the quantum of Affordable Housing?**

**5.11** Policy DM2 requires 35% of the total number of residential units on sites of 11 or more residential units to be provided and maintained as affordable housing.

**5.12** The calculation of the affordable housing obligation will be undertaken in terms of the gross number of self-contained dwellings. Where the percentage of affordable housing sought does not result in whole numbers of units, the number of affordable dwellings will be rounded up to achieve the required 35% provision.

**5.13** The 35% applies across the whole development; it does not only apply to the part of the development above the threshold.

**5.14** Where there is a proposal to increase the number of residential units on a site following grant of permission, for example a non-residential ground floor use subsequently secures planning permission for additional residential dwellings, the Council will apply Policy DM2 (A) to the total number of residential dwellings on the site, if the increase in the number of units take the total on site to 11 units or more.

**5.15** In instances where the initial proposal has been built, the additional proposed dwellings would be required to 'offset' the affordable housing requirement across the whole site.

**5.16** Once the affordable housing requirement amount has been calculated, all other parts of this section of this SPD will apply.

## Vacant Building Credit

**5.17** A Ministerial statement issued on the 28th November 2014 stated that where a vacant building is brought back into lawful use or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of the relevant vacant building when the local planning authority calculates any affordable housing contribution. Affordable housing contributions will be required for any increase in floorspace.

**5.18** The vacant building credit applies where the vacant building has not been abandoned. The reference to abandonment is the applicable planning test for the vacancy credit and is already recognised in law.

**5.19** Where there is an overall increase in floorspace in a proposed development that includes a vacant building, the Council will apply the following formula to calculate the affordable housing contribution:

- Revised Affordable Housing =  $35 \times 1 - (\text{existing vacant gross internal area/proposed gross internal area})$

**5.20** In practice this means that if an existing vacant building has a gross internal area of 3,000 sqm and the gross internal area of the proposed 60 dwellings is 4,500 sqm, the revised affordable housing percentage that will be required is 11.667% and the revised affordable housing contribution will equal 7 dwellings.

**Table 2 Example of calculating the Vacant Building Credit**

Number of Dwellings	Vacant Building Gross Internal Area	Proposed Gross Internal Area of Residential Dwelling
60	3,000 sqm	4,500 sqm
Coefficient based on existing versus proposed areas	$3,000/4,500 = 0.667$	$1 - 0.667 = 0.333$
Revised Affordable Housing Percentage	$35 \times 0.333 = 11.655\%$	
Affordable Dwellings	Market Dwellings	Total Dwellings
7.00	53	60

**5.21** For wholly residential schemes the total proposed Gross Internal Area (GIA) will be the GIA of the sum of all dwellings. Where flatted development is proposed the GIA will include all communal and circulation areas. For mixed use schemes, only the GIA of the proposed residential elements will be included.

**5.22** The number of affordable dwellings will be calculated to two decimal points and rounded to the nearest whole number.

## Mix of Affordable Housing

**5.23** To ensure new affordable provision is weighted to make a proportionate contribution to the assessed need, the Council will expect the affordable housing to include 22% of the total number of dwellings within the development as either social or affordable rented accommodation.

**5.24** Where the calculation of 22% of the total number of dwellings to be provided as affordable housing for rent does not result in whole numbers, it should always be rounded up in order to achieve the required 22%.

**5.25** The balance, 13% of the total number of dwellings, should be provided as affordable home ownership housing.

**5.26** The affordable housing provision for rent should proportionately reflect the needs identified in the latest SHMA and shortages relative to supply, in determining the optimum affordable housing mix by size and type.

**5.27** The affordable housing provision for rent should reflect the 'Need requirement' in the Table 3 where possible. The Council will report the bedroom size of new affordable housing for rent that achieves completion each year in the Authority Monitoring Report.

**Table 3 Bedroom size of affordable housing for rent**

Size of additional units required to meet housing need in Chelmsford	
Size of home	Need requirement
	As a % of net annual total
One Bedroom	22.5%
Two Bedrooms	53.6%
Three Bedrooms	14.2%
Four or more Bedrooms	9.7%
<b>Total</b>	<b>100.0%</b>

Source: Table 5.13b, page 137, SMHA Update.

**5.28** The Council's Housing Strategy will provide additional information on the size and type of affordable housing required to meet priority housing needs.

**5.29** Policy DM26 of the Local Plan requires all new dwellings to achieve appropriate internal space through adherence to the Nationally Described Space Standards.





**5.30** To accommodate the full range of bedroom requirements and associated occupancy guidelines set out in the Council’s Housing Needs Register and Allocation Policy; and reflect the fact that a significant proportion of households assessed on the Council’s Housing Register as requiring each size of accommodation will be at the maximum occupancy level; the Council will require affordable homes for rent to achieve appropriate internal space and number of bed spaces through adherence to the minimum defined levels of occupancy set out in Table 4. Three bedroom, six person affordable housing for rent could be acceptable in lieu of four bedroom, six person dwellings, when they comply with the minimum gross internal floor areas and storage requirements set out in Table 1 of the Nationally Described Space Standards and two separate reception rooms are provided.

**Table 4 Minimum gross internal floor areas and storage (sq.m) for affordable housing for rent**

Number of bedrooms	Number of bedspaces	1 Storey	2 Storey	3 Storey	Built-in storage
1 bed	2 persons	50	58		1.5
2 bed	4 persons	70	79		2.0
3 bed	5 persons	86	93	99	2.5
4 bed	6 persons	99	106	112	3.0
5 bed	7 persons	112	119	125	3.5

### Wheelchair Accessible Homes

**5.31** Policy DMI (Bi) states that within developments of 30 or more dwellings, the Council will require 5% of new affordable dwellings to be built to meet requirement M4(3) of the Building Regulations 2015 (wheelchair user dwellings), or subsequent government standard.

**5.32** Part M of the Building Regulations sets a distinction between wheelchair accessible (a home readily useable by a wheelchair user at the point of completion) and wheelchair adaptable (a home that can be easily adapted to meet the needs of a household including wheelchair users) dwellings.

**5.33** Local Plan policies for wheelchair accessible homes should be applied only to those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling.



**5.34** The Council will apply a planning condition that ensures that 5% of all new affordable homes on developments of 30 or more dwellings meet the requirements of M4(3)(2)(b) of the Building Regulations 2015 to ensure that the planning permission, under which the building works is carried out, meets the needs of occupants of the affordable housing for rent that use a wheelchair at the point of completion.

**5.35** Where the 5% requirement does not result in whole numbers of units, the number of affordable dwellings for rent meeting the requirements of M4(3)(2)(b) of the Building Regulations 2015, will be rounded up.

### **Location of Affordable Housing**

**5.36** Affordable housing is an integral element of any market-led residential or mixed used development and is expected to be provided in-kind and on-site. The NPPF states that there is an expectation that the need for affordable housing is met on-site unless off-site provision or an appropriate financial contribution in lieu can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.

**5.37** The Council may exceptionally consider a financial contribution in lieu of on-site provision of equivalent value on development sites which comprise between 11 and 15 units, to improve the provision of temporary accommodation for homeless households; or meet other affordable housing priorities identified in the Housing Strategy, which cannot be met on-site.

**5.38** The ability to consider a financial contribution in lieu of on-site affordable housing provision will also enable the Council to improve the temporary accommodation offer. The Council has a limited portfolio of accommodation and is currently dependent on the private sector to meet the demand for temporary accommodation. This restricts the Council's ability to respond flexibly to changing patterns in demand for temporary accommodation and manage its statutory duties as a local housing authority.

**5.39** Where the Council agrees to a commuted sum in lieu of an on-site affordable housing contribution, the methodology that will be used is to assess recent new build sales values from the Land Registry relating to the administrative area of Chelmsford and then deduct from that the amount that a Registered Provider would pay for those units as affordable units. The difference is the commuted sum.

**5.40** Each house sold requires an Energy Performance Certificate (EPC). This is a public document that can be viewed on the EPC Public Register. The EPC contains the floor area (the Gross Internal Area) as well as a wide range of other information about the construction and energy performance of the building.

**5.41** The price paid from the Land Registry data for new build sales values will be combined with the homes floor area from the EPC Register to provide an average new build sales value per sq.m for flats and houses from which to deduct the amount that a Registered Provider would pay. This information is shown in Appendix 2 and will be updated in April each year.



**5.42** The calculation of the commuted sum will be based on the proposed mix of market housing and will assume the affordable housing proportionately reflects the market mix of housing in terms of the bedroom size of the market housing proposed and the mix of flats and houses. The floor area in sq.m for each property size will reflect the floor areas in Table 4.

**5.43** The value of the different affordable housing values will be the same as those used in the Local Plan Viability Study (January 2018), which included a value of £2,900 per sq.m for affordable rented housing and 65% of open market values for affordable home ownership housing.

**5.44** The calculation of the commuted sum will reflect all other requirements in this section of the SPD, except where an application benefits from a vacant building credit. Where a vacant building credit also applies, the calculation of the commuted sum will reflect an affordable housing contribution consisting of affordable housing for rent only.

**5.45** An example of the calculation of a commuted sum in lieu of on-site affordable housing based on a market proposal consisting of 5 two-bedroom flats and 10 three-bedroom houses, is provided in Table 5. The mix of affordable homes for rent in the example in Table 5 reflects the need for affordable homes for rent set out in Table 3 and that the demand for affordable homes for shared ownership is predominantly for smaller dwellings.

**5.46** If a commuted sum in lieu of on-site affordable housing is agreed by the Council, the commuted sum will need to be paid at commencement of the development.

**5.47** Outline planning applications that include a commuted sum in lieu of on-site affordable housing will include the formula for calculating the commuted sum in the Section 106 agreement, using this guidance. Full planning applications, where the market mix of residential dwellings is agreed, will state the commuted sum amount and be index linked. An example showing the commuted sum calculation for a 15-unit scheme is set out in Table 5 below.



**Table 5 Example Calculation of a commuted sum in lieu of affordable housing on-site**

Size (Bedrooms)	Size sq.m (Flats/Houses)	Market Housing Mix		Affordable Housing Mix				Market Value	Affordable Value	Commuted Sum
		Flat	House	Affordable Rent		Affordable Home Ownership				
				£4,931 sq.m	£4,046 sq.m	Flat £2,900 sq.m	House £2,900 sq.m			
1	50/58									
2	70/79	5				2		2 x 70 = 140 x £4,931 = £690,340	2 x 70 = 140 x £3,205 = £448,700	£241,640
3	86/93		10		4			4 x 93 = 372 x £4,046 = £1,505,112	4 x 93 = 372 x £2,900 = £1,078,800	£426,312
4	99/106									
5	112/119									
<b>Total</b>		15		4		2		£2,195,452	£1,527,500	<b>£667,952</b>

## Layout

**5.48** To achieve mixed, inclusive and sustainable communities affordable housing should:

- a) Be provided in more than one single parcel except in schemes where the overall number of residential dwellings is below 15 units;
- b) On sites incorporating 30 or more residential dwellings, affordable housing should be provided in groups of no more than 15% of the total number of dwellings being provided or 25 affordable dwellings, whichever is the lesser.

**5.49** Residential proposals should be designed to maximise tenure integration within the affordable housing on whole sites of affordable housing and market-led housing proposals, as well as between the affordable and market housing.

**5.50** On flatted developments, separate single tenure blocks will not be acceptable. The only circumstances where this might be reconsidered relates to management or maintenance matters where affordable housing dwellings are arranged around stairwells within blocks of flats that include a range of tenures.

**5.51** Affordable housing dwellings should have the same external appearance and entrance arrangements as market housing.

**5.52** If the Council accepts that there are legitimate concerns relating to management or maintenance of predominantly flatted development, which prevents pepper-potting in strict accordance with paragraph 5.48 of this SPD, the Council will expect the provider of the affordable



housing to be given an option to opt-out of any management arrangements and costs associated with the remainder of the site.

**5.53** Detailed plans submitted to the Council for planning consideration should clearly show the location and layout of all affordable dwellings within the development. The affordable housing provision should not be disproportionately concentrated above any non-residential uses.

**5.54** The Council requires the same level, design and layout of car parking provision to apply to affordable and market housing.

## Green Belt

**5.55** The NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.

**5.56** Paragraph 145 of the NPPF lists some exceptions to this approach.

**5.57** Paragraph 145 (g) of the NPPF states that limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously development land and contribute to meeting an identified affordable housing need within the area of the local planning authority is an exception.

**5.58** The Council expects the affordable housing provided under paragraph 145 (g) to be weighted to contribute to meeting the assessed affordable housing need of the administrative area of Chelmsford by the provision of 35% of the total number of residential units being provided and maintained as affordable housing on-site, incorporating the mix of affordable housing set out in paragraphs 5.24 and 5.25.

## Entry-Level Exception Sites

**5.59** Paragraph 71 of the NPPF states that local planning authorities should support the development of entry-level exception sites, suitable for first time buyers or those looking to rent their first home, unless the need for such homes is already being met within the authority's area.

**5.60** The NPPF states that entry-level exception sites should be on land which is not already allocated for housing and should:

- a) comprise of entry-level homes that offer one or more types of affordable housing as defined in Annex 2 of the NPPF; and
- b) be adjacent to existing settlements, proportionate in size to them<sup>1</sup>, not comprise the protection given to areas or assets of particular importance in the NPPF (e.g. land designated as Green Belt), and comply with any local design policies and standards.

**5.61** The Council expects the affordable housing offer on an entry-level exception site to contribute to the assessed affordable housing needs of the administrative area of Chelmsford.

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<sup>1</sup> Entry-level exception sites should not be larger than one hectare in size or exceed 5% of the size of the existing settlement.



**5.62** The Council expects the proposed affordable housing for rent to meet the needs of those households on the Council's Housing Register looking to rent their first home.

**5.63** The Council's Housing Strategy provides more information on the needs of households looking to rent their first affordable home and the affordable home ownership products that might be suitable for first time-buyers.

### **Rural Exception Sites**

**5.64** In the circumstances described in Policy DM2 (B) small affordable housing developments to meet local need will be permitted within Designated Rural Areas which would not otherwise be released for housing. These will only be permitted if it can be demonstrated that there is a proven need for the number, type and tenure of dwellings proposed, and the Council is satisfied that the affordable housing will remain affordable and exclusively available for local needs in perpetuity.

**5.65** The Reasoned Justification for Policy DM2 (B) identifies the Designated Rural Areas to which Policy DM2 (B) applies.

**5.66** All Rural Exception Site applicants must be accompanied by a local housing need survey which should contain the information set out in the Reasoned Justification for the Policy DM2 (B). In addition, the survey analysis should identify types of local connection that households in housing need have with a Parish to inform the proposed method for prioritising and allocating the dwellings.

**5.67** If a survey of local housing need supporting an application under Policy DM2 (B) has been conducted more than four years prior to a planning application being submitted, the Council will require the housing need and affordability data to be updated to ensure the continued suitability of the proposed housing to meet local needs.

**5.68** Any local housing needs survey which has been conducted more than five years prior to a planning application being submitted, will not be considered adequate to support a development proposal under Policy DM2 (B).

**5.69** The Council's Housing Register provides supplementary information on households in housing need that would prefer to live in a specific Parish. The Council can also provide information on the number of existing affordable homes and vacancies that have occurred in a Parish. If requested, this information can supplement a local housing needs survey, but will not substitute it.

**5.70** To ensure future occupancy from within the parish-wide survey area, applicants should plan to meet, in aggregate, 50% of the identified local housing need for affordable housing.

**5.71** The Rural Community Council of Essex (RCCE) employs a Rural Housing Enabler to advise and assist Parish Councils and rural communities on conducting effective local housing need surveys. The Council expects all applicants proposing Rural Exceptions Sites to work in partnership with the Rural Housing Enablers and Parish Councils to identify the local housing need.



**5.72** The Council encourages all applicants proposing affordable housing on Rural Exception Sites to work with a Registered Provider that supports the work of the Rural Housing Enabler employed by the RCCE. These Registered Providers have experience in delivering affordable housing in rural areas and work within an agreed framework.



## **6- Physical Infrastructure - Highways, Access and Transport**

### **Policy Background**

**6.1** Section 9 of the NPPF requires the planning system to promote sustainable transport. The provision of viable transport infrastructure necessary to support sustainable development is important in facilitating sustainable development.

**6.2** Strategic Policy S9 sets out the infrastructure required to facilitate the development set out in the Local Plan.

**6.3** Strategic Policy S10 sets out that infrastructure must be provided in a timely and, where appropriate, phased manner to serve the occupants and users of the development. Where development proposals require additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Council and the appropriate infrastructure providers. Such measures can include:

- financial contribution towards new or expanded facilities and the maintenance thereof;
- on-site provision (which may include building works);
- off-site capacity improvement works; and or
- the provision of land.

**6.4** In negotiating planning obligations, the Council will consider local and strategic infrastructure needs.

### **Possible S106 Obligations**

**6.5** Essex County Council (ECC) is the Highway Authority for the Chelmsford City area. Chelmsford City Council consults Essex County Council on planning proposals that affect the highway network. Essex County Council provides advice on the scope of obligations for highway infrastructure works where it is considered that there is a need to mitigate the impact of new development(s) on the highway network.

**6.6** All development proposals will be assessed on their own merits in relation to the impact they have upon the highway network. There are no types of development which are exempt from necessary highway infrastructure obligations.





**6.7** These may include:

- Access road from the highway into the site
- Bus Priority/Chelmsford Rapid Bus Transit (ChART) Bus services and infrastructure
- Contribution to Car Clubs/Care Sharing schemes
- Cycling and footway links/improvements/crossing Cycle/footbridges
- Link roads
- New junctions
- New roads
- Pedestrian crossings
- Public Right of Way
- Raised kerbs
- Road junction improvements
- Signage
- Traffic Regulation Orders e.g. to impose waiting restrictions
- Traffic lights
- Travel Planning (residential, workplace, school etc)

### **Timing/Trigger for payment or provision of works**

**6.8** The developer is required to implement the agreed highway infrastructure works in such a way that the works can be adopted by the Highway Authority once it has been agreed that they are built to an adoptable standard. In general, the developer is obliged to submit suitable detailed engineering drawings to the Highway Authority prior to any commencement of the development on site, for the Highway Authority's approval.

**6.9** Unless otherwise agreed, before occupation of a development, the developer is usually obliged to implement the approved scheme and the Highway Authority will issue a certificate of practical completion. The developer will still have responsibility for maintaining the highway works for a minimum of 12 months and to carry out any remedial works required since the issue of the certificate of practical completion. After the 12-month period, or when the remedial works have been satisfactorily completed, a certificate of adoption will be issued, and the works adopted by the Highway Authority.

**6.10** Developers will be required to pay fees to cover ECC's costs incurred in approving the detailed engineering drawings, processing and advertising Traffic Regulation Orders, and for inspecting the highway works and issuing the relevant certificate. Details of these fees are to be included in a Section 106 Agreement.

**6.11** Where appropriate, a Section 278 Agreement under the Highways Act can be entered into between the developer and the Highway Authority. This agreement enables a developer to carry out works on a public highway and is separate to a Section 106 Agreement. The full details of the processes will be set out in any relevant Section 106 or Section 278 Agreements.



## Maintenance Payments

**6.12** Where the infrastructure works include items with the possibility of a major maintenance requirement e.g. traffic signals or where the works are beyond the usual ECC specification, the Highway Authority require a commuted sum from the developer to maintain that infrastructure. Where the Highway Authority takes on assets from developers, there is a requirement for maintenance costs for the life of the assets, and replacement costs at the end of their useful life. Further information on this matter is available in Essex County Council's Developers' Guide to Infrastructure Contributions (Revised 2020).

## Further Information

### Insurance

**6.13** Where a developer intends to carry out works to/in the public highway they will be required to provide third party insurance.

### Bonds

**6.14** Developers will be required to enter into a bond for an amount specified by the Highway Authority to ensure that the highways works are completed to the Authority's satisfaction, should the developer default on any of its obligations in relation to the works. This bond will vary dependent on the works required. The bond can be a formal bond with an approved third-party surety or it can be a deposit in cash to Essex County Council as the Highway Authority.

**6.15** Land compensation bonds will be required where there is a possibility of existing properties being affected by new highway development, e.g. by increased noise resulting from new highway development, including the possibility of a reduction in value.



## **7- Physical Infrastructure - Flood Protection and Water Management**

### **Policy Background**

**7.1** Section 14 of the NPPF deals with the challenge of climate change, flooding and coastal change. It states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change.

**7.2** Strategic Policy S2 states that the Council will require that all development is safe, considering the expected life span of the development, from all types of flooding and appropriate mitigation measures are identified, secure and implemented. New development should not worsen flood risk elsewhere.

**7.3** Strategic Policy S4 sets out that new development will be expected to incorporate multi-functional greenspaces which help to reduce pollution using sustainable drainage systems (SuDS) and Strategic Policy S11 states that site level measures will need to provide appropriate flood risk management.

**7.4** Strategic Policy S10 clarifies that planning permission will only be granted if it can be demonstrated that there is enough appropriate infrastructure capacity to support that development or that such capacity will be delivered by a proposal and that such capacity is sustainable over time.

**7.5** Policy DM18 provides detailed flood protection and water management requirements where development is proposed within areas of flood risk. It also states that planning permission for all types of development will only be granted where it can be demonstrated that the site is safe from all types of flooding and seeks to achieve betterment as well as not worsening flood risk elsewhere. All major development will be required to incorporate water management measures to reduce surface water run-off and ensure that it does not increase flood risk elsewhere.

**7.6** In considering proposals for development the Council will follow a sequential risk-based approach, including the application of the 'exception test' which should consider flood risk from all sources when considering whether development in that location is appropriate.

### **Possible S106 Obligations**

**7.7** Areas of flood risk include risk from all sources of flooding such as rivers and the sea, directly from rainfall onto the ground surface and rising groundwater, overwhelmed sewers and drainage systems and from other water bodies. The agencies responsible for different sources of flooding are set out in the Infrastructure Delivery Plan.

**7.8** In Chelmsford the principal sources of flood risk are from its rivers, the tidal River Crouch at South Woodham Ferrers and storm rainfall giving rise to extreme levels of surface water run-off.



**7.9** As the Lead Local Flood Authority, Essex County Council has produced a Surface Water Management Plan for the urban area of Chelmsford (2018). The Essex SuDS Design Guide (February 2020) sets out practical guidance for new development to promote SuDS. Essex County Council only adopt SuDS in exceptional circumstances and further guidance is contained in Essex County Council's SuDS adoption policy. There may be instances where individual sites come forward for development, which in turn raises issues of flood risk or water management. If these cannot be addressed on site or by way of condition, it is anticipated that a Section 106 Agreement may be needed. These may need to alleviate any/all forms of flood risk and such techniques could include:

- Flood alleviate controls - new or enhanced provision such as flood plain, levees, reservoirs.
- Bio-retention areas
- Wetlands
- Channels
- Detention basins
- Ponds
- Infiltration/filtration
- Green roofs
- Permeable paving

### **Timing/Trigger for payment or provision of works**

**7.10** There is no general rule for the timing of payments as each scheme will be judged on a case by case basis. Should off-site works be required, it is expected these would be in place prior to the first occupation or completion of the development.

### **Maintenance Payments**

**7.11** Where Essex County Council's is not the SuDS adoption body, the Council will work with developers to identify an alternative SuDS adoption body which could include a Water Authority or private management company. The Council will work with the developer to secure the long-term maintenance of all flood risk protection and water management through a combination of planning obligation, planning condition and commuted sum payment, guaranteeing their long-term maintenance.



## **8- Green and Blue Infrastructure - Recreation and Leisure**

### **Policy Background**

**8.1** The NPPF states that the planning system has an important role in facilitating social interaction and creating healthy, inclusive and safe places. Safe and accessible green infrastructure and sports facilities make an important contribution to the health and well-being of communities.

**8.2** The Council recognises the important role community facilities such as social, sports and leisure, parks and green spaces, have in existing and new communities.

**8.3** Strategic Policy S5 states that new facilities will be accessible to the community and secured by a range of funded measures, including planning obligations.

**8.4** Strategic Policy S9 sets out that infrastructure necessary to support new development must provide or contribute towards ensuring a range of green and natural infrastructure. It also details a range of community facilities required to support new development, including sport leisure and recreation facilities.

**8.5** Strategic Policy S10 describes some of the mitigation measures that will be required where additional infrastructure capacity is required.

**8.6** When delivering new community facilities, Policy DM20 seeks to ensure that these facilities are accessible by sustainable modes of transport, physically compatible in form and appearance with their surroundings and cater for people with disabilities.

**8.7** Policy DM24 embeds requirements for public open space or larger scale green infrastructure, to provide opportunities to promote healthy living and improve health and wellbeing and create attractive multi-functional public realm in the design and place shaping of new major developments.

**8.8** Policy DM26 and Appendix B of the Local Plan provide further requirements for the provision open space that applies to all new dwellings.

### **Possible S106 Obligations**

#### **Open Space**

**8.9** Local Open Space in its entirety should be provided in accordance with the requirements of the site policies and Appendix B of the Local Plan. It may include:

- Allotments
  - Children's play and youth facilities
  - Cycle and footway links and improvements
  - Informal local open space or amenity green space.
-

**8.10** Strategic Open Space in its entirety should be provided in accordance with the requirements of the site policies and Appendix B of the Local Plan. It may include:

- Country park
- Natural green space
- Outdoor sport and changing facilities
- Parks, Sport and Recreation grounds

**8.11** New facilities should seek to offer flexible uses and combine facilities and services which might have historically been provided on a separate basis.

**8.12** An open space study, 'Chelmsford Open Space Study 2016-2036', was undertaken by Ethos Environmental Planning in 2015-2016 in line with the NPPF and Sport England guidance. Access and quantity standards for the study for different types of open space are summarised in table 12 of Appendix B of the Local Plan and table 13 of Appendix B provides the quantity standard for accessible Local Open Space and Strategic Open Space.

**8.13** Paragraph B.24 of Appendix B of the Local Plan converts the quantity of standards in table 13 to a dwelling requirement of 40 sqm per dwelling for Strategic Open Space (excluding natural and semi-natural open space) and a Local Open Space requirement of 19 sqm per dwelling, producing a total requirement of 59 sqm per dwelling. The proportions of different types of open space within the overall quantum should reflect the proportions contained within the quantity standards unless a different approach is agreed with the Council.

**8.14** In addition to the above requirements, on-site natural and semi-natural open space will be required. The quantity and type of open space will be determined through the planning process for each site although the starting point based on the standard of 1 ha per 1,000 population is 24 sqm per dwelling. This may form part of the provision of Sustainable Drainage Systems (SuDS).

**8.15** Table 14 of Appendix B of the Local Plan provides the thresholds for on or off-site provision of open space and is replicated below:

**Table 6 Thresholds for on or off-site provision of open space**

Size of Scheme	Provision
Less than 10 dwellings	No provision required on site
10-29 dwellings	Accessible Local Open Space required at 19 sqm per-dwellings
30 dwellings or more	Accessible Local Open Space required onsite at 19 sqm per-dwelling, plus Strategic Open Space required on-site at 40 sqm per-dwelling



**8.16** Where provision is not required on-site, or the Council considers a commuted sum in lieu of on-site provision is acceptable, the following calculations will apply:

**Table 7 Local Open Space Formula – commuted sum in lieu of on-site provision**

Type of Open Space	(A) Quantity standards (ha/1,000 population)	(B) Rate per Ha	(C) Contribution per 1,000 population (A x B)	(D) Rate per person (C/1,000)	(E) Rate per dwelling (D x 2.4)
Accessible Open Space					
Allotments and Community Gardens	0.30	1,168,250	350,475	350.48	841
Amenity Green Space	0.40	202,625	81,050	81.05	195
Play Space (children)	0.05	112,125	11,213	11.21	27
Play Space (youth)	0.05				
<b>Total</b>	<b>0.80</b>	<b>£1,483,000</b>	<b>£442,738</b>	<b>£442.74</b>	<b>£1,063</b>

**8.17** The Local Open Space formula is based on the 'Chelmsford Open Space Study 2016-2036', the Spens External Works, Landscape Price Book, Council Maintenance DATA, Valuation Office, Play Equipment Manufacturers. A maintenance contribution is set out in each of the rates per hectare based on the cost of maintaining all the categories of open space set out above where a commuted sum in lieu of on-site provision of local open space is acceptable.

**8.18** In all cases the calculations are based upon an occupancy rate of 2.4 people per dwelling (Census 2011).

**8.19** Where a proportion of on-site provision is made, a pro-rata reduction will be made in calculating the level of the off-site contribution.

**8.20** Financial contributions in lieu of on-site provision for Local Open Space may be spent on one or more of the infrastructure items listed in the above table as 'Accessible Open Space'.

**Table 8 Strategic Open Space Formula – commuted sum in lieu of on-site provision**

Type of Open Space	(A) Quantity standard (ha/1,000 population)	(B) Council Rate per Ha	(C) Rate per sqm (B/10,000)	Rate per dwelling (x 40)
Natural Green Space	1.0	£202,625	£20.26	£811
Parks, Sport and Recreation Grounds	Reflects a typical sports facility providing 12.2ha including 8 football and 1 rugby pitch, 1 cricket table and outfield, 8 netball courts, sport pavilion including sports club rooms, toilets and 12 dual changing rooms and 250 parking spaces with a capital cost of £3,208,500 excluding land.	£262,992	£26.30	£1052
<b>Total</b>				<b>£1,863</b>

**8.21** The Natural Green Space formula is based on the 'Chelmsford Open Space Study 2016-2036', the Spens External Works, Landscape Price Book and Council Maintenance Data.

**8.22** The contribution for 'Parks, Sports and Recreation' is based on the 'Chelmsford City Council Outdoor Sport Pitch and Facility Strategy and Action Plan - Future Growth Supplement January 2018' and Facilities Cost Sport England 2017, which assessed the need associated with the planned growth in the Local Plan.

**8.23** The dwelling rate is based on the calculation of how much strategic open space is required per dwelling, as set out in the Local Plan, using the quality standard for accessible local open space and strategic open space identified in the Chelmsford Open Space Study 2016-2036.

**8.24** The contribution for 'Parks, Sports and Recreation grounds' also includes 15% cost for external works, car park and warranties and fees.

## Waterways

**8.25** Where development has a direct impact upon, or a close connection with the main waterways in the City area, particularly the Chelmer and Blackwater Navigation System, contributions may be required to improve facilities and access to the rivers. Such contributions will be considered on a case by case basis and could include:





- the extension of riverside walks and cycle paths;
- the provision of boat portorage facilities, to enable canoes etc. to access the rivers;
- improvements to moorings, towpaths and other navigational infrastructure such as bridges and locks;
- ensuring better access to the waterways;
- increasing local connections to the footpath and cycle way network;
- removal of non-native invasive species;
- preservation and enhancement of the ecological value of the marginal aquatic habitat, banks and riparian zone;
- removal of hard bank reinforcement/revetment or replacement with soft engineering solution.

## Maintenance Payments

**8.26** Maintenance contributions will be required for all open space provided on-site when responsibility for the long-term maintenance resides with Chelmsford City Council or a Parish or Town Council. This will be calculated according to the landscape layout and quantified elements to be provided by the developer and will be required for 25 years after completion.

**8.27** The Council's preference is for all open spaces to be transferred to and adopted by the Council with a commuted maintenance sum. If a developer chooses to retain open space, it should be maintained by a recognised not-for-profit management trust. Where appropriate, and following negotiation between the relevant parties, open space can also be transferred to a Parish or Town Council.

**8.28** Adoption of local open space would take place after any construction and development maintenance liability periods have expired. The local open space needs to be safe and fit for public use, in accordance with prevailing safety and public use standards at the time of adoption.

**8.29** Adoption of strategic open space would take place after any construction and development maintenance liability period has expired. The strategic open space needs to be a safe and fit for general public use, in accordance with prevailing safety and public use standards at the time of adoption.

**8.30** In the event of hand over to the Council, sports turf areas and facilities require the sports turf to be appropriately established, but final sports use layout and preparations for public sports use will be undertaken by the Council.

**8.31** Should a developer wish to self-manage open space, the Council would require public access agreements and an agreed maintenance specification and inspection regime, secured through a legal agreement. In addition, the Council would require a conditional performance bond issued by a reputable financial institution in favour of the Council, to a specified indexed linked amount calculated in reference to Table 9. This would enable the Council to call upon the bond in the event of the owner of the open space becoming financially unviable or failing to comply with its management and maintenance obligations under the section 106 agreement.

**8.32** The financial contribution per dwellings towards the maintenance of Local Open Space transferred to the Council or a Parish or Town Council is set out in Table 9.



**Table 9 Local Open Space Formula – commuted maintenance sum**

Type of Open Space	(A) Quantity standards (ha/1,000 population)	(B) Rate per Ha	(C) Contribution per 1,000 population (A x B)	(D) Rate per person (C/1,000)	(E) Rate per dwelling (D x 2.4)
Accessible Open Space					
Allotments and Community Gardens	0.30	£8,739.97	£2,621.99	£2.62	£6.29
Amenity Green Space	0.40	£131,099.60	£52,439.84	£52.44	£125.86
Play Space (children)	0.05	£131,099.60	£6,554.98	£6.55	£15.73
Play Space (youth)	0.05	£131,099.60	£6,554.98	£6.55	£15.73
Total	0.80	£402,038.77	£68,171.79	£68.16	£163.61

**8.33** The annual maintenance amount varies for each type of open space from £0.03 per sq.m for allotments and community gardens to £0.45 per sq.m for amenity green space and play space based on operational costs at 2020.

**8.34** The commuted sum calculation for all accessible open space is based on a 25 year maintenance period and assumes an inflation rate of 2% (Council standard rate) and an investment return rate of 0.01729 (25 year gilt/bond).

**8.35** The amount of financial contribution towards the maintenance of Strategic Open Space transferred to the Council or a Parish or Town Council is set out in Table 10.

**Table 10 Strategic Open Space Formula – commuted maintenance sum**

Type of Open Space	(A) Quantity standard (ha/1,000 population)	(B) Council Rate per Ha	(C) Rate per sqm (B/10,000)	Rate per dwelling (x 40)
Natural Green Space	1	£23,306.60	£2.33	£93.23
Parks, Sport and Recreation Grounds	12.20	£253,459.23	£25.35	£1,013.84
<b>Total</b>				<b>£1,107.07</b>

**8.36** The annual maintenance amount for natural green space is calculated to be £0.08 per sq.m for natural green space and £0.87 per sq.m for parks, sports and recreation grounds based on operational costs at 2020.

**8.37** The commuted sum calculation for all strategic open space is based on a 25 year maintenance period and assumes an inflation rate of 2% (Council standard rate) and an investment return rate of 0.01729 (25 year gilt/bond).

### **Timing/Trigger for payment or provision of works**

**8.38** In the case of a large-scale development, it may be that the payments or provision would be phased to meet the proportional impact of each phase. Trigger points for payments or provision will be included in the legal agreement, as will the period in which any contribution will have to be spent.



## **9- Green and Blue Infrastructure - Environmental Mitigation**

### **Policy Background**

- 9.1** Paragraph 170 of the NPPF seeks to conserve and enhance the natural environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils. It seeks for the planning system to minimise impacts on and provide net gains in biodiversity. The planning system should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable level of soil, air, water or noise pollution and land instability. Remediating and mitigating despoiled, degraded, contaminated and unstable land are other ways of enhancing the environment.
- 9.2** Paragraph 175 of the NPPF states that where significant harm to biodiversity resulting from a development proposal cannot be avoided, adequately mitigated, or, as a last resort, compensated for, planning permission should be refused.
- 9.3** The NPPF seeks to conserve and enhance the historic environment. Paragraphs 185 of the NPPF states that local plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay and other threats.
- 9.4** Paragraph 195 of the NPPF states that where proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits or outweigh that harm or loss.
- 9.5** Strategic Policy S2 seeks to address climate change and flood risk and includes many measures that the Council will encourage to achieve these aims, including providing opportunities for green infrastructure and new habitat creation.
- 9.6** Strategic Policy S3 seeks to conserve and where appropriate enhance the historic environment whilst Strategic Policy S6 commits the Council to conserving and enhancing the natural environment.
- 9.7** Strategic Policies S9 and S10 require new development to provide, contribute and mitigate its impact on green and natural infrastructure by contributing towards a multi-functional network of green and natural infrastructure and net gain in biodiversity. It also requires development to contribute towards recreation disturbance avoidance and mitigation measures for European designated sites as identified in the Essex Recreational disturbance Avoidance and Mitigation Strategy (the RAMS).
- 9.8** The sustainability requirements the Council expects of dwellings and non-residential buildings is set out in Policy DM25, whilst the requirement for development to avoid unacceptable levels of pollution emissions from noise, light, smell, fumes, vibrations and other issues unless appropriate mitigation measures can be put in place, is set out in Policy DM29.



**9.9** Policy DM30 addresses the requirements for developments on, or near to, hazardous substance sites or contaminated land; and developments in or adjacent to an Air Quality Management Area.

### **Possible S106 Obligations**

**9.10** Any environmental mitigation measures will be considered on a site by site basis. Most issues will be localised and are likely to be small scale where it is appropriate to deal with them by way of planning conditions. There may be circumstances where schemes require environmental mitigation measures to be included within a Section 106 Agreement.

**9.11** The Council has declared a Climate and Ecological Emergency to focus attention on reducing carbon and greenhouse gas emissions in the area and to plan for a more sustainable future.

**9.12** The Council's Climate and Ecological Emergency Action Plan includes undertaking a greening programme to significantly increase the amount of woodland and the proportion of tree cover in Chelmsford.

**9.13** The Council has an ambition to plant at least one tree for every existing resident and at least three new trees planted for every new home in the Local Plan to assist in the Climate and Ecological Emergency. Where practicable, all new housing development should seek to plant three trees per net new dwelling.

**9.14** The RAMS provides a mechanism for local planning authorities to comply with their responsibilities to protect habitats and species in accordance with the UK Conservation of Habitats and Species Regulations 2017. Measures required to mitigate the impacts of recreational disturbance on European Protected Sites will be delivered as detailed in the RAMS and the Essex Coast RAMS SPD.<sup>2</sup>

**9.15** The Essex Coast RAMS SPD provides the scope of RAMS; the legal basis for RAMS; the level of developer contributions being sought for strategic mitigation and how and when applicants should make contributions.

**9.16** Environmental matters which may be included in a Section 106 Agreement include, but are not limited to:

- Major contamination issues
- Biodiversity offsetting
- Biodiversity net gain
- Ecological mitigation/remediation
- Climate change mitigation, including tree planting and new woodlands

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<sup>2</sup> Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (May 2020).



- Environmental enhancements
- Archeological investigations, access and interpretation
- Repair and re-use of building or other heritage assets

Further guidance on matters relating to biodiversity, which should be borne in mind when considering a site and preparing a planning application, is set out in Essex County Council's Developers' Guide to Infrastructure Contributions (Revised 2020).

**9.17** Some cases may require payments, other cases may require the details of mitigation measures to be included in an agreement so that a robust legal mechanism is in place to ensure appropriate mitigation is carried out. Each site will be considered on its own merits.

**9.18** At developments of over 100 homes, the Council will seek to negotiate Section 106 agreements which secure show homes that incorporate optional sustainable design features to showcase the benefits of including such features in a new build and how to move towards a zero-carbon home.

### **Timing/Trigger for payment or provision of works**

**9.19** The cost of such mitigation measures will normally be covered in full by the developer. Any contamination matters will usually be required to be dealt with fully prior to commencement of any development.

**9.20** Environmental mitigation will largely be required to be carried out prior to the commencement of the development, with some further works being complete prior to first occupation of the development. Some further environmental issues may require ongoing mitigation to take place. Where the development cannot fully mitigate its impact on these environmental matters, compensatory measures may be sought. This will only be sought where all other avenues of mitigation have been exhausted. The appropriate level of contribution will be considered on a case by case basis.

### **Further Information**

**9.21** Further information on Biodiversity net gain can be found at:  
<https://www.environmentbank.com/habitat-banking/>

**9.22** The Chelmsford Biodiversity Action Plan is committed to improving the local environment and encourages the protection and improvement of wildlife habitats and green spaces.



**9.23** The Chelmsford Green Infrastructure Strategic Plan 2018 – 2036 provides a framework for the planning and management of Chelmsford’s Green Infrastructure resources both in terms of the protection of its integrity and enhancement to the benefit of residents, workers and visitors in light of the significant scale of growth to be accommodated over the duration of the Local Plan. The Essex Green Infrastructure Strategy (2020) aims to enhance the urban and rural environment through creating connected, multifunctional green infrastructure that delivers multiple benefits to people and wildlife.



## **10- Community Infrastructure - Early Years, Childcare and Education**

### **Policy Background**

**10.1** As set out in paragraph 94 of the NPPF, the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Non-statutory guidance for local authorities for education to support housing growth and developers' contributions is provided in the Department for Education publication – 'Securing developer contributions for education,' (November 2019).

**10.2** Strategic Policy S5 recognises that an important element of sustainable development is the provision and protection of community uses such as schools.

**10.3** Strategic Policies S9 and S10 set out the infrastructure required to support new development, including early years, primary, secondary and tertiary education provision and how to secure the infrastructure and mitigate impact.

**10.4** Policy DM20 focuses on the accessibility of new community facilities by sustainable modes of transport and to the multitude of users that will access them.

**10.5** Section 106 obligations will include the provision of new schools and new early years and childcare facilities dependent on the nature and the scale of the development proposal.

### **Possible S106 Obligations**

**10.6** Chelmsford will see significant growth over the next few years. New early years, co-located with primary education, and standalone childcare provision and primary education are required to be provided on-site ('site-related') in various strategic locations. In all cases, the developer will provide the land or provision within the built form at the development (standalone early years and childcare facilities only) and a proportion of the build cost generated from the need for places. The remainder of the cost will potentially be covered through pooled Section 106 contributions. If it is not planned to build a new school, financial contributions will be used to fund capital works to add additional capacity at academies, free schools or maintained schools in the appropriate area.

**10.7** Where the need for new schools is identified against a site, other sites that benefit may be required to contribute towards both land and build costs as pooled Section 106 contributions.

**10.8** Appendix I provides details of the contribution form for specific items of early years, childcare and education infrastructure for each site referenced in the Local Plan. It includes pooled Section 106 contributions towards the expansion of existing primary and secondary education in specific locations to address needs arising from sites identified in the Local Plan.





**10.9** Essex County Council's (ECC) Developer's Guide to Infrastructure Contributions (Revised 2020) provides information on Education contributions, which incorporates early years and childcare, primary, secondary, post 16 and Special Educational Needs. The Guide provides information on how the need for additional school and early years places are assessed; how to calculate demand from new housing development and additional site requirements. The Guide also provides information on Essex County Council's statutory responsibility to make suitable travel arrangements free of charge for eligible children, which depending on the location of a development, may require a developer contribution.

**10.10** A new secondary school will be required on-site to support the strategic growth in North East Chelmsford.

**10.11** New development in Great Leighs will be required to contribute to the expansion of Notley High School in Braintree District Council.

### **Provision of works**

**10.12** Details of the criteria that any new school or pre-school site must meet and requirements for the provision of land for new facilities are set out in the Essex County Council Developers' Guide to Infrastructure Contributions which is available to download from Essex County Council's website.

**10.13** Where appropriate Section 106 Agreements will seek to secure a community use of school facilities, and a separate contribution will be levied for this purpose. The agreement will require absolute clarity regarding which facilities would be used both by the school and the public; how they would operate and who would provide and maintain them. The ECC Developers' Guide to Infrastructure Contributions (Revised 2020) provides details of how schools sites should be laid-out. The Essex Design Guide (2018) provides a School Design Checklist and criteria, which provides further advice on how schools should be designed to encourage community access outside of school hours.

**10.14** It should be noted that the Sport England Strategy 2016-2021 includes goals relating to schools opening up, or keeping open, their sports facilities for local community use. Sport England also offers a range of Design Guidance and advice to maximise the public benefit of community use of sport facilities on education sites.



## **I I- Community Infrastructure - Health and Social Wellbeing**

### **Policy Background**

**11.1** Paragraph 91 of the NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places by enabling and supporting healthy lifestyles and promoting social interaction.

**11.2** An important element of enabling and supporting healthy communities is the provision and protection of community uses, such as health and recreation and the access populations have to the environments and infrastructure that supports community health and well-being. Strategic Policy S5 requires the protection and enhancement of community assets.

**11.3** Strategic Policies S9 and S10 state that new development must provide a range of infrastructure including health and wellbeing facilities and measures that mitigate the impact of new development.

**11.4** Policy DM20 provides the requirements for community facilities for planning permissions to be granted and Policy DM24 requires new development to provide opportunities to promote healthy living and improve health and wellbeing through the provision of walking and cycling and provision of open space.

### **Possible S106 Obligations**

**11.5** New healthcare infrastructure, which includes health and well-being measures, will be required through Section 106 agreements. This could include investment in existing premises or services if the proposed development generates the need for a new facility or service.

**11.6** Where a small number of large sites generate the need for a new primary healthcare facility or service, such as a new GP surgery and other new healthcare infrastructure and services, the cost of this provision will be secured through pooled section 106 agreements and the location of the facility identified through the master planning and planning application process.

**11.7** Section 106 resources may also be sought to fund health and wellbeing across the population and encouraging self-care, where there is an on-site need. This includes digital and technological approaches.

### **Timing/Trigger for payment or provision of works**

**11.8** The timing for the provision of such healthcare facilities or financial mitigation will be considered on a case by case basis, with the specific requirements being set out within any Section 106 Agreement. It is likely to be linked to phases of a development, with facilities being required either upon a certain level of units being completed, or when a certain threshold of occupation at a development is reached.



## **I2- Community Infrastructure - Social and Community Facilities**

### **Policy Background**

**12.1** Paragraph 92 of the NPPF seeks to deliver social, recreational and cultural facilities and services needed by the community. It requires planning authorities to plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments.

**12.2** Strategic Policies S5, S9 and S10 recognise the important role community assets have in communities, set out the infrastructure required to support new development, including community buildings and space, and require appropriate infrastructure capacity to support new development is secured through several measures including on-site provision. This includes waste management, particularly in relation to the Chelmsford Garden Village.

**12.3** Policy DM20 sets out the justification for obligations relating to any community facilities that are required because of new development in the Chelmsford City area.

### **Possible S106 Obligations**

**12.4** For large scale strategic development of 500+ new residential units the Council will require the provision of indoor space which provides flexible use for the community. Such facilities should consider:

- The inclusion of a multi-use space for community groups and clubs to use e.g. Village Halls.
- Space for library use which Essex County Council's Developers' Guide to Infrastructure Contributions (Revised 2020) provides guidance on the threshold and form that the contribution to library provision will take; but includes potentially being part of a shared community or education facility.
- The ability, or otherwise, of nearby existing facilities to serve the community.
- The individual needs and requirements of the locality.

**12.5** As part of the Section 106 Agreement a nominated partner or organisation will be required to be identified as the future operator/manager of the building or space. This can be a Parish Council, Charity, or other community group.

### **Timing/Trigger for payment or provision of works**

**12.6** Such facilities should be provided once a proportion of a proposed development is occupied, which is usually towards the latter end of the development's occupation. This will vary depending on the scale of development and will be agreed as part of a Section 106 Agreement.



## **I3- Community Infrastructure - Public Realm and Public Art**

### **Policy Background**

**13.1** Section 12 of the NPPF states that the creation of highquality buildings and places is fundamental to what the planning and development process should achieve. Planning policies and decisions should ensure that developments function well, are visually attractive, sympathetic to local character, establish a strong sense of place and sustain an appropriate amount and mix of development.

**13.2** Enhancements to public realm, landscaping measures and attention to architectural detail are all important features that the Council wish to see included in new development. Providing new public realm will continue to be an important catalyst for change as new schemes have been instrumental in the revitalisation of the City Centre.

**13.3** Public art makes an important contribution to the character and visual quality of the area. The Council is committed to the provision of public art within development and in the public realm.

**13.4** Strategic Policies S5, S9 and S10 recognise the important role community assets have in communities, set out the infrastructure required to support new development, including cultural facilities and public art, and require appropriate infrastructure capacity to support new development is secured through several measures including on-site provision.

**13.5** Policies DM20 and DM24 are key policies which set out the justification for obligations relating to Public Art and Public Realm improvements that are required because of new development within the Chelmsford City area. The Chelmsford City Centre Public Realm Strategy SPD sets out the Council's vision for proposed public realm improvements. The Council will be producing a revised Public Realm and Public Art Strategy SPD in 2020/2021.

### **Possible S106 Obligations**

**13.6** For developments large enough to have public space within the site, most matters will be covered by planning conditions. Each case will be considered on its individual merits.

#### **Public Realm Provision**

**13.7** Section 106 Agreements may require the following issues to be addressed in respect of on-site and off-site public realm improvements:

- Improvements to paving and planting on public highway and other space directly adjoining the site or a financial contribution towards the required off-site improvements.
- Bespoke planting and any associated paths and boundary treatment directly relating to the site.



- Where a development site is adjacent to an open space and requires direct mitigation e.g. to link the open space into the development or replacement boundary treatment to open space.
- Where development proposals have a direct relationship with enhancements identified within the Chelmsford City Centre Public Realm SPD (except for the improvements which are covered by the CIL).
- Adoption of the improvements.
- Financial arrangement for their management. Access and use restrictions/assurances.

## **Public Art**

**13.8** On smaller schemes Public Art is likely to be dealt with by way of a planning condition. It may be required to be secured via a Section 106 Agreement in the following circumstances:

- All developments with a threshold of 10 or more dwellings
- All developments with a floorspace of 1,000sqm or more

**13.9** Where there is an obligation to deliver public art within a Section 106 agreement, the Council will expect the delivery of the public art in accordance with the agreement and for this responsibility not to be transferred to the City Council.

## **Timing/Trigger for payment or provision of works**

### **Public Realm**

**13.10** Development will not commence until the developer has submitted to and received written approval for a Public Realm Scheme from the Council. Developers will be required to illustrate what parts of the scheme are to be offered for adoption. For the parts of the scheme that will be offered for adoption, there is a requirement for a developer to design and construct the area of Public Realm to a design and specification agreed by the Council. It will then be transferred to the appropriate Council (Parks or Highways) once it is in an adoptable condition. Upon transfer, a commuted maintenance payment will be required to cover the initial costs of maintaining the Public Realm. The section 106 agreement will also put in place measures to agree the management and maintenance of any unadopted areas. Public realm improvements will usually be required to be completed prior to the first occupation of a development.

**13.11** Once the scheme has been implemented and the Council are satisfied the scheme is acceptable, a Certificate of Practical Completion will be issued, and a 12-month maintenance period will commence. At the end of this maintenance period a Certificate of Adoption will be issued. It will then be transferred to the relevant Council and a commuted maintenance payment will become payable. The amount will vary from site to site depending on the materials used and cost of maintaining the area of Public Realm. The maintenance period shall cover a period of 15 years with details of the appropriate payment of this being set out in any Section 106 Agreements.

## **Public Art**

**13.12** The commissioning of public art works should involve professional art organisations and include stakeholder and community engagement. A written public art statement, explaining the commissioning process, artist briefs and budget should be in place prior to commencement of the development. The completion date for public art will vary dependent on the nature of the development, the type and the location of the art works, but will usually be expected to be completed prior to the first occupation of a development.



## **14- Implementation of this Planning Obligations SPD**

### **Negotiations/Viability**

**14.1** The Council has tested the development viability of a range of site types that are most likely to come forward over the new plan-period.

**14.2** The Local Plan Viability Study including CIL Review (Viability Study), uses a Residual Value Methodology to assess the impact of meeting all the Council's policy requirements, including CIL at the current rate, and different levels of developer contributions on a range of development typologies. The Residue Value is the combined value of the complete development less the cost of creating the asset, including a target profit margin. If the residual value exceeds the existing use value by a satisfactory margin, a scheme is judged to be viable.

**14.3** The results of the Viability Study show that in most of cases, the residual value exceeds the existing use value by a satisfactory margin indicating that most development likely to come forward under the Local Plan is viable and will be able to bear the range of developer contributions and CIL at the adopted, and subsequently indexed, rate.

**14.4** The use of further viability assessments at the decision-making stage should not be necessary. It is up to the applicant to demonstrate whether circumstances justify the need for a viability assessment at the application stage.

**14.5** Where an applicant formally requests the Council to consider a reduced level of planning obligations for a scheme it will need to demonstrate that either:

- a) the development is proposed on an unallocated site of a wholly different type to those used in the Viability Study,
- b) further information on infrastructure or site costs is required,
- c) particular types of development are proposed which may significantly vary from standard models of development for sale, or
- d) a recession or similar significant economic change has occurred since the Local Plan was adopted.

**14.6** Where a viability assessment is submitted to accompany a new planning application this should be based upon, and refer to, the Viability Study that informed the Local Plan. The applicant should provide evidence of what has changed since the Viability Study supporting the Local Plan was conducted. A full viability report prepared by the applicant should be enclosed as part of the submission of the planning application.



**14.7** Once submitted, this report (including scheme viability statements, appraisals and relevant information) will be considered and assessed by the Council and an independent viability advisor appointed by the Council with reasonable agreed costs borne by the applicant.

**14.8** Any viability assessment should reflect the government's recommended approach to defining key inputs as set out in National Planning Guidance.

**14.9** Essex Planning Officers Association (EPOA) has produced a Viability Protocol that sets out overarching principles for how Essex Local Planning Authorities will approach development viability. The protocol does not alter Local Plan policies or the guidance in this SPD but does provide additional advice and guidance on the information requirements and approach taken when assessing viability at the decision-making stage. The EPOA Viability Protocol is available to download at <https://www.essexdesignguide.co.uk/supplementary-guidance/essex-planning-and-viability-protocol/>

**14.10** The assessment will define land value for any viability assessment based on the existing use value of the land, plus a premium for the landowner. Under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the Local Plan.

**14.11** The weight to be given to a viability assessment is a matter for the Council, having regard to all circumstances, including any changes since the Local Plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.

**14.12** If the viability report submitted by the Applicant fails to satisfy the Council that a reduced level of contributions should be applied or that the level of planning contributions that the development can viably support cannot mitigate the impact of the proposed development, then the planning application will be refused.

**14.13** Where the level of planning contributions that the development can viably support cannot mitigate the impact of the proposed development, the development will need to wait until development values improve, land values can be re-negotiated, or alternative funding sources can be secured.

**14.14** If the Applicant can demonstrate, to the satisfaction of the Council, that the scheme cannot be fully compliant and remain financially viable, the Council may consider a reduced level of contributions in one or more areas.

### **Drafting of Section 106 Agreements**

**14.15** Section 106 Agreements will be drafted by the Council's Legal Services team, or by external solicitors acting on behalf of the Council. Applicants will be required to pay the Council's reasonable costs incurred in drafting and completing the agreement or the costs of external solicitors acting on behalf of the Council, where relevant. In most cases Essex County Council provide a first draft of the clauses required to deliver contributions it has requested. A template agreement is provided in Appendix A of Essex County Council Developers' Guide to Infrastructure Contributions (Revised 2020).





**14.16** Straightforward obligations which normally require only a financial contribution and/or planning obligations on one party only will be the subject of a Unilateral Undertaking. A Unilateral Undertaking will be prepared or approved by the Planning Contributions Officer or, where appropriate, the Council's Legal Service team. Applicants will be expected to meet the Council's reasonable costs incurred in preparing or approving an Undertaking.

**14.17** In all circumstances where a legal agreement is required, the applicant will be expected to provide details of land ownership at the beginning of the application process. These should be copies of the Title document and plan obtained within the preceding three months from the Land Registry, or if the land is unregistered, copies of the most recent conveyance.

### **Financial Contributions**

**14.18** Where a financial obligation is necessary, payment would normally be required on commencement or on first occupation of a development. However, in the case of a large-scale development, it may be that the payments would be phased to meet the proportional impact of each phase. Trigger points for payments will be included in the legal agreement, as will the period in which any contribution will have to be spent. Section 3.2 of Essex County Council's Developers' Guide to Infrastructure Contributions (Revised 2020) provides further guidance for larger, phased development regarding contributions requested by Essex County Council.

**14.19** It is reasonable to expect that, when contributions are paid to the Council the monies will be held in an interest-bearing account. Those financial contributions (excluding commuted payment relating to maintenance) that are paid to the City Council and remain unspent at the end of 10 years from the date when the money was paid will be returned to the payee in accordance with the terms of the individual agreements, unless they relate to infrastructure items that are required beyond 2036.

### **Index Linking**

**14.20** The quantum of Section 106 financial contributions will be re-assessed at the point of planning application and fixed from the point of planning permission. All Section 106 financial contributions will be subject to indexation from the point of planning permission and end with the date each payment becomes due. The indices to be used are the BCIS PUBSEC Tender Price Index of Public Sector Building Non-Housing Indices. However, if a commuted sum is required for maintenance purposes, indexation will not be applied. The CIL charging rate is fixed in the CIL Charging Schedule and indexed on the 1st January each year based on the BCIS All in Tender Price Index, published in the preceding November. Essex County Council applies different indexation indices to different types of infrastructure. Further guidance is provided in Section 3.3 of Essex County Council's Developers' Guide to Infrastructure Contributions (Revised 2020).



## Monitoring and Enforcement of Obligations

**14.21** Monitoring of obligations will be undertaken by the Council's Planning Contributions Officer to ensure that all obligations entered into are complied with by both the developer and the Council.

**14.22** In cases where developers have difficulty making payments at the appropriate times as required by the legal agreement, the Council will work with the developer to find a solution. This may involve the payment of an obligation at a later stage in the development, or payment by installments. However, where it is imperative that the relevant measure is in place prior to a development being occupied, the obligation to fund it will always become payable on commencement.

**14.23** If enforcement of financial obligations fails then the Council will use the relevant legal channels to remedy this, and the party in breach will be liable for any legal costs incurred by the Council.

## Monitoring Fees (excluding affordable housing obligations)

**14.24** A monitoring fee will be charged where Section 106 agreements include covenants to the Council. A charge of £350 per obligation type will be levied, except on strategic growth sites where a charge of £840 per obligations type will be levied to reflect the increased complexity and number of years over which the agreement is monitored. These charges exclude affordable housing obligations, which are subject to a separate monitoring fee.

**14.25** The fee includes collection of information from the developer and other relevant internal and external sources, appropriate site visits, officer action associated with non-compliance, maintenance of the monitoring database and reporting on delivery of obligations.

## Monitoring Fee (affordable housing obligations)

**14.26** A monitoring fee of £100 per affordable housing unit will be charged. This fee will not be applied to commuted sums in lieu of on-site affordable housing.

**14.27** The fee includes monitoring, conducted on a plot by plot basis, of the completion and initial occupation of affordable dwellings. In respect of affordable housing for rent, monitoring this obligation includes the time and costs associated with entering into nomination agreements with Registered Providers (excluding the cost of the Council's Legal Services). Where relevant, it also includes monitoring housing costs and the viability of development.

## Monitoring Fees (Essex County Council)

**14.28** Essex County Council charge separate monitoring fees for Section 106 obligations types that they are responsible for, for example education and highways. Further information is available on [www.essex.gov.uk](http://www.essex.gov.uk)

**14.29** All monitoring fees will be subject to indexation and payable on commencement of the development.



## Reporting on the use of Section 106 Obligations

**14.30** Infrastructure Funding Statements are required to set out the infrastructure projects or types of infrastructure that the authority intends to fund, either wholly or partly, by CIL or planning obligations.

**14.31** Infrastructure Funding Statements need to be published annually from 31 December 2020 (for the preceding financial year 2019/20) reporting on CIL and planning obligations revenue received and allocated.

## 15- Appendix I: Funding of Infrastructure Required to Support Growth

**Table 11 Housing**

Item	Infrastructure theme	Infrastructure type	Site related									Pooled S106 - Specific Items									Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference		
			1*	2	3	4	5	6	7	8	9	1	2	3	4	5	6	7	8	9						other sites	
Self and Custom Build Homes	Housing	Self and Custom Build Homes																						Yes <sup>1</sup>			S10; DM1
Specialist Residential Accommodation	Housing	Specialist Residential Accommodation																						Yes <sup>1</sup>			S10; DM1
Affordable Housing	Housing	Affordable Housing																						Yes <sup>1</sup>			S10; DM2
<sup>1</sup> Items assumed to be funded as secondary infrastructure but possibly secured as a site related or pooled s106 obligation																											

**Table 12 Physical Infrastructure**

Item	Infrastructure theme	Infrastructure type	Site related									Pooled S106 - specific items									Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference		
			1*	2	3	4	5	6	7	8	9	1	2	3	4	5	6	7	8	9						other sites	
A12 Chelmsford to A120 widening scheme	Physical	Highways, Access and Transport																							Yes		S9; S10
A131 Chelmsford to Braintree route-based improvements	Physical	Highways, Access and Transport																							Yes		S9; S10
Beaulieu Railway Station	Physical	Highways, Access and Transport				4																	Yes		Yes		S9; S10
Broomfield Hospital Access Road	Physical	Highways, Access and Transport													6						SPA I						S9; S10; SPA I
Bus Priority/Chelmsford Rapid Bus Transit (ChART)	Physical	Highways, Access and Transport				4																					S9; S10
Bus Services and Infrastructure	Physical	Highways, Access and Transport		2	3	4	5	6	7									8						Yes			S5; S9; S10; DM20
A12 J19 Boreham Interchange Improvements	Physical	Highways, Access and Transport																							Yes		S9; S10
Cycle and Footway Links/ Improvements/ Crossing	Physical	Highways, Access and Transport		2	3	4	5	6	7			1	2	3	4	5	6										S9; S10
Cycle/footbridge over Essex Regiment Way	Physical	Highways, Access and Transport												4		6											S9; S10
Cycle/footbridge over B1012	Physical	Highways, Access and Transport							7																		S9; S10
Cycle/footbridge over Chelmer and Blackwater (Mallard Bridge)	Physical	Highways, Access and Transport	le																								S9; S10
Cycle/footbridge to ARU site and Springfield Hall Park	Physical	Highways, Access and Transport	lv																								S9; S10
Estate/Link Roads and Internal Cycle and Footways	Physical	Highways, Access and Transport																						Yes			S9; S10
Chelmsford North East Bypass - single carriageway section	Physical	Highways, Access and Transport				4																					S9; S10
Chelmsford North East Bypass NE Chelmsford to Deres Bridge single carriageway section	Physical	Highways, Access and Transport												4	5	6						Dev't in south of Braintree District			Yes		S9; S10



**Table 13 Green and Blue Infrastructure**

Item	Infrastructure theme	Infrastructure type	Site related									Pooled S106 - Specific Items									Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference		
			1*	2	3	4	5	6	7	8	9	1	2	3	4	5	6	7	8	9						other sites	
Allotments and Community Gardens	Green and Blue	Recreation and Leisure Facilities		2		4			7			1		3		5	6					Yes				S9; S10; DM24	
Children's Play and Youth Facilities	Green and Blue	Recreation and Leisure Facilities	1	2	3	4	5	6	7			1														S5; S9; S10; DM20	
Indoor Sports Facilities	Green and Blue	Recreation and Leisure Facilities				4																Yes				S5; S9; S10; DM20	
Outdoor sports and changing facilities	Green and Blue	Recreation and Leisure Facilities		2		4			7			1		3		5	6									S5; S9; S10; DM20	
Local Open Space	Green and Blue	Recreation and Leisure Facilities																					Yes <sup>1</sup>			S5; S9; S10; DM20; DM24	
Country Park	Green and Blue	Recreation and Leisure Facilities			3	4																				S5; S9; S10; DM20; DM23	
Strategic Landscaping	Green and Blue	Recreation and Leisure Facilities																					Yes			S9; S10	
Environmental Mitigation	Green and Blue	Environmental Mitigation																					Yes <sup>1</sup>			S2; S4; S5; S9; S10; DM24; DM29; DM30	
RAMs	Green and Blue	Environmental Mitigation										1a to 1h, OS 1a, OS1B, ECI, EC2	2	3	4	5	6	7	8	9							S9; S10
Archaeology	Green and Blue	Environmental Mitigation																					Yes			S3; S9; S10; DM15	
Waterways	Green and Blue	Environmental Mitigation																					Yes <sup>1</sup>			S9; S10	

<sup>1</sup> Items assumed to be funded as secondary infrastructure but possibly secured as a site related or pooled s106 obligations

**Table 14 Community Infrastructure**

Item	Infrastructure theme	Infrastructure type	Site related									Pooled S106 - Specific Items									Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference	
			1*	2	3	4	5	6	7	8	9	1	2	3	4	5	6	7	8	9						other sites
Early Years and Childcare - stand alone provision	Community	Early Years, Childcare and Education Facilities			3b	4		6	7				Cwlc	2								Yes				S5; S9; S10; DM20
Primary Education (incl. shared EY & C provision)	Community	Early Years, Childcare and Education Facilities		2		4	5a		7					2								Yes				S5; S9; S10; DM20
Primary Education - expansion of existing provision	Community	Early Years, Childcare and Education Facilities											1		3			6	7			Yes				S5; S9; S10; DM20
Secondary Education - new provision	Community	Early Years, Childcare and Education Facilities				4												6								S5; S9; S10; DM20
Secondary Education - expansion of existing provision	Community	Early Years, Childcare and Education Facilities													5							Yes				S5; S9; S10; DM20
Health and Social Wellbeing	Community	Health and Social Wellbeing											1	2	3	4	5	6	7	8		Yes				S5; S9; S10; DM20; DM23
Community Centres	Community	Social and Community Facilities							7					2	3	4	5	6				Yes				S5; S9; S10; DM20; DM23
Libraries	Community	Social and Community Facilities																				Yes				S5; S9; S10; DM20
Public Realm and Public Art	Community	Public Realm and Public Art																					Yes <sup>1</sup>			S5; S9; S10; DM20; DM24
Ambulance	Community	Other community infrastructure																						Yes		S9; S10
Fire	Community	Other community infrastructure																						Yes		S9; S10
Police	Community	Other community infrastructure																				Yes				S9; S10
Burial Space	Community	Other community infrastructure																				Yes				S5; S9; S10; DM20



Municipal Waste	Community	Other community infrastructure																			Yes					S9; S10	
Broadband	Community	Other community infrastructure																					Yes				S9; S10
<sup>1</sup> Items assumed to be funded as secondary infrastructure but possibly secured as a site related or pooled s106 obligations																											



**Table 15 Site Reference Numbers**

Site/Location	Site/Location ref.
Central and Urban Chelmsford	1
West Chelmsford	2
Land E. of Chelmsford/N. of Great Baddow	3
NE Chelmsford	4
Moulsham Hall/N. of Great Leighs	5
N. of Broomfield	6
N. of S. Woodham Ferrers	7
South of Bicknacre	8
Danbury	9

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## I6- Appendix 2: Land Registry Prices Paid and Values £/m2

**Table 16 Land Registry Prices Paid and Values £/m2**

<b>Land Registry Prices Paid &amp; Values £/m2</b>			
<b>01/04/2018 to 01/10/2019</b>			
<b>(Newbuild Properties Only)</b>			
	Houses	Flats	Total
Count	338	250	588
<b>Chelmsford - Price Paid</b>			
Minimum	£280,000	£100,625	£100,625
Average	£553,167	£271,689	£433,491
Maximum	£1,380,000	£500,000	£1,380,000
<b>Chelmsford - Value £/m2</b>			
Minimum	£2,236	£1,458	£1,458
Average	£4,046	£4,931	£4,418
Maximum	£11,121	£13,000	£13,000



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Please call 01245 606330

Spatial Planning Services  
Directorate for Sustainable Communities  
Chelmsford City Council  
Civic Centre  
Duke Street  
Chelmsford  
Essex  
CM1 1JE

Telephone 01245 606330  
[planning.policy@chelmsford.gov.uk](mailto:planning.policy@chelmsford.gov.uk)  
[www.chelmsford.gov.uk](http://www.chelmsford.gov.uk)

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