

Chelmsford Local Plan  
Planning Obligations  
Supplementary  
Planning Document

Draft

June 2018





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## Part I How we have got to this point

**I.1** This draft Planning Obligations Supplementary Planning Document (SPD) sets out the City Council's approach towards seeking planning obligations when considering planning applications.

**I.2** It identifies topic areas where planning obligations may be applicable depending on the scale of development, and the possible planning contributions, which would fall to be applicable to the different thresholds identified.

**I.3** The combination of this draft SPD and the Council's Community Infrastructure Levy (CIL) Charging Schedule sets out a clear guide to developers, landowners and stakeholders, the likely scope and scale of planning obligations applicable to different scales and types of development.

**I.4** The Council has committed to a review of its CIL Charging Schedule in 2020. This SPD will need to be update again in tandem with the review of CIL.

**I.5** This draft SPD will be published for six weeks public consultation in Summer 2018. The guidance set out in this document supplements the requirements set out in the new draft Local Plan. This draft SPD cannot be adopted in advance of the adoption of the new Local Plan.

### Part 2 Introduction

#### Purpose of this Document

**2.1** The purpose of this draft SPD is to set out the City Council's approach towards seeking planning obligations, taking into account the requirements of the new draft Local Plan and the Council's Community Infrastructure Levy (CIL) Charging Schedule.

#### Scope of Document

**2.2** This draft SPD sets out what will be required through Section 106 planning obligations. It identifies topic areas where planning obligations may be applicable and outlines the City Council's general procedural approach to securing planning obligations.

**2.3** It should be noted that all the obligation types within this draft SPD are the likely contributions attributed to different scales of development. This draft SPD has been produced as a general guide based on 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.

## Part 3 Policy Background

### National Planning Policy Overview

**3.1** 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 203 to 205 of the National Planning Policy Framework (NPPF) March 2012 set out the Government's policy on planning obligations.

### The National Planning Policy Framework (NPPF)

**3.2** 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. Community Infrastructure Regulation 122 (2) sets out what a planning obligation can constitute and paragraph 204 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.

**3.3** The National Planning Practice Guidance (NPPG) was launched on 6th March 2014 and offers a web-based resource to support the NPPF.

### The Community Infrastructure Levy (CIL)

**3.4** 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)

**3.5** 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 is increased each year using an index of inflation. The CIL Regulation 123 list, which sets out the infrastructure that will be funded through CIL, can be found at Appendix I.

### Infrastructure Delivery Plan (IDP)

**3.6** The Chelmsford Infrastructure Delivery Plan has been undertaken by Troy Planning + Design and Navigus Planning to inform Chelmsford's new 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.

## 3 Policy Background

**3.7** The infrastructure needed to support the new 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 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.

**3.8** The funding categories of items of infrastructure required to support the new draft Local Plan are set out in Appendix 2.

### Chelmsford City Council New Local Plan

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

**3.10** 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 new draft Local Plan.

**3.11** The site policies are set out in the sections dealing with each Growth Area 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.

**3.12** Other policies within the new draft Local Plan provide specific and detailed justification for various types of planning obligation, e.g. Policy HO2 – Affordable Housing and Rural Exception Sites. Such policies are referred to in the relevant sections of this SPD.



## Corporate Objectives

**3.13** The Council's Corporate Plan is a statement of intent setting out the ambition for Chelmsford City Council for the forthcoming years. It recognises the challenges and opportunities Chelmsford City Council faces and identifies how to achieve the Council's vision for the city. The provision of planning obligations, through this draft SPD, seeks to address the corporate priorities below:

- Attracting investment and delivering infrastructure
- Facilitating suitable housing for local needs
- Providing high quality public spaces
- Promoting a more sustainable environment
- Promoting healthier and more active lives
- Enhancing participation in cultural activities

**3.14** The Council's Corporate Plan is currently being updated and any changes to the corporate priorities will be incorporated into the final version of this SPD.

### Part 4 Obligation Types

**4.1** 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.

**4.2** The table in Appendix 2 offers a guide to what items of infrastructure will be covered by Section 106 Planning Obligations and what will be covered by the Chelmsford City Council CIL. It should be noted that this is a guide only. Appendix 1 contains the CIL Regulation 123 List, which gives further details on the projects and any specific exclusion covered by the CIL.

**4.3** Essex County Council's (ECC) Developer's Guide to Infrastructure Contributions (2016) 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.

## Part 5 Housing

### Policy Background

**5.1** The NPPF states that local planning authorities should deliver a wide range of high quality homes and create sustainable, inclusive and mixed communities. Local planning authorities are required to plan for a mix of housing to meet the need of different groups in the community, including older people, people with disabilities and people wishing to build their own homes.

**5.2** Paragraph 50 of the NPPF provides the basis for Strategic Policy S8 and Policy HO1 of the new draft Local Plan set out the justification for requiring planning obligations in respect of self-build homes and Specialist Residential Accommodation.

**5.3** Strategic Policy S8 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.

**5.4** Policy HO1(Ci) requires, within all new developments of more than 100 dwellings, a minimum of 5% self-build homes, which can include custom housebuilding.

**5.5** Policy HO1(Cii) requires all new developments of more than 100 dwellings to provide Specialist Residential Accommodation (including Independent Living), taking account of local housing needs.

### Definition of Self-Build or Custom Housebuilding

**5.6** 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.

**5.7** 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.

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

- individual self/custom build – an individual purchases a plot of land and builds 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 plots and provides a design and build service to purchasers. This gives people a chance to customize existing house designs to suit their needs and can sometimes offer a chance to finish the house internally.

## 5 Housing

- **Community-led** – community led housing projects who help a group of people to build mostly affordable homes together, either individually or in cooperation with a builder or housing provider. This could utilize 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 constituted 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 or Custom Housebuilding?

**5.9** 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.

**5.10** The register provides information on the number of individuals and associations on the housing 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 and Housing Implementation Strategy.

**5.11** At the time a planning application is submitted, the Council will review the requirement to provide a minimum of 5% self-build or custom housebuilding against the local housing need requirement for self-build and custom housebuilding and the preferences of the people on the register.

**5.12** Whilst not all sites and locations will meet the specific requirements of local demand, where there is local demand for the location and/or type of housing proposed, self-build or custom housebuilding provision in accordance with the quantum set out in Policy HO1(Ci) will be required.

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

### What is the definition of a serviced plot of land?

**5.14** 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.

**5.15** 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.

**5.16** 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

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

**5.18** Where there is evidence of local demand for serviced plots, providers should seek to provide a mix of serviced plots to meet the range of demand and affordability evidenced by the local demand.

**5.19** 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.

**5.20** Self-build and custom housebuilding will not be considered as part of the affordable housing obligations set out in Policy HO2, unless the accommodation is subject to suitable restrictions on occupation and price.

### Design Requirements

**5.21** To ensure that self-build and custom housebuilding is of high quality design, sites with multiple serviced plots or other forms of self-build or custom housebuild provision, will be required to be supported by a Design Code.

**5.22** A Design Code should be prepared 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 vary depending on the amount of development proposed and the context of the site.

**5.23** A Design Code may include the following:

- Building height, massing and bulk
- Plot size and width
- Plot ratios, site coverage and density
- Urban grain – street and building pattern and connectivity
- Building orientation
- Landscaping and public realm
- Building frontage and townscape features
- Materials
- Car parking and cycle access and provision
- Provision of waste and recycling storage

**5.24** The Council will support the use of Plot Passports for self-build and custom housebuilding development where supported by a Design Code.

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**5.25** Plot passports can provide potential plot purchasers with a simple and concise summary of the design parameters for a specific plot. It should clearly show the location, permissible building lines, heights and footprints 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.

**5.26** The Council recognizes 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 new Local Plan.

**5.27** All residential development, including self-build and custom housebuilding should comply with the relevant Local Policies set out in the new draft Local Plan.

### CIL exemption

**5.28** 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 (three years)

**5.29** 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.

### SI06 Agreement

**5.30** To secure 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 design requirements of self-build or custom housebuilding to be provided.

**5.31** The section 106 agreement will mirror the terms of the CIL Regulations 2010 (as amended) exemption provisions and ensure that the self-builder or custom housebuilders must remain as the occupant of the dwellings for a minimum of 3 years after completion.

**5.32** Providers will be required to market appropriately serviced plots and ensure they remain available for at least 12 months. 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-custom housebuilding back to market housing will be liable for the full CIL liability.

**5.33** The Council will require self-build or custom housebuild plots to be commenced within three years of a plot being purchased. If a purchased plot has not commenced within three years the purchasers will be refunded the original price by the plot provider and the plot will revert to market housing.

**5.34** If a self-build or custom housebuild plot also meets the affordable housing requirements set out in Policy HO2, there will be a restriction on the rent and sale price of the property on equivalent terms to those applied in the Council's template Section 106 Affordable Housing Schedule each time it is relet or a disposal occur. These terms are applied in Perpetuity unless on an equity share product, 100% of the equity has subsequently been purchased.

### Definition of Specialist Residential Accommodation

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

**5.36** 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.

**5.37** Supported living can be delivered in a range of settings, including individual flats or houses shared accommodation or clusters. Supported living refers to the way support is organized rather than specifying one type of accommodation that is required.

**5.38** 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?

**5.39** 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 an application is submitted.

**5.40** The quantum of Specialist Accommodation sought will depend on the scale and type of market accommodation proposed and the viability of the proposed development to support the Specialist Residential Accommodation, taking into account the commercial model of the Specialist Residential Accommodation required.

**5.41** Further guidance on how the Council will assess the viability of proposed development is set out in Section 15.

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### Mix of Specialist Residential Accommodation

**5.42** At the time an application is submitted the Council will consider 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.

**5.43** The Council will also consult Essex County Council's to seek advice on their priority Specialist Residential Accommodation needs.

**5.44** 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 Position Statements regarding Independent Living for Older People and Adults with Disabilities published by ECC.

**5.45** Specialist Residential Accommodation will not be considered as part of the affordable housing obligations set out in Policy HO2, irrespective of whether the accommodation is subject to suitable restrictions on occupation and price, because it is meeting a different identified housing need.

### SI06 Agreement

**5.46** To secure 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 of the Specialist Residential Accommodation to be provided in perpetuity.



## Part 6 Affordable Housing

### Policy Background

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

6.2 Paragraphs 50 and 54 of the NPPF and Strategic Policy S8 and Policy HO2 of the new Local Plan set out the justification for requiring planning obligations in respect of securing affordable housing.

6.3 Strategic Policy S8 is supported by the Objectively Assessed Housing Need Study (OAHN) which evidences the need for the overall quantum of the housing requirement and the Strategic Housing Market Assessment, which identifies the need for new affordable homes.

6.4 Policy HO2 (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; or comprise a maximum combined floorspace of more than 1,000 square metres (gross internal area)

6.5 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;
- the tenure of units;
- the location of units;
- commuted sums in lieu of provision where appropriate.

### Definition of Affordable Housing

6.6 The definition of affordable housing that the City Council will use in applying this guidance accords with the National Planning Policy Framework.

### What is the method of Calculation for the Quantum of Affordable Housing?

6.7 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.

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

## 6 Affordable Housing

6.9 Policy HO2(A) applies to all self-contained dwellings, including Specialist Residential Accommodation that is self-contained, irrespective of whether care and support or additional facilities are provided.

6.10 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.

6.11 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.

6.12 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 percentage =  $35 \times 1 - (\text{existing vacant gross internal area} / \text{proposed gross internal area})$

6.13 In practice this means that if an existing vacant building has a gross internal area of 3000 sqm and the gross internal area of the proposed 60 dwellings is 4500 sqm, the Revised Affordable Housing percentage that will be required is 11.55% and the revised affordable housing contribution will equal 7 dwellings.

Table 1: Calculating Vacant Building Credit

Number of Dwelling	Vacant Building Gross Internal Area	Proposed Gross Internal Area of Residential Dwelling
60	3000 sqm	4500 sqm
Coefficient based on existing versus proposed areas	$3000/4500 = 0.67$	$1 - 0.67 = 0.33$
Revised Affordable Housing Percentage	$35 \times 0.33 = 11.55\%$	
Affordable Dwellings	Market Dwellings	Total Dwellings
7	53	60

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

6.15 Where the affordable housing sought does not result in whole numbers of units, the number of affordable dwellings will be rounded up to achieve the required percentage provision.

6.16 Where there is a proposal to increase the number of residential units on a site following grant of permission, the Council will apply Policy HO2(A) to the total number of residential dwellings on the site if the increase in the number of units takes the total on the site to 11 units or more or the combined floorspace exceeds 1,000 square metres (gross internal area)

6.17 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.

6.18 Once the affordable housing requirement quantum has been calculated, all other parts of this section of the SPD will apply.

### Mix of Affordable Housing

6.19 To ensure new affordable provision is weighted to make a proportionate contribution to the assessed need, the City Council will expect the affordable housing to include 23.1% of the total number of dwellings within the development as either social or affordable rented accommodation. The balance, 11.9% of the total number of dwellings, should be provided as intermediate housing to reflect the Housing White Paper proposal that at least 10% of homes on major sites should be available for affordable home ownership.

6.20 The affordable housing provision should proportionately reflect the mix of market units in terms of the size of the dwellings and the proportion of flats and houses. The City Council will have regard to the latest Strategic Housing Market Assessment and shortages relative to supply in determining the optimum affordable housing mix by size and type.

### Location of Affordable Housing

6.21 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 Council may consider a financial contribution in lieu of on-site provision of broadly equivalent value on development sites which comprise between 11 and 15 units to improve the provision of temporary accommodation for homeless households.

6.22 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 the Open Market Value of the dwellings that would be affordable units, 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.

### Rural Exception Sites

6.23 In the circumstances described in Policy HO2(B) small, predominantly 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.

## 6 Affordable Housing

6.24 The Reasoned Justification for Policy HO2(B) identifies the Designated Rural Areas to which Policy HO2B applies.

6.25 All Rural Exception Site proposals must be accompanied by a local housing need survey which should contain the information set out the Reasoned Justification for the Policy HO2(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.

6.26 If a survey of local housing need supporting an application under Policy HO2(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.

6.27 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 HO2(B).

6.28 To ensure future occupancy from within the parish-wide survey area, applicants should plan to meet, in aggregate, not more than 50% of the identified local housing need for affordable housing.

6.29 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 Exception Sites to work in partnership with the Rural Housing Enablers and Parish Councils to identify the local housing need.

6.30 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.

## Part 7 Physical Infrastructure - Highways, Access and Transport

### Policy Background

**7.1** Section 4 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.

**7.2** Strategic Policy SI 1 sets out the infrastructure required to facilitate the development set out in the new draft Local Plan.

**7.3** Strategic Policy SI 2 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 provider. 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.

**7.4** In negotiation planning obligations the Council will consider local and strategic infrastructure needs and financial viability.

### Possible SI 06 Obligations

**7.5** 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.

**7.6** 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 such highway infrastructure obligations. Development proposals need to mitigate their own impact through the provision of appropriate mitigation measures. These may include:

- Access road from the highway into the site.
- Bus Priority/ Chelmsford Rapid Bus Transit (ChART)
- Bus services and infrastructure.
- Contributions to Car Clubs/Care Sharing Schemes.
- Cycle and footway links/improvements/crossing
- Cycle/footbridges.

## 7 Highways, Access and Transport

- Link roads.
- New junctions.
- New roads.
- Pedestrian crossings.
- 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

**7.7** 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 in an adoptable standard. In general, the developer is obliged to submit suitable detailed engineering drawings to the Authority prior to any commencement of the development on site, for the Highway Authority's approval.

**7.8** 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.

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

### Maintenance Payments

**7.10** 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 will require a commuted sum from the developer to maintain that infrastructure for 15 years after adoption.

### Further Information

#### Insurance

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

#### Bonds

**7.12** 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.

**7.13** 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 price.

## **8 Flood Protection and Water Management**

### **Part 8 Physical Infrastructure – Flood Protection and Water Management**

#### **Policy Background**

8.1 Section 10 of the NPPF deals with the challenge of climate change, flooding and coastal change. It states that planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations.

8.2 Strategic Policy S3 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, secured and implemented. New development should not worsen flood risk elsewhere.

8.3 Strategic Policy S6 sets out that new development will be expected to incorporate multifunctional 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.

8.4 Strategic Policy S12 clarifies that planning permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by a proposal and that such capacity is sustainable over time.

8.5 Policy NE3 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.

8.6 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**

8.7 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.



8.8 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.

8.9 As the Lead Local Flood Authority, Essex County Council has produced a Surface Water Management Plan for the urban area of Chelmsford (2014). There may be instances where individual sites come forward for development, which in turn raise 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

8.10 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

8.11 Where the flood protection and water management infrastructure works include items with the possibility of major maintenance requirements or where works are beyond the usual specification, the Council will require a commuted sum from the developer to maintain that infrastructure for 15 years after adoption.

### Part 9 Green and Blue Infrastructure – Recreation and Leisure

#### Policy Background

9.1 The NPPF states that the planning system has an important role in facilitating social interaction and creating healthy, inclusive communities. Access to high quality open space and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

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

9.3 Strategic Policy S7 states that new facilities will be accessible to the community and secured by a range of funding measures, including planning obligations.

9.4 Strategic Policy S11 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.

9.5 Strategic Policy S12 describes some of the mitigation measures that will be required where additional infrastructure capacity is required.

9.6 When delivering new community facilities, Policy CFI 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.

9.7 The planning system can play an important role in creating healthy communities. Policy MP2 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.

9.8 Policy MP4 and Appendix A of the new Local Plan provide further requirements for the provision open space that applies to all new dwellings.

#### Possible S106 Obligations

##### Open Space

9.9 Sufficient space and recreation facilities should be provided to meet the needs of a development and should be secured in perpetuity. The future maintenance and management of such provision will also need to be agreed.

9.10 Local Open Space in its entirety should be provided in accordance with the requirements of the site policies and Appendix A of the new 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.

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

- Country parks.
- Natural green space.
- Outdoor sports and changing facilities.
- Parks, Sport and Recreation grounds.

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

9.13 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 summarized in table 12 of Appendix A of the new Local Plan and table 13 of Appendix A provides the quantity standard for accessible Local Open Space and Strategic Open Space.

9.14 Paragraph A.24 of Appendix A of the new Local Plan converts the quantity standards in table 13 to a dwelling requirement of 40 sq. per dwelling for Strategic Open Space and Local Open Space Requirement of 19 sqm per dwelling, producing a total requirement of 59 sqm per dwelling.

9.15 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. This may form part of a sustainable drainage system.

## 9 Recreation and Leisure

9.16 Table 14 of Appendix A of the new Local Plan provides the threshold for on or off-site provision of open space and is replicated below:

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.

9.17 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:

### Local Open Space Formula:

Type of Open Space	(A) Quantity standard (ha/1000 population)	(B) Council Rate per Ha	(C) Contribution per 1000 population (A x B)	(D) Rate per person (C/1000)	(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				
Total	0.80	£1,483,000	£442,738	£442.74	£1,063

9.18 The Local Open Space formula is based on the 'Chelmsford Open Space Study 2016-2036', the Spons 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.

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

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

9.21 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'.

**Strategic Open Space Formula:**

Type of Open Space	(A) Quantity standard (ha/1000 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, sports 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
Total				£1,863

9.22 The Natural Green Space formula is based on the ‘Chelmsford Open Space Study 2016-2036’, the Spons External Works, Landscape Price Book and Council Maintenance Data.

9.23 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.

9.24 The contribution for ‘Parks, Sports and Recreation grounds’ also includes 15% cost for external works, car park, warranties and fees.

**Waterways**

9.25 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.

### **Maintenance Payments**

9.26 An appropriate maintenance contribution will be required for all open space provided on-site. This will be calculated according to the landscape layout and quantified elements to be provided by the developer. Should a developer wish to self-manage such areas the Council would consider this subject to public access and agreeing a maintenance specification and inspection regime, secured through a legal agreement.

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

9.27 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.

## Part 10 Green and Blue Infrastructure - Environmental Mitigation

### Policy Background

10.1 Paragraph 109 of the NPPF seeks to conserve and enhance the natural environment. It states that the planning system should contribute to and enhance the natural and local environment. It seeks for the planning system to minimise impacts on biodiversity and provide net gains in biodiversity where possible, thereby contributing to the Government's commitment to halt the overall decline in biodiversity. Remediating and mitigating despoiled, degraded, contaminated and unstable land are other ways of enhancing the environment. Furthermore, the NPPF seeks to conserve and enhance the historic environment. Paragraphs 131 of the NPPF seek to sustain and enhance the significance of heritage assets.

10.2 Paragraph 118 of the NPPF states that where significant harm to the environment resulting from a development proposal cannot be avoided, adequately mitigated, or, as a last resort, compensated for, planning permission should be refused. Paragraph 133 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 of loss is necessary to achieve substantial public benefits or outweigh that harm or loss.

10.3 Strategic Policy S3 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.

10.4 Strategic Policy S5 seeks to protect and enhance the historic environment whilst Strategic Policy S6 commits the Council to conserving and enhancing the natural environment.

10.5 Strategic Policies S11 and S12 require new development to provide, contribute and mitigate its impact on green and natural infrastructure by contributing towards a multifunctional network of green infrastructure and enhance biodiversity. It also requires development to contribute towards recreation disturbance avoidance and mitigations measures for European designated sites.

10.6 The sustainability requirements the Council expects of dwellings and non-residential buildings is set out in Policy MP3, whilst the requirement for development to avoid unacceptable levels of polluting emissions from noise, light smell, fumes vibrations and other issues unless appropriate mitigation measures can be put in place, is set out in Policy PA1.

10.7 Policy PA2 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

10.8 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.

## 10 Environmental Mitigation

10.9 Measures required to mitigate the impacts of recreational disturbance on European Protected Sites will be delivered as detailed in the Essex coastal Recreational Disturbance Avoidance Mitigation Strategy (RAMS)

10.10 Any residential development that is likely to affect the integrity of European Sites, will be required to either contribute towards mitigation measures identified in the RAMs or an Essex-wide Supplementary Planning Document that is being developed by Essex County Council. In exceptional circumstances, on-site bespoke mitigation measures might be identified and required to ensure compliance with Habitat Regulations.

10.11 Some cases may require payments, other cases may require the details of the 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. Environmental matters which may be included in a Section 106 Agreement include, but are not limited to:

- Major Contamination issues.
- Biodiversity Offsetting
- Ecological Mitigation/Remediation.
- Climate Change Mitigation.
- Environmental enhancements.

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

10.12 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.

10.13 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

10.14 Further information on Biodiversity Offsetting can be found at:

<https://www.gov.uk/biodiversity-offsetting>

10.15 This covers all aspects of Biodiversity Offsetting and offers links to useful guidance documents produced by Natural England and DEFRA. These include a guide for developers and information on pilot schemes taking place.

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



## Part II Community Infrastructure – early years, childcare and education

### Policy Background

II.1 As set out in paragraph 72 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.

II.2 Strategic Policy S7 recognises that an important element of sustainable development is the provision and protection of community uses such as schools.

II.3 Strategic Policies S11 and S12 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.

II.4 Policy CFI focuses on the accessibility of new community facilities by sustainable modes of transport and to the multitude of users that will access them.

II.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

II.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 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.

II.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.

II.8 Appendix 2 provides details of the contribution form for specific items of early years, childcare and education infrastructure for each site referenced in the new draft 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 new draft Local Plan.

II.9 A new secondary school will be required on-site to support the strategic growth in North East Chelmsford.

II.10 New development in Great Leighs will be required to contribute to the expansion of Notley High School in Braintree District Council.

II.11 The education contributions identified through the CIL Regulation 123 list will contribute to the expansion of existing primary and secondary education facilities in Chelmsford to meet the cumulative growth impact of new development not specifically identified in the new draft Local Plan.

## 11 Early years, Childcare and Education

### Provision of works

11.12 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.

11.13 Where appropriate Section 106 Agreements will seek to secure a community use agreement for the public use of school sports facilities, and a separate contribution will be levied for this purpose. 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.

## Part 12 Community Infrastructure – Health and Social Wellbeing

### Policy Background

12.1 Paragraph 171 of the NPPF states that local authorities should work with public health leads and health organisations to understand and take account of the health status and needs of the local population.

12.2 An important element of creating sustainable communities is the provision and protection of community uses such as health and recreation. Strategic Policy S7 requires the protection and enhancement of community assets.

12.3 Strategic Policies S11 and S12 state that new development must provide a range of infrastructure including health and wellbeing facilities and measures that mitigate the impact of new development.

12.4 Policy CFI provides the requirements for community facilities for planning permissions to be granted and Policy MP3 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

12.5 New healthcare provision, such as new GP surgeries and other primary healthcare facilities and services, may be provided through Section 106 Agreements in the following circumstances:

- Where a small number of large sites generate the need for a primary healthcare facility pooled Section 106 contribution will be required;
- S106 resources will be sought to fund initiatives such as play schemes, Healthy Walks (Heart & Sole), and fitness/sports participation including older persons.

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

12.6 The timing for the provision of such healthcare facilities 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.

### Part 13 Community Infrastructure – Social and Community Facilities

#### Policy Background

13.1 Paragraph 70 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.

13.2 Strategic Policies S7, S11 and S12 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.

13.3 Policy CPFI 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

13.4 For large scale strategic development of 500+ new residential units the City 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.
- The ability, or otherwise, of nearby existing facilities to serve the community.
- The individual needs and requirements of the locality.

13.5 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

13.6 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.

## Part 14 Community Infrastructure - Public Realm and Public Art

### Policy Background

14.1 Section 7 of the NPPF states that the Government attaches great importance to the design of the built environment. It is important to plan positively for high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development proposals.

14.2 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.

14.3 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 developments and in the public realm.

14.4 Strategic Policies S7, S11 and S12 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.

14.5 Policies CFI and MP2 are the 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 2019.

### Possible S106 Obligations

14.6 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

14.7 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.
- 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.

## 14 Public Realm and Public Art

### Public Art

14.8 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.
- On developments with a floorspace of 1,000sqm or more.

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

#### Public Realm

14.9 Public realm improvements will usually be required to be completed prior to the first occupation of a development. 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. Development will not commence until the developer has submitted to, and received written approval for a Public Realm Scheme, from the City Council.

14.10 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 Agreement.

#### Public Art

14.11 The commissioning of public art work 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 the 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 work, but will usually be expected to be completed prior to first occupation of a development.

## Part 15 Implementation of this Planning Obligations SPD

### Negotiations/Viability

15.1 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.

15.2 The Local Plan Viability Study including CIL Review (Viability Study), uses a Residue 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 Residue Value exceeds the Existing Use Value by a satisfactory margin, a scheme is judged to be viable.

15.3 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 new draft Local Plan is viable and will be able to bear the range of developer contributions and CIL at the adopted rate.

15.4 The use of further viability assessments at the decision-making stage should not therefore be necessary. 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 new draft Local Plan. The applicants should provide evidence of what has changed since the Viability Study supporting the new draft Local Plan was conducted.

15.5 Where an Applicant formally requests the City Council to consider a reduced level of obligations for a scheme, a full viability report, prepared by the Applicant, should be enclosed as part of the submission of the planning application.

15.6 The information to be provided as part of a Financial Viability Assessment on any development scheme can be found on the City Council's Validation Requirements List (see Financial Viability Checklist). This list includes all documents that should be submitted with a planning application, and details on the content of the Financial Viability Assessment.

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

15.8 Essex County Council have 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 set out in this SPD but provides additional advice and guidance on the information requirements and approach taken when assessing viability at the decision-making stage.

15.9 The viability assessment will need to address the fundamental issue of whether an otherwise viable development is made unviable by the extent of the planning obligations and CIL requirements. The assessment will need to derive a Residual Value for a proposed scheme, which can then be compared against the Existing Use Value or in certain circumstances an Alternative Use Value.

## 15 Implementation

15.10 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.

15.11 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.

15.12 If the Applicant can demonstrate, to the satisfaction of the City 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

15.13 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.

15.14 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 Services team. Applicants will be expected to meet the Council's reasonable costs incurred in preparing or approving an Undertaking.

15.15 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 3 months from the Land Registry, or if the land is unregistered, copies of the most recent conveyance.

### Financial Contributions

15.16 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.

15.17 It is reasonable to expect that, when contributions are paid to the Council the monies will be held in an interest-bearing account. Those that 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 have are required beyond 2036.



## Index Linking

15.18 All financial contributions will be subject to indexation from the date of adoption of this SPD. The indexation period will therefore start with the date of adoption and end with the date when each payment becomes due. The indices to be used are the BIS 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.

## Monitoring and Enforcement of Obligations

15.19 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. A monitoring fee will be charged and this will be based on the number of clauses to be monitored and the reasonable costs incurred by the Planning Contributions Officer. This fee is payable prior to commencement of the development. However, a monitoring fee will not be charged in cases where a CIL payment is also required for the same development, as an element of the administration costs forms part of the CIL payment.

15.20 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 instalments. 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.

15.21 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.

## Reporting on the use of Section 106 Obligations

15.22 The Council will report at least annually on Section 106 monies received, held and spent and this will be available on the City Council's website. It is likely to be produced in conjunction with the annual report on CIL, which the Council is obliged to produce under the CIL Regulations. Such reports will include the following:

- Information relating to money received and for what purpose.
- Information about schemes funded through Section 106 monies.

## Appendix I

### Community Infrastructure Levy

#### Regulation 123 List

#### Local Development Framework 2001 – 2021

Chelmsford City Council, as CIL Charging Authority, is expected to publish a list of infrastructure that it intends could be funded, wholly or partly by the Community Infrastructure Levy. The Regulation 123 List sets out the projects that are capable of being funded through CIL. This needs to include the infrastructure required for the delivery of the Council's adopted Development Plans.

The inclusion of a project or type of infrastructure on this list does not signify a commitment from the City Council to fund (either in whole or in part) the listed project or type of infrastructure through CIL. Nor does the order of infrastructure items within the list imply or signify any order of preference or priority for CIL funding. This list can be amended at any time, but when amended does require 'local consultation'.

CIL	Exclusions – S106
	Any site specific mitigation requirements
<b>Highways and Transportation</b>	
North East Chelmsford By-pass and full Boreham Interchange	-
Army and Navy Junction Improvements	-
Widford Park and Ride	-
Strategic Cycleway/Footway Improvements	-
<b>Education</b>	
Additional Primary and Pre-School provision to serve Chelmsford City Council area not specifically identified to support housing site allocations in the Local Plan	Proposed new schools located on site within the existing Local Development Framework and emerging Local Plan
	Other education provision to address the needs from housing site allocations in the Local Plan
Additional Secondary provision to be located at Greater Beaulieu Park School	Greater Beaulieu Park School itself is being secured through S106
Post 16 provision to be located at Greater Beaulieu Park School	Greater Beaulieu Park School itself is being secured through S106
<b>Recreation and Leisure</b>	
Improvements to Chelmsford Central Park and other existing Strategic Open Spaces	Strategic open space provided as part of the proposed development
Leisure Centre Improvements	-

<b>Health and Well-being</b>	
Improvements to Primary Healthcare provision to increase capacity	Improvements to existing Primary Healthcare provision if the proposed development generates the need for a new facility or service
Healthy Living and Well-being Initiatives	Healthy Living and Well-being Initiatives where there is an on-site need
<b>Flood Protection</b>	
Chelmsford Flood Alleviation Scheme (FAS) and related strategic flood protection measures	
<b>Public Realm and Environment</b>	
Chelmsford Station Square Public Realm Improvements	
Chelmsford High Street Public Realm Improvements	-
Public Realm Improvements at Neighbourhood Centres	-
Improvements to Landscape, Habitats and Access to the Countryside	

There is still the need to mitigate all specific site-related impacts arising from development proposals in order for them to be acceptable in planning terms. These will be secured through Section 106 Planning Obligations. Further guidance is set out in the City Council's Planning Obligations SPD. CIL receipts cannot be spent on infrastructure types or specific projects which are to be funded by more than five separate Section 106 Planning Obligations. The count of five Section 106 Planning Obligations is retrospective to April 2010.

## 2 Appendix

### Funding of Infrastructure Required to Support Growth

#### Housing

Item	Infrastructure theme	Infrastructure type	Site related 1*	Site related 2	Site related 3	Site related 4	Site related 5	Site related 6	Site related 7	Site related 8	Site related 9	Pooled S106 – specific items 1	Pooled S106 – specific items 2	Pooled S106 – specific items 3	Pooled S106 – specific items 4	Pooled S106 – specific items 5	Pooled S106 – specific items 6	Pooled S106 – specific items 7	Pooled S106 – specific items 8	Pooled S106 – specific items 9	Pooled S106 – specific items - other sites	Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference
Self and Custom Build Homes	Housing	Self and Custom Build Homes																					Yes <sup>1</sup>			S8; HO1
Specialist Residential Accommodation	Housing	Specialist Residential Accommodation																					Yes <sup>1</sup>			S8; HO1
Affordable Housing	Housing	Affordable Housing																					Yes <sup>1</sup>			S8; HO2

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

## Physical Infrastructure

Item	Infrastructure theme	Infrastructure type	Site related 1*	Site related 2	Site related 3	Site related 4	Site related 5	Site related 6	Site related 7	Site related 8	Site related 9	Pooled S106 – specific items 1	Pooled S106 – specific items 2	Pooled S106 – specific items 3	Pooled S106 – specific items 4	Pooled S106 – specific items 5	Pooled S106 – specific items 6	Pooled S106 – specific items 7	Pooled S106 – specific items 8	Pooled S106 – specific items 9	Pooled S106 – specific items - other sites	Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference
A12 Chelmsford to A120 widening scheme	Physical	Highways, Access and Transport																						Yes		S11; S12
A131 Chelmsford to Braintree route-based improvements	Physical	Highways, Access and Transport																						Yes		S11; S12
Beaulieu Railway Station	Physical	Highways, Access and Transport				4																		Yes		S11; S12
Broomfield Hospital Access Road	Physical	Highways, Access and Transport														6					SPA1					S11; S12; SPA1
Bus Priority/Chelmsford Rapid Bus Transit (ChART)	Physical	Highways, Access and Transport				4																				S11; S12
Bus Services and Infrastructure	Physical	Highways, Access and Transport		2	3	4	5	6	7										8				Yes			S7; S11; S12; CF1
A12 J19 Boreham Interchange Improvements	Physical	Highways, Access and Transport																						Yes		S11; S12
Cycle and Footway Links/ Improvements/ Crossings	Physical	Highways, Access and Transport		2	3	4	5	6	7			1	2	3	4	5	6									S11; S12
Cycle/footbridge over Essex Regiment Way	Physical	Highways, Access and Transport													4		6									S11; S12
Cycle/footbridge over B1012	Physical	Highways, Access and Transport							7																	S11; S12
Cycle/footbridge over Chelmer and Blackwater (Mallard Bridge)	Physical	Highways, Access and Transport	1f																							S11; S12
Cycle/footbridge to ARU site and Springfield Hall Park	Physical	Highways, Access and Transport	OS1																							S11; S12

## 2 Appendix

### Physical Infrastructure

Item	Infrastructure theme	Infrastructure type	Site related 1*	Site related 2	Site related 3	Site related 4	Site related 5	Site related 6	Site related 7	Site related 8	Site related 9	Pooled S106 – specific items 1	Pooled S106 – specific items 2	Pooled S106 – specific items 3	Pooled S106 – specific items 4	Pooled S106 – specific items 5	Pooled S106 – specific items 6	Pooled S106 – specific items 7	Pooled S106 – specific items 8	Pooled S106 – specific items 9	Pooled S106 – specific items - other sites	Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference
Estate/Link Roads and Internal Cycle and Footways	Physical	Highways, Access and Transport																					Yes			S11; S12
Chelmsford North East Bypass – single carriageway section	Physical	Highways, Access and Transport				4																				S11; S12
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		S11; S12
Chelmsford North East Bypass – full dual carriageway	Physical	Highways, Access and Transport													4	5	6				Dev't in south of Braintree District			Yes		S11; S12
Outer Radial Distributor Road (RDR2)	Physical	Highways, Access and Transport				4																				S11; S12
Park and Ride – NE Chelmsford	Physical	Highways, Access and Transport				4																Yes				S11; S12
Park and Ride – Widford Area	Physical	Highways, Access and Transport																				Yes				S11; S12
Park and Ride – Sandon Area	Physical	Highways, Access and Transport			3b																	Yes				S11; S12
Road junction improvements	Physical	Highways, Access and Transport	1	2	3	4	5	6	7	8	9															S11; S12
Sandford Mill Access Road	Physical	Highways, Access and Transport			3a																					S11; S12

## Physical Infrastructure

Item	Infrastructure theme	Infrastructure type	Site related 1*	Site related 2	Site related 3	Site related 4	Site related 5	Site related 6	Site related 7	Site related 8	Site related 9	Pooled S106 – specific items 1	Pooled S106 – specific items 2	Pooled S106 – specific items 3	Pooled S106 – specific items 4	Pooled S106 – specific items 5	Pooled S106 – specific items 6	Pooled S106 – specific items 7	Pooled S106 – specific items 8	Pooled S106 – specific items 9	Pooled S106 – specific items - other sites	Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference
Flood Protection and Water Management	Physical	Flood Protection and Water Management																					Yes <sup>1</sup>			S3; S6; S11; S12; NE3
Undergrounding Electricity Pylons	Physical	Utilities																					3a; 3c			S11; S12
Electricity Supply	Physical	Utilities																					Yes			S11; S12
Gas Supply	Physical	Utilities																					Yes			S11; S12
Potable Water Supply	Physical	Utilities																					Yes			S11; S12
Waste Water Supply	Physical	Utilities					5																Yes	Yes		S11; S12

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

## 2 Appendix

### Green and Blue Infrastructure

Item	Infrastructure theme	Infrastructure type	Site related 1*	Site related 2	Site related 3	Site related 4	Site related 5	Site related 6	Site related 7	Site related 8	Site related 9	Pooled S106 – specific items 1	Pooled S106 – specific items 2	Pooled S106 – specific items 3	Pooled S106 – specific items 4	Pooled S106 – specific items 5	Pooled S106 – specific items 6	Pooled S106 – specific items 7	Pooled S106 – specific items 8	Pooled S106 – specific items 9	Pooled S106 – specific items – other sites	Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference
Allotments and Community Gardens	Green and Blue	Recreation and Leisure Facilities		2		4			7			1		3		5	6					Yes				S11; S12; MP4
Children's Play and Youth Facilities	Green and Blue	Recreation and Leisure Facilities	1	2	3	4	5	6	7			1														S7; S11; S12; CF1
Indoor Sports Facilities	Green and Blue	Recreation and Leisure Facilities				4																Yes				S7; S11; S12; CF1
Outdoor sports and changing facilities	Green and Blue	Recreation and Leisure Facilities		2		4			7			1		3		5	6									S7; S11; S12; CF1
Local Open Space	Green and Blue	Recreation and Leisure Facilities																					Yes <sup>1</sup>			S7; S11; S12; CF1, MP2; MP4
Country Park	Green and Blue	Recreation and Leisure Facilities			3	4																				S7; S11; S12; CF1; MP2
Strategic Landscaping	Green and Blue	Recreation and Leisure Facilities																					Yes			S11; S12
Environmental Mitigation	Green and Blue	Environmental Mitigation																					Yes <sup>1</sup>			S3; S5; S6; S11; S12; MP3; PA1; PA2
RAMs	Green and Blue	Environmental Mitigation												3				7	8	9						S11; S12
Archaeology	Green and Blue	Environmental Mitigation																					Yes			S5, S11; S12; HE3
Waterways	Green and Blue	Environmental Mitigation																					Yes <sup>1</sup>			S11; S12

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



## Community Infrastructure

Item	Infrastructure theme	Infrastructure type	Site related 1*	Site related 2	Site related 3	Site related 4	Site related 5	Site related 6	Site related 7	Site related 8	Site related 9	Pooled S106 – specific items 1	Pooled S106 – specific items 2	Pooled S106 – specific items 3	Pooled S106 – specific items 4	Pooled S106 – specific items 5	Pooled S106 – specific items 6	Pooled S106 – specific items 7	Pooled S106 – specific items 8	Pooled S106 – specific items 9	Pooled S106 – specific items - other sites	Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference
Early Years and Childcare – stand alone provision	Community	Early Years, Childcare and Education Facilities		2	3b	4		6	7			1c; 1e										Yes				S7; S11; S12; CF1
Primary Education (incl. shared EY&C provision)	Community	Early Years, Childcare and Education Facilities				4	5a		7				2									Yes				S7; S11; S12; CF1
Primary Education – expansion of existing provision	Community	Early Years, Childcare and Education Facilities										1		3			6	7				Yes				S7; S11; S12; CF1
Secondary education – new provision	Community	Early Years, Childcare and Education Facilities				4											6									S7; S11; S12; CF1
Secondary education – expansion of existing provision	Community	Early Years, Childcare and Education Facilities														5						Yes				S7; S11; S12; CF1
Health and Social Wellbeing	Community	Health and Social Wellbeing										1	2	3	4	5	6	7	8			Yes				S7; S11; S12; CF1, MP2

## 2 Appendix

### Community Infrastructure

Item	Infrastructure theme	Infrastructure type	Site related 1*	Site related 2	Site related 3	Site related 4	Site related 5	Site related 6	Site related 7	Site related 8	Site related 9	Pooled S106 – specific items 1	Pooled S106 – specific items 2	Pooled S106 – specific items 3	Pooled S106 – specific items 4	Pooled S106 – specific items 5	Pooled S106 – specific items 6	Pooled S106 – specific items 7	Pooled S106 – specific items 8	Pooled S106 – specific items 9	Pooled S106 – specific items - other sites	Other developer contributions CIL	Items covered by secondary infrastructure	Other funding sources	No specific infrastructure requirement	Policy reference
Community Centres	Community	Social and Community Facilities							7				2	3	4	5	6					Yes				S7; S11; S12; CF1; MP4
Libraries	Community	Social and Community Facilities																				Yes				S7; S11; S12; CF1
Public Realm and Public Art	Community	Public Realm and Public Art																					Yes <sup>1</sup>			S7; S11; S12; CF1; MP2
Ambulance	Community	Other community infrastructure																							Yes	S11; S12
Fire	Community	Other community infrastructure																							Yes	S11; S12
Police	Community	Other community infrastructure																				Yes				S11; S12
Burial Space	Community	Other community infrastructure																				Yes				S7; S11; S12; CF1
Municipal Waste	Community	Other community infrastructure																				Yes				S11; S12
Broadband	Community	Other community infrastructure																					Yes			S11; S12; MP7

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

Site/location	Site/location ref.
Central and Urban Chelmsford	1
West Chelmsford	2
Land E. of Chelmsford/N. of Gt 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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Planning and Housing Policy  
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