

Stroud District Local Plan:  
Planning Obligations  
Supplementary Planning Document

April 2017

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## **Part 1: Policy and procedure**

### **1. Purpose and status**

- 1.1 This Supplementary Planning Document (SPD) sets out Stroud District Council's (the Council) approach to planning obligations when considering planning applications for development in Stroud District.
- 1.2 Planning obligations are negotiated between local authorities and developers in the context of granting planning permission. They provide a means to ensure that a proposed development contributes to the provision of necessary infrastructure and facilities required by national and local planning policies.
- 1.3 The purpose of the SPD is to provide clarity to developers, stakeholders and local neighbourhoods regarding the basis on which planning obligations will be sought. It details the obligations that may be required from different types and quantum of development and sets out the basis on which the level of obligation will be calculated, where appropriate.
- 1.4 This SPD supplements Policy CP6 of the adopted Stroud District Local Plan which seeks to ensure infrastructure is in place at the right time to meet the needs of the District and to support the development strategy. This SPD also provides detail on how other policies related to infrastructure provision in the Local Plan will be implemented. This SPD is in conformity with these policies and consistent with national policy. Consequently, this SPD is an important material consideration in the decision-making process.
- 1.5 The development plan for Stroud District also includes waste and minerals local plans and neighbourhood development plans. The specific requirements of these other plans are not set out in this SPD and will need to be taken into consideration by developers.

### **2. The Council's approach to planning obligations and CIL**

- 2.1 The Council has implemented a Community Infrastructure Levy (CIL) for Stroud District, in order to secure contributions from development to support growth. Consequently, this SPD deals only with affordable housing provision and site-specific obligations necessary to make development acceptable in land use terms.
- 2.2 To ensure developers do not pay twice for the same items, the Council has published a Regulation 123 list of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL. Now that CIL is in place, these types of infrastructure cannot be funded through Section 106 planning obligations.

### **3. National and local policy context**

- 3.1 The legislative framework for planning obligations is set out in Section 106 of the Town & Country Planning Act 1990, as amended by Section 12 of the 1991 Planning and Compensation Act.

- 3.2 Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and Paragraph 204 of the NPPF set out the following tests that must be satisfied in order for obligations to be required in respect of development proposals:
- the obligation must be necessary to make the proposed development acceptable in planning terms;
  - the obligation must be directly related to the proposed development;
  - the obligation must be fairly and reasonably related in scale and kind to the proposed development.
- 3.3 Regulation 123 of the Community Infrastructure Levy (CIL) Regulations prevents the pooling of Section 106 contributions from more than five developments to enable the provision of new infrastructure. However, the provision of affordable housing remains within the remit of Section 106 obligations.
- 3.4 The National Planning Policy Framework at paragraph 203 advises that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 3.5 The Stroud District Local Plan was adopted in November 2015 and sets out the development strategy and policies for delivering growth in the District to 2031. To support the level of development set out in the Plan, Core Policy CP6 requires contributions towards the delivery of additional or improved infrastructure where there is a need.
- 3.6 In addition, the following policies in the Local Plan require the provision of infrastructure to meet the needs of development:
- EI12 – Transport infrastructure
  - ES11 – Canals
  - ES14 – Natural green space
  - ES15 – Outdoor play space
  - ES16 – Public art
- 3.7 Core Policy CP9 of the Local Plan sets out the policy requirements relating to affordable housing and Delivery Policy HC4 provides the policy framework for rural exception sites.

#### **4. Priorities**

- 4.1 Part 2 of this SPD sets out the different types of planning obligations which a development may be required to address. It is not possible to provide a priority list of planning obligations that may be sought, as the relative importance of an obligation will depend on the development proposal being considered. This will be a judgment to be made by the Council when considering the planning application.
- 4.2 In coming to a decision on priorities, the Council will have regard to the Local Plan; any adopted Neighbourhood Plans; advice from statutory consultees including town and parish councils, the financial viability of the proposals if necessary; and individual site characteristics.

## **5. Procedures**

- 5.1 Developers are strongly advised to initiate negotiations at a pre-application stage with officers of the Council, since it may be necessary to take into account several potential planning obligations in their calculations of the development value of a site and to ensure that they are reasonable and related in scale and kind. Staff in the Development Control section of the Planning service act as the first point of contact. They will outline to developers the areas where planning obligations may be required at the preliminary stages of their development appraisals, and liaise with their colleagues in other services and councils. The Council stresses the importance of pre-application discussions, as this can significantly reduce the time taken to reach the release of a planning permission.
- 5.2 Planning obligations will usually be negotiated by the Council with applicants / developers, although all landowners will need to be party to any formal deed which will set out the obligations. On occasion, separate documents will need to be entered into with other statutory bodies under separate legislation (e.g. highway works will be the subject of Section 278 Highways Act 1980 agreements with the Highways Authority).
- 5.3 The applicant will be required to pay the Council's legal costs in connection with the preparation and execution of an agreement. The Council's Solicitor will require an undertaking from the Solicitor acting on behalf of the applicant to pay the Council's reasonable legal costs in full whether or not the agreement is completed. The Council is prepared to provide an estimate of costs at the commencement of the legal process.
- 5.4 Councillors are able to publicly debate the contents of planning obligations at the Development Control Committee. Also, draft and final planning obligations will be available on a public register kept by the Council.
- 5.5 The developer will be expected to produce planning obligations promptly in the event of appeals to the Planning Inspectorate.
- 5.6 A flowchart showing procedural stages of the consideration of planning obligations (from pre-application advice to the granting of a planning permission) is set out in Appendix A.

## **6.0 Timing and phasing of provision**

- 6.1 The Council will expect planning obligations to match the additional demands that the development creates on existing services, landscape, ecology, amenity and infrastructure as they arise. Hence the Council may specify the point(s) at which obligations need to be implemented. Within a comprehensive development scheme it may be necessary to require some infrastructure as part of a first phase to ensure new residents/employees have the necessary amenities upon initial occupation of the first units. There may even be occasions where an obligations to fund will need to be paid no later than commencement of the development.

- 6.2 Developers will be expected to volunteer payments when triggers are reached. The Council will work with developers to find solutions in cases where they have difficulty in making payments at the trigger set out in the agreement. However, where it is imperative that the relevant measure is in place prior to a development being occupied, the obligations to fund it will always become payable on commencement of the development. Late payments may accrue interest. The Council will enforce obligations through the relevant legal channels once all other reasonable approaches to remedying a failure to comply with the obligations have been exhausted. In such cases, the Council will seek to retrieve its legal costs in taking action against the party that is in breach of its obligations.
- 6.3 On matters where the details of the proposal are reserved for subsequent decision, it may be necessary to frame the planning obligation to ensure that payment towards the provision of facilities and infrastructure will be required and assessed on the basis of subsequent details.

## **7.0 Monitoring and enforcement**

- 7.1 Where a large development requires monitoring over time, and includes multiple clauses and/or triggers, the Council may, in exceptional circumstances, seek a contribution towards the cost of future monitoring made necessary by the approval of the development. However, a monitoring fee will not be required in cases where a CIL payment is due, in addition to the entering into of planning obligations.
- 7.2 The Council has the power to enforce obligations which are not complied with. In cases where enforcement action is required, the Council will also seek to recover any costs incurred in taking such action against the body breaching its obligations.

## **8.0 Maintaining the value of financial contributions**

- 8.1 In order to maintain the real value of a payment to the Council, as development progresses, it is usual for the financial sums required to be paid to be indexed linked. The indexation applied may vary depending upon the particular type of works to which the contribution will relate (e.g. CPI or BCIS).
- 8.2 All financial contributions calculated from formulae contained in this SPD will be index linked from the date of adoption of this SPD. Most other financial contributions are to be index linked to the date that Committee or delegated approval is given for the relevant planning application. The exception is where commuted maintenance payments are required and in these instances the payment will be index linked from the point at which the maintenance costs are agreed.

## **9.0 Viability**

- 9.1 The Council accepts that there may be occasions where the level of planning obligations required would render the development proposal unviable. Where the Council is satisfied that an otherwise desirable development cannot be fully policy compliant and remain viable, a reduced package of planning obligations may be accepted.

- 9.2 In such cases where the developer considers viability is an issue, the developer will be required to provide all necessary cost and income figures to the Council using a residual land value approach. This means that the starting point for a viability assessment is to be the existing use value (i.e. what the site is worth in its current condition for the use that it has planning consent for).
- 9.3 The Council may also commission District Valuer Services (or a suitably qualified and independent chartered surveyor) to consider the developer's assessment. The costs of this work are to be met by the developer. The information may be kept confidential if required by the developer.

## **Part 2: Types of contributions**

1. Affordable housing
2. Education
3. Flood risk alleviation and drainage measures
4. Green infrastructure
5. Social and health infrastructure
6. Transport
7. Other contributions



## 1. Affordable Housing

### Definitions

- 1.1 Affordable housing is a distinct housing product with specific ownership or management arrangements in place to protect it as an affordable home. Affordable housing is provided specifically for those households who cannot meet their needs in the open market. Affordable housing obligations will continue to be dealt with by Section 106 deeds (whether agreements or unilateral deeds) when CIL is introduced, as the latter does not apply to affordable housing.

#### Social rent

- 1.2 Social rented housing is owned by local authorities and private registered providers (also known as housing associations), for which rents are determined through the national rent regime. It may also be owned by other persons, subject to satisfying national requirements, and provided under equivalent rental arrangements as agreed with the local authority or with the Homes and Communities Agency. Generally speaking, social rented properties are let on secure or assured tenancy types. Households living in social rented properties may have the Right to Buy or the Right to Acquire full ownership of the property, subject to meeting various statutory criteria.

#### Affordable rent

- 1.3 Affordable rented housing is generally owned and managed by local authorities or registered providers. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable). Generally speaking, affordable rented housing is let on assured or secure tenancies. Households living in affordable rented properties may have the Right to Buy or the Right to Acquire full ownership of the property.

#### Intermediate

- 1.4 Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing. Shared ownership properties are the most common type of intermediate affordable housing and are a well-established affordable housing product.
- 1.5 Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.

#### Starter Homes

- 1.6 The 2017 White Paper proposed an income cap for starter homes, and stated that the NPPF will be amended to ‘introduce a clear policy expectation that housing sites deliver a minimum 10% of affordable home ownership units. It will be for local areas to work with developers to agree an appropriate level of delivery of starter homes,

alongside other affordable home ownership and rented tenures.’ Until the NPPF is revised, starter homes proposals will be considered on a site-by-site basis.

### Mortgageability

- 1.7 Some intermediate affordable homes to purchase may meet the definition of affordable housing, but can be extremely difficult for individual purchasers to secure a mortgage against. Where any doubt exists, the applicant will be expected to demonstrate that mainstream lenders will lend against that particular product at rates broadly comparable to average market rates.

### **Pre-application advice**

- 1.8 Planning and housing policy officers will be able to advise on general issues and policy requirements. The Council encourages the involvement of housing and planning policy officers, and input from registered providers, in early discussions when there is an opportunity to positively influence the design of a scheme and explore funding options to support a development.
- 1.9 A full breakdown of any affordable housing contribution (numbers, tenure split, unit size, location etc) should be provided to demonstrate how policy requirements will be addressed. An applicant/agent should discuss a potential scheme with registered providers and provide evidence of any discussions, including how comments raised have been addressed; funding options explored, and be able to demonstrate that the proposal is in line with the Council’s affordable housing priorities.

### **Written Ministerial Statement on the exemption of small sites from planning contributions**

#### Introduction

- 1.10 A Written Ministerial Statement (WMS) was laid before the House of Commons on 28 November 2014 which, amongst other things, indicated that planning contributions should not be sought for developments of 10 units or less. It was followed by additions to the online Planning Practice Guidance. However, on 31 July 2015 the High Court handed down judgment in *West Berkshire Council v SSCLG* (2015). The judgement found the policy expressed through the Written Ministerial Statement to be unlawful and quashed the relevant parts of the PPG. On 11 May 2016 the Court of Appeal handed down judgment in the Government’s appeal reversing the High Court order. Accordingly, the PPG was amended on 19 May 2016.
- 1.11 The Council’s current policy is to be found in Core Policy CP9 of the Local Plan and sets out that the Council will seek contributions for affordable homes on all developments of 4 dwellings or more. These contributions should be in the form of dwelling units rather than financial contributions, except in exceptional circumstances. The Local Plan is up to date and was adopted in November 2015, following examination.

- 1.12 Outlined in the statement below is the Council's position on the WMS and PPG and how it intends to take forward decisions where there is a conflict between local and national policy.

Consideration of the Written Ministerial Statement on small site exemption within the planning system

- 1.13 Whilst the WMS is clear with regard to the Government's intentions on planning obligations in relation to small sites, the weight to attach to a policy within the development plan and to other material considerations, in a given set of circumstances is a matter of discretion for the decision maker, a point expressly confirmed by the Court of Appeal. The conflict between Policy CP9 and the WMS still requires the decisions maker to assess the weight it attaches to both sides of that conflict, as well as other material considerations. Ultimately it is for the Local Planning Authority to decide on each relevant application whether there are sufficient local circumstances to allow the implementation of Policy CP9. These local circumstances are considered below.

Affordable housing need

- 1.14 The provision of housing in general in the district is established through the Local Plan process. The need for affordable housing in particular is determined by the Gloucestershire Strategic Housing Market Assessment. This document, along with any relevant updates, can be found on the council's website at [www.stroud.gov.uk](http://www.stroud.gov.uk). The Stroud Strategic Housing Market Assessment (SHMA) 2015 sets out that the net need for affordable housing, taking into account turnover of existing units and pipeline supply, is for an additional 446 units per annum.
- 1.15 There is also the opportunity to look at other information in order to inform the most appropriate mix and type of affordable housing provision for a site or area. These include recent local surveys, where parish councils or a housing provider have undertaken housing needs surveys of their local area, analysis of Gloucestershire Homeseeker choice-based lettings system, and data from the Help to Buy website for intermediate affordable housing.
- 1.16 The average rate of delivery of new affordable homes in the Stroud district is 120 per annum, which is clearly not meeting the need identified by the SHMA.
- 1.17 For those households resorting to privately rented properties instead, the SHMA identified that in March 2015, the entry-level open market rental cost of a two bedroom property was £575 per month.
- 1.18 The SHMA also identified that between March 2009 and March 2012, average property prices rose by 19% in the district to £234,210. Perhaps more significantly, the median purchase price of a two bedroom property in March 2013 was £157,000. Alongside this the median annual gross household income in the Stroud district is £27,560, leading to a significant and growing affordability gap between local incomes and entry-level rents and house prices.

### Importance of small sites

- 1.19 Within the Stroud district, a significant proportion of the sites that are developed are small in comparison to those found in more urban areas.
- 1.20 As at 1<sup>st</sup> April 2016, there were a total of 2,753 commitments on sites of 10 or more dwellings, and commitments of 569 on sites of 1 – 9 dwellings.
- 1.21 Some larger and more urban parishes in the district show a consistent history of delivery of new housing over the last 10 years (source: HLA 2016). Accordingly, the Council will not be pursuing affordable housing contributions on sites of less than 10 units in these parishes:
- Cainscross
  - Cam
  - Dursley
  - Hardwicke
  - Minchinhampton
  - Nailsworth
  - Stonehouse
  - Stroud
  - Upton St Leonards
  - Wotton Under Edge
- 1.22 Sites with a capacity of between 1 and 3 units have also been considered. Policy CP9 seeks a financial contribution, where viable, towards affordable housing from these sites rather than on-site provision. Given that this policy has now been tested and it has been shown that the majority of these very small sites have been unable to support a payment towards affordable housing, the Council will only be pursuing an affordable housing contribution in respect of sites of less than 4 units where the combined floor area of the units exceeds 1000m<sup>2</sup>.

### Conclusion

- 1.23 Policy CP9 was tested at the Local Plan examination and accepted as being viable and appropriate. As outlined above, it is evident that sites of between 4 and 10 units remain a significant source of new affordable homes within the district. The Council will ensure that the contributions made by these sites do not introduce a disproportionate burden on the developer through the use of viability assessments on all developments where the applicant considers the contributions make the development unviable. This enables the Council to reduce or waive any contribution on the basis of viability.
- 1.24 A letter written in March 2017 by the Planning Inspectorate in response to a complaint from London Boroughs of Richmond and Wandsworth clarified that the 'effect of the WMS was not to reduce the weight that should be given to the statutory development plan, or automatically to outweigh relevant development plan policies.'

- 1.25 The Council needs to balance the Government's policy on delivering development and continue to deliver affordable units as required under paragraph 50 of the NPPF. To achieve this, the Council must consider on a case by case basis whether local circumstances in regard to affordable housing and the nature of the development sites in the district are sufficient to warrant the application of CP9 or whether greater weight should be attached to the Written Ministerial Statement.
- 1.26 Therefore the Council will continue to consider Policy CP9 Affordable Housing as part of the decision making process for any relevant application. Where applicants consider that the charge is disproportionate the Council will request that the relevant information setting out scheme viability is submitted for independent assessment. All relevant evidence will then be considered on a case by case basis and be used to assess the weight to be attached to local and national policies.

### **Vacant building credit**

- 1.27 Alongside changes to affordable housing contributions the Government have also reintroduced the Vacant Building Credit (VBC). This policy allows developers to take account of existing floorspace on a site that is to be brought back into use or demolished and replaced with a new building to be offered a credit equivalent to that floorspace when the LPA calculates any affordable housing contribution.
- 1.28 As there is no conflict with regard to the Local Plan on this matter the Council will take account of the VBC as set out in national guidance when calculating planning obligations for affordable housing on all new applications. If you have a planning application that is currently being considered and have any further queries please contact your case officer.

### **Housing on-site or commuted sum?**

- 1.29 The preference remains for on-site provision. On smaller sites, or sites where the conversion of an existing building is proposed, the Council recognises it can be difficult to meet full policy requirements on tenure and mix. The Council is keen to be involved in discussions to find the right proposal for a scheme to reflect site constraints and the location. A contribution to off-site affordable housing provision would only be considered acceptable to the Council where there is evidence from a number of registered providers with full and proper reasons for the unsuitability of on-site provision, having fully explored alternative delivery options.

### **Site Size**

- 1.30 In deciding whether a particular site qualifies as being above the requisite site size thresholds, the Council will assess not merely the proposal submitted but the potential capacity of the site. The Council welcomes proposals that make efficient use of the whole site but will be alert to any attempts to deliberately circumvent site size thresholds. Where the splitting up of a site results in two or more sites which physically abut each other, the Council will treat them as one site for the purposes of the policy. The Council will be alert to applications that are submitted on a contrived phased basis in order to try to avoid providing affordable housing.

## **Calculating the level of affordable housing**

- 1.31 Generally the percentage of affordable housing is calculated on the total number of units. Where housing applications involve dwellings with larger numbers of habitable rooms per dwelling, or non-standard sizes of habitable rooms, it may be more appropriate for the calculation of the affordable housing proportion to be in terms of habitable rooms or floor area.

### **Part commuted sums**

- 1.32 Where a 30% calculation results in a fraction of a unit - for example 30% of 12 totals 3.6 units – the applicant has the option of either rounding up to the next full unit, or providing the fraction as a commuted sum.

### **Design and Integration**

- 1.33 As with market housing, the Council expects affordable housing to be well designed and built to a high standard. The affordable and market housing should be indistinguishable by location, design, external appearance or parking arrangements.

### **Distribution and Phasing**

- 1.34 Small clusters of affordable homes will be acceptable to the Council, but these clusters should not exceed a maximum of 8 houses or 12 flats on larger schemes, unless site constraints or compelling design reasons suggest that this number can be exceeded without compromising the Council's aim to create mixed and sustainable communities.
- 1.35 Affordable housing is generally delivered via the use of Section 106 deeds, in particular agreements which are negotiated by the developer and the Council, ideally in consultation with a registered provider. The Council's standard approach is to secure the delivery of affordable homes at the outset, usually by way of seeking a contractual commitment between the developer and affordable housing provider. This ensures that the affordable housing provider is party to the scheme at an early date. Following this, the delivery of affordable housing should be in step with the delivery of the market housing, and the Council is keen to ensure that any risk of non-delivery of any affordable homes is minimised. This is usually sought via a mechanism in the s.106 to restrict occupancy of the market homes until all the affordable homes have been completed and handed over to the provider.
- 1.36 For larger, phased schemes the affordable housing should be well distributed throughout each phase, and delivered in step with the market housing. Where phases abut each other, care should be taken to ensure that the affordable housing remains well distributed and adjoining phases don't together create unacceptably large clusters of affordable homes.

### **Dwelling mix**

- 1.37 In order to create balanced communities, the mix of affordable housing should broadly reflect the mix of market housing on the site. However, in some circumstances this may not meet housing need and a different mix may be required

in order to balance provision. Early discussion with the Council is encouraged in order to agree the most appropriate mix for a site.

- 1.38 Developers are strongly discouraged from assuming that large numbers of flats are appropriate as affordable housing. While the provision of some flats may be acceptable in order to meet need, care should be taken to avoid scenarios where the affordable housing is obviously segregated by unit type; for example where the only flats on the scheme are affordable housing.

### **Dwelling Size**

- 1.39 In order to meet need, affordable homes should be of sufficient size to accommodate households in a range of circumstances with a range of needs and developers are strongly discouraged from assuming that very small properties are suitable for households in need of affordable housing. In order to prevent excessively small properties being offered as affordable housing, the following sizes should be treated as best practice minimum sizes:

1 bed flat: 45m<sup>2</sup>  
2 bed flat: 67m<sup>2</sup>  
2 bed house 75m<sup>2</sup>  
3 bed house 85m<sup>2</sup>  
4 bed house 110m<sup>2</sup>

### **Rural exception sites – Delivery Policy HC4**

- 1.40 An exception site is one that would not normally secure planning permission for market housing. These sites are usually outside of, but adjoining, the development boundaries of smaller settlements. Rural exception sites seek to address the needs of the local community by accommodating households who have a strong local connection either by current or recent past residency or via an existing family or employment connection. Preference will be given to those with a strong local connection to the parish, followed by those with a strong local connection to the adjoining parishes, then to the Stroud District as a whole. An up to date local Housing Needs Survey produced either by the Parish or by a housing provider using a methodology agreed by the District Council provides evidence of the extent and nature of local housing need.
- 1.41 National policy suggests that local planning authorities should consider whether allowing some market housing on exception sites would facilitate the provision of significant additional affordable housing to meet local needs. In response, the Council will consider proposals where a majority of affordable homes are cross-subsidised by the provision of a minority of market housing, subject to the production of a detailed viability study demonstrating the requirement for cross-subsidy. The Council will require the affordable properties to be managed by a registered provider and preference will be given to sites where the market housing element is also responsive to local needs. For example, in some areas smaller family homes or older person's accommodation may be appropriate as market homes.

- 1.42 The Council expects to see cross-subsidy developments follow the same design and integration standards as other mixed market and affordable schemes.
- 1.43 Particular importance is given to sustainability considerations including the location of a site in relation to an existing settlement and local services, the scale of development proposed, the impact on the character of surrounding development, the landscape and countryside, as well as other planning criteria. Where a small number of dwellings are proposed, and other suitable sites are not available in the Parish, the requirement to have reasonable accessibility to local services could be outweighed by an identified pressing need for affordable housing.

### **Economic viability**

- 1.44 To inform the preparation of the Local Plan, research was undertaken on the impact of policy requirements to ensure that they are deliverable in terms of financial viability.
- 1.45 Where viability is an issue for an individual site, the onus will be on developers to produce a financial assessment showing the maximum amount of affordable housing that could be achieved. Financial assessments should be positively prepared, with options to include affordable housing taken as a starting point and fully explored. There needs to be full consultation with registered providers in this process in order to fully test whether alternative types or tenures of affordable housing could be provided; this testing will need to be demonstrated in any resulting report.
- 1.46 The Homes and Communities Agency's (HCA) toolkit or a similar model can be used in presenting the viability of a scheme involving affordable housing.
- 1.47 Applicants/agents/developers will be expected to pay for viability assessments and the cost of independent assessment of the figures presented. It is common practice for developers to fund the cost of independent validation where they are arguing for reduced amounts of affordable housing. An independent assessment greatly helps to build confidence for the Council that the stance being taken is reasonable where an exception to policy is being considered, and assists the developer/applicant to address a key area of potential contention.

### **Land Values**

- 1.48 The Council will expect developers to have taken into consideration any abnormal costs in developing a site before acquiring land or agreeing an option. Policy requirements and associated costs should be factored into negotiations on land values, addressing affordable housing requirements in addition to other planning obligations.

### **Providers of Affordable Housing**

- 1.49 The Council expects all developers to ensure that they identify a provider to support the delivery of affordable housing on site. In this way negotiations on viability will include the resources available to the provider which can be taken into account early in the planning process. It is expected that viability appraisals will need to



demonstrate how affordable housing is being maximised with providers optimising their use of all available resources including borrowings, recycled capital grant and any new grant, should it be available.

### **Reducing planning obligations**

1.50 The Council will only consider reducing planning obligations if fully justified through a financial appraisal model. This will be the exception rather than the rule. The Council will expect this contribution towards affordable housing in addition to any other requirements. If, due to viability, the Council will consider accepting a reduction in contributions, consideration will be on a case by case basis as to whether to prioritise funding for affordable housing or other priorities such as education and transport.

### **Deferred Contributions**

1.51 If a reduced proportion is agreed following the validation process the Council has a number of options it will consider:

1. Supporting the injection of public subsidy to achieve the full affordable housing requirement via a funding bid to the HCA.

2. Altering the unit mix or tenure split to facilitate a more viable scheme while still addressing the housing needs of the District.

3. Altering the percentage affordable housing sought on the site to reflect the viable position.

1.52 To take account of economic uncertainties, it may be appropriate to consider whether to put in place provisions for re-appraising the viability of schemes prior to implementation or following completion of a particular phase. In respect of larger schemes anticipated to deliver low levels of affordable housing, these provisions would allow for a future review to take account of the market values of the site when a phase is completed, which could result in a higher affordable housing contribution on further phases. This may be referred to as overage or clawback. As set out above, applicants/agents/developers will be expected to pay for future reassessments of viability and any cost of independent verification.

1.53 In these cases an overage clause will be included within the S.106 agreement to capture any market improvement value between the time of the validation and commencement or completion of the site (or phases on large site). The overage clause will seek to secure payments which would provide the equivalent on site affordable housing value via a commuted sum provision, should the viability of the scheme allow such payment.

### **Financial Contributions**

1.54 A financial contribution is unlikely to be acceptable to the Council as an alternative to on-site affordable housing provision. However, in certain circumstances or where a

30% calculation results in a fractional unit, it will be necessary to calculate the relevant financial contribution.

1.55 For simplicity, the Council suggests that financial contributions are calculated on the basis of the values that registered providers of affordable housing normally pay to acquire affordable housing. During the 2009 Lydney appeal in the Forest of Dean, the Inspector accepted that RPs would normally pay around 55% OMV for affordable units. On this basis, commuted sums will be calculated at a rate of 45% OMV of a notional affordable unit in order to reflect the 'developer subsidy' element of affordable housing provision.

**Worked example:**

A site for 12 units gives rise to an affordable housing component of 3.6 units. Three units are to be provided on site; the remaining 0.6 will be paid as a financial contribution. .

Open Market Value (OMV) of a two bedroom open market property = £170,000

55% OMV = £93,500

£170,000 – £93,500 = £76,500

£76,500 x 0.6 = **£45,900**

**Legal Agreements**

1.56 Affordable housing agreed through negotiation, including any specified financial contribution, is normally secured via a legal agreement (S.106 Agreement or Unilateral Undertaking). A legal agreement normally covers the following items:

- Location of the affordable units on the site
- Number, tenure and size of the affordable housing units
- Details of phasing of provision of affordable housing units, particularly on larger schemes or those with a mix of private and affordable housing, or mixed use schemes, to ensure affordable housing units are completed within a reasonable timeframe
- Any standards which the affordable housing must meet, such as design, quality, size and sustainability
- Terms covering allocation of the properties
- Terms to ensure affordable homes remain affordable or for disposal proceeds to be reinvested in affordable housing
- Mechanisms to index link contributions (e.g. to the BCIS All-in Tender Price Index (covering all building work) / provisions for re-appraising the viability of schemes prior to implementation (deferred obligations)

## 2. Education

- 2.1 Population increase from new developments creates the need for additional school places and increased pressure on the use of education facilities. New pre-school childcare facilities, primary and secondary schools and improvements to existing schools, will be funded through CIL except where developments are of sufficient size to generate the demand for a new school on-site.
- 2.2 On-site provision will be made in accordance with the requirements of the County Council as Local Education Authority. The expansion of the academies initiative and the introduction of free schools have not diminished the responsibility of the County Council in ensuring sufficient school places are made available for local communities. Therefore, developers must continue to negotiate directly with the County Council and not individual education establishments when considering schools infrastructure within new development. An in-principle agreement made with an individual school or group of schools may not accord with the County Council's more holistic position and may result in development proposals being objected to and recommended for refusal.
- 2.3 On-site provision will cover the full cost of building a new school including site infrastructure and playing fields. All new schools provided in this way will need to meet County Council design standards according to best practice at the time.
- 2.4 In addition, the County Council may also seek to utilise the opportunity of new schools to help accommodate other community infrastructure. This integrated solutions accord with a number of wider planning objectives and conform with a key Council Council's priority: -  
*'...to be as efficient as possible and save money by joining up with partners.'*
- 2.5 Potential shared uses include: - pre-school and after-school childcare; parental support including access to information, advice and family learning opportunities; and adult & wider community access for life-long learning, sport, arts and ICT. The decision on whether an integrated solution will be pursued will be taken on a case-by-case basis and will very much depend upon the compatibility of the main school use with each additional use being considered. It will also be reliant upon the ability to achieve meaningful delivery in a timely fashion with other organisations that are responsible for providing and operating local community infrastructure. Furthermore, future new schools are going to be set-up and managed by organisations other than the County Council. These will need to be fully involved in delivering shared-use facilities.
- 2.6 Further guidance on contributing to education services can be found in the Local Developer Guide (Gloucestershire County Council, March 2017).

### **3. Flood risk alleviation and drainage measures**

- 3.1 The District has an abundance of rivers, streams and brooks, as well as the estuarine coastline. The western half of the District, characterised by the low lying landscape of the Severn Vale, includes extensive areas of land liable to flooding which extend eastwards along the river corridors within the Stroud Valleys.
- 3.2 Historically, surface water drainage systems have been designed to remove surface water from a site as quickly as possible by means of underground piped systems. This has the potential to increase flooding problems downstream, which is particularly problematic for settlements downstream of watercourses in the Stroud Valleys and does not contribute to the natural recharge of groundwater levels. Such systems contribute to the transport of pollutants from urban and agricultural areas to watercourses and groundwater. With concerns surrounding the impacts of climate change and the requirements of legislation including the Water Framework Directive, a more sustainable approach to drainage is required to reduce flood risk, manage water quality, provide integrated amenity benefits and reduce costs associated with the loss of land and property value and associated economic productivity.
- 3.3 The favoured approach in Stroud District to dealing with surface water is through Sustainable Drainage Systems (SuDS) as they aim to mimic natural drainage processes and remove pollutants from run-off at source. They comprise a wide range of techniques, including:
  - Green Roofs
  - Permeable Paving
  - Rainwater Harvesting
  - Swales
  - Detention Basins
  - Ponds
  - Wetlands
  - Natural flood management – e.g. woody debris dams
- 3.4 They can also provide, as part of an above ground focus, alongside flood alleviation and attenuation measures, green corridors and wildlife habitat creation and therefore could provide holistic solutions for development sites as part of a wider green infrastructure network.
- 3.5 On site management of surface water, including SuDS, at strategic site allocations and at other development sites will be sought through planning obligations, subject to meeting statutory tests. Wider flood risk alleviation projects, such as improvements to the Severn Estuary flood defences, rural sustainable drainage projects along river corridors and restoration of the canal network for flood risk enhancements will be sought through CIL.
- 3.6 Consultation and discussion should take place with the Lead Local Flood Authority (LLFA), which is the County Council, responsible for managing local flood risk from surface water, groundwater and ordinary watercourses. Such discussions should focus upon the run-off destination hierarchy set out in the National Standards for Sustainable Drainage Systems.

3.7 Approval of SuDS will be undertaken through the regular planning process. The design approval of SuDS comprises of three stages and follows the regular planning approval stages:

- Pre-planning consultation: This preliminary design stage provides an opportunity for the developer to indicate the nature of the proposals and discharge location for development runoff.
- Outline planning application: A preliminary SuDS design statement to explain the proposal is required which should include preliminary calculations to quantify pre- and post-development run-off rates and volumes.
- Full planning application: Detailed design proposals should be submitted in order to discharge drainage conditions and should include final detailed drawings and appropriate calculations together with copies of all relevant permissions or agreements. These drawings should be approved prior to commencement of the construction. A maintenance plan for SuDS elements should be in place at this stage. Any asset that cannot be maintained will not be approved.

3.8 For the success of sustainable drainage systems, long-term maintenance arrangements need to be assured; developers will have responsibility for ensuring such arrangements are secured as a requirement of their planning application, whilst the Council should be contacted for pre-application advice on maintenance. It will be particularly important to ensure effectiveness and longevity for developers to ensure that sufficient marketing is carried out and information is available to enable future occupiers to be aware of the function and benefits of SuDS. Each development could have a number of different options for maintenance arrangement and this should be considered and discussed with the Council at the pre-planning stage.

1. Private management – SuDS located within property boundaries are the responsibility of the property owner and may include green roofs, permeable driveways, water butts, garden soakaways and rain harvesting. Maintenance of SuDS may be secured through a Section 106 agreement and can cover a whole new housing estate and contain the details of soakaways in individual properties as well as shared SuDS.

2. Commercial/industrial sites, shared private space or roads– SuDS located within development that provide a source or site control function include filter strips, normal and under-drained swales, bio-retention areas and rain-gardens, filter drains, permeable pavement and other local infiltration systems. Underground storage structures such as oversized pipes and geo-cellular boxes are usually located in this area of management. The developer must ensure that a maintenance agreement is in place which could be either through setting up a management company, or discussing future maintenance or potential adoption with the local water company or the Council.

3. Public Open Space – SuDS located in open green space, either owned by Local Authorities or with full public access, provide conveyance and open storage of clean water that flows from development and include basins, ponds and wetlands linked by swales, linear wetlands and other open channels. Again, the developer must ensure that a maintenance agreement is in place which could be either through setting up a

management company, or discussing future maintenance or potential adoption with the local water company or the Council.

- 3.9 Developers are advised to contact the Council for guidance on adoption before submitting a planning application.
- 3.10 Before approving a SuDS scheme and finally discharging the drainage condition, the Council will request from the developer a verification report that the SuDS system has been constructed in accordance with the approved design drawings and in accordance with best practice.
- 3.11 Further guidance on the use of SuDS can be found in the Gloucestershire SuDS Design & Maintenance Guide (Gloucestershire County Council, November 2015)

## 4. Green Infrastructure

- 4.1 Green Infrastructure (GI) is a network of high quality multi-functional green spaces and other environmental features that together are capable of delivering a wide range of environmental, health and wellbeing and other quality of life benefits (ecosystem services) for local communities. GI includes parks, open spaces, playing fields, woodlands, wetlands, grasslands, river and canal corridors, allotments and private gardens. The greatest benefits will be gained when it is designed and managed as a multifunctional resource. For example, street trees add aesthetic quality to an urban area, but will also reduce airborne pollution, provide shade, reduce urban heat island effects, mitigate wind chill and turbulence and increase biodiversity.
- 4.2 In 2015 the Local Nature Partnership (LNP) published “A Strategic Framework for Green Infrastructure in Gloucestershire” that includes a schematic diagram of strategic GI showing existing resources and needs and opportunities to create or enhance the network of green and blue space, focusing on:
- those areas with the highest concentration of environmental assets
  - key linkages between urban and rural areas
  - main watercourses, catchments and floodplains
  - significant landscape scale biodiversity
  - community projects
  - important sustainable transport routes (cycling and walking)
  - key urban settlements and areas identified for large scale new development .
- 4.3 Strategic allocations and other large development sites should be subject to masterplans which translate GI aspirations into detailed proposals. For example, masterplans should identify:
- key existing habitat areas to be protected, enhanced and/or expanded;
  - supplementary / transitional habitats as part of the wider greenspace resource;
  - existing access and rights of way to be protected, enhanced and/or expanded;
  - measures to maximise the contribution of the built environment to biodiversity and habitat creation.
- 4.4 On-site provision will be made in accordance with the space standards contained within Local Plan Delivery Policy ES14 (provision of semi-natural and natural green space with new residential development). Delivery Policy ES6 sets out biodiversity and geodiversity interests that should be taken into account in formulating development proposals with GI. Delivery Policy ES8 identifies that development should seek where appropriate to enhance and expand the District’s tree and woodland resource.
- 4.5 To contribute to the extension of the GI network, developers are encouraged to:
- protect and enhance existing corridors;
  - identify and plug existing gaps in connectivity between GI assets;
  - ensure new GI assets connect to the wider GI network;
  - improve accessibility along existing green corridors subject to nature conservation or public safety interests;

- protect and enhance the local diversity and distinctiveness of the landscape character areas;
  - explore opportunities to create new habitats, particularly in the Strategic Nature Area.
- 4.6 When preparing their proposals, developers should consult with the Council's appointed ecological advisers and other relevant agencies such as Gloucestershire Wildlife Trust and the Local Nature Partnership as well as with the local parish council and community groups.
- 4.7 Gloucestershire Wildlife Trust (GWT) is currently working with developers to identify a GI benchmark of good practice with sections relating to wildlife, water and wellbeing. Developers are encouraged to utilise the technical guidance included in GWT's GI benchmark to ensure development proposals aim to create and sustain high quality GI from the design stage through to implementation, management and maintenance. The Council advocates this whole lifecycle approach to GI. The benchmark will thereby help to contribute to the delivery of the infrastructure set out in sections 3-5 of this SPD.
- 4.8 There are a number of different models for the long-term management and maintenance of GI assets. Developers are responsible for ensuring arrangements are put in place as a requirement of their planning application and the Council and the local parish council should be consulted on this at the pre-planning stage. The GWT GI benchmark may be used as a helpful resource to guide the creation of a GI management plan which considers the multi-functionality of GI on site going forward, for longevity of benefit to people and communities, and for wildlife and the wider landscape.



## **5. Social and Health Infrastructure**

- 5.1 Social infrastructure includes community buildings, GP surgeries, places of worship, nurseries, cultural facilities including museums and libraries, sports and play facilities. They provide the focal points for successful communities. Population increase from new developments creates increased pressure on the use of social infrastructure and new development should contribute to its provision.
- 5.2 New facilities and improvements to existing facilities, including community buildings and public open space, will be funded through CIL except where developments can provide their requirements on-site.
- 5.3 On-site provision of outdoor play space will be made in accordance with the space standards contained within Local Plan Delivery Policy ES15 (Provision of outdoor play space). Delivery Policy E111 sets out the requirements for new sports, cultural and leisure facilities.
- 5.4 New community buildings are required on strategic sites at West of Stonehouse (Policy SA2), North East Cam (SA3) and Hunts Grove (Policy SA4) and these should be provided by the developer as part of planning permission for the development. Serviced land for other community uses is also required as part of the development of local centres at West of Stonehouse and Hunts Grove.
- 5.5 Planning obligations for the provision of on-site outdoor play facilities will be identified by the Council at the pre-application stage. The developer will need to make reference to the following list when considering the inclusion of outdoor play areas within the boundaries of a residential development site:
  - location
  - area
  - layout and equipment
  - landscaping and planting
  - future maintenance arrangements
  - phasing proposals (for developments planned over a number of years)
- 5.6 The developer will need to provide the outdoor playing space and associated facilities to the satisfaction of the Council. In the case of equipped children's play areas, the developer will be required to ensure that the facilities are inspected and certified by a relevant and recognised organisation, such as RoSPA.
- 5.7 Outdoor playing space should be integrated with the wider GI network wherever possible, for example through the use of naturalistic landscaping and planting and designed to optimise use in all seasons.
- 5.8 Developers providing on-site outdoor play space facilities will also be required to make a one-off commuted sum payment for their future maintenance for a period of 15 years, following their installation. Maintenance costs per facility or type of outdoor play area are outlined in Appendix B. These are calculated using rates from the current Spon's external works and landscape price book. The figures are only intended to act as a guide for negotiation and the exact level of contributions will vary according to site characteristics and over time, reflecting changes in maintenance

costs. The scale of the maintenance contributions payable by developers will be reviewed annually to take account of changing circumstances in the costs of playing equipment and installation.

## **6. Transport**

- 6.1 The County Council has a duty to manage the local road network with a view to securing the expeditious movement of traffic. The District Council seeks advice from the County Council on most transport related matters, particularly regarding the maintenance of highway safety and in assessing and identifying solutions to resolve transport challenges resulting from new development. This process of engagement is detailed within the Manual for Gloucestershire Streets.
- 6.2 Transport infrastructure including highway improvement schemes, cycling and walking infrastructure and public transport will be funded through CIL except for development specific highway access arrangements and mitigation works, travel planning, on site cycling and walking routes, on-site traffic calming, on-site bus stops and shelters at strategic site allocations and other development sites where they will be sought through planning obligations, subject to meeting statutory tests.
- 6.3 Those involved in promoting new development are expected to demonstrate that any impacts on the transport network are insignificant, or that improvements can be cost effectively undertaken and that the reliability of the transport network will not be severely degraded. The County Council expects to be fully involved at the earliest possible stage in assessing new development proposals. This should avoid unnecessary delays in decision making process and help facilitate the best possible transport solutions.
- 6.4 Where a mitigation package for transport is needed, the County Council will look favourably upon proposed measures that will seek to limit the number of additional car journeys upon the local network; aid walking and cycling over short distances; stimulate the use of local public transport for accessing community services, leisure purposes and school based journeys; and which will facilitate opportunities to use regionally or nationally orientated public transport including rail and coach for long distance travel. Other important outcomes include assisting access for efficient local deliveries of goods and services incorporating for community social care providers and preventing the degradation of key local environmental indicators such as noise and air pollution.
- 6.5 Demonstrating the deliverability of a transport mitigation package is of key importance to the County Council. Therefore where existing local transport infrastructure is insufficient, the County Council may pursue capacity-building or network efficiency improvements through the use of developer contributions. More often than not these will be a combination of planning conditions and S.106 planning obligations.
- 6.6 Developer contributions must solely assist in mitigating against the adverse impacts of new development on the local transport network. They cannot be used as an alternative funding stream for addressing pre-existing infrastructure issues, unless in doing so it can be justified as a demonstrable mitigation measure. However, there may be circumstances where proposed mitigation aligns with pre-identified infrastructure priorities set out within the Gloucestershire Local Transport Plan. Consequently, the County Council will seek to promote technology based “smart”

solutions which future proof infrastructure and allow demand management and travel solutions to make use of advances in technology.

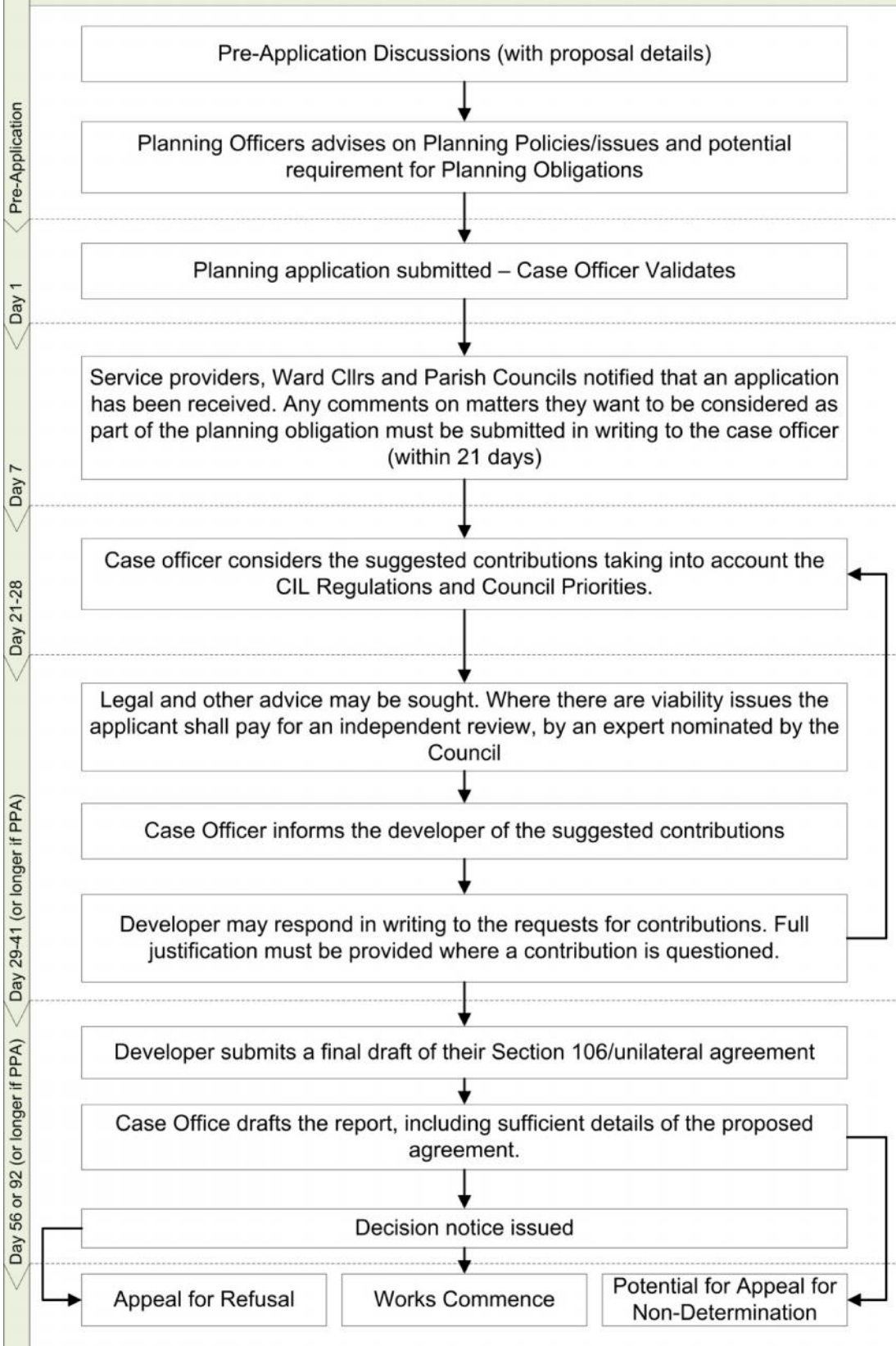
- 6.7 All new infrastructure concerned with the local highway must be designed in accordance with either national guidance set out in the Design Manual for Roads and Bridges (DMRB) or relevant local guidance, which is presently contained within the Manual for Gloucestershire Streets. It should also comply with the Gloucestershire Enhanced Materials Policy. For all transport-related mitigation proposals, appropriate audits must be undertaken covering road safety, mobility, walking, cycling and quality, before any final designs can be approved.
- 6.8 Further guidance on contributing to transport infrastructure can be found in the Local Developer Guide (Gloucestershire County Council, March 2017).

## **7. Other contributions**

- 7.1 On-site mitigation measures required to make the development acceptable will continue to be secured through planning obligations and conditions. Examples include archaeological investigation and contaminated land remediation.
- 7.2 Other site specific measures may be necessary and planning obligations including the following areas may also be sought. Requirements will be assessed on a case by case basis. It is recommended that applicants and developers engage with the Council at an early stage to determine if their specific proposal will result in a requirement for obligations such as:
- Waste and recycling collection facilities and waste reduction initiatives
  - Public realm/ public art provision
- 7.3 The absence of detailed guidance for a particular planning obligation does not rule out the Council requiring one where that request meets relevant national guidance or legal requirements.

# Appendix A

## Planning Obligations Process Flow Chart



**Appendix B: Maintenance contributions for open space provision (as at 2016)**

	<b>MAINTENANCE COSTS PER ANNUM (2016)</b>	<b>COMMUTED PAYMENT (FOR 15 YEARS)</b>
<b>GRASS PLAYING PITCH</b>	£3,814	£57,210
<b>ARTIFICIALLY SURFACED PITCH</b>	£4,425	£66,375
<b>TARMAC TENNIS COURT</b>	£571	£8,565
<b>CHANGING ACCOMMODATION</b>	£4,580	£68,700
<b>LANDSCAPING/MISCELLANEOUS</b>	£4,349	£65,235
<b>EQUIPPED CHILDREN'S PLAY AREA</b>	£2,745	£41,175

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