

# Cambridge City Council



## Draft Planning Obligations Strategy Supplementary Planning Document

June 2014

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**Important Note to the Reader**

This is a draft document for consultation. It has been written to support the emerging Cambridge Local Plan 2014 and the emerging Cambridge Community Infrastructure Levy, both of which the Council expects to adopt in early 2015.

The final version of this document will be amended prior to adoption to reflect some or all of the following:

- comments received on this draft document;
- any amendments to relevant policies in the final local plan;
- any governmental policy changes.

This document will be adopted at the same time as the Council's Community Infrastructure Levy Charging Schedule is adopted. It will not be adopted before the local plan is adopted.

## 1. Introduction

### 1.1 Purpose of this document

- 1.1.1 In Cambridge a need has been identified for 14,000 additional homes and 22,100 jobs between 2011 and 2031. This growth will result in increased pressure on local infrastructure, services and facilities, creating demand for new provision. The Council and developers have a responsibility, through the planning process, to manage the impact of this growth and ensure that any harm caused by development is mitigated and that the necessary infrastructure is provided. The Council expects new development to contribute to site related and other infrastructure needs.
- 1.1.2 The purpose of this document is to clearly set out the Council's approach, policies and procedures in respect of the use of planning obligations. It has been prepared as a Supplementary Planning Document (SPD) to support *Policy 85: Infrastructure delivery, planning obligations and the Community Infrastructure Levy* of the Draft Cambridge Local Plan 2014. The full policy is set out at Appendix 1.
- 1.1.3 SPD's provide greater detail on the Council's policies set out in the Local Plan. The National Planning Policy Framework (NPPF)(Paragraph 153) supports the production of SPD's where they can help developers make successful applications or aid infrastructure delivery.
- 1.1.4 The Planning Obligations Strategy SPD supports the following proposed Local Plan strategic objectives to:
- '9. Assist in the creation and maintenance of inclusive, environmentally sustainable communities';
  - '12. Promote social cohesion and sustainability and a high quality of life by maintaining and enhancing provision for open space, sports and recreation, community and leisure facilities, including arts and cultural venues that serve Cambridge and the Cambridge Sub-region'; and,
  - '14. Ensure appropriate and timely provision of environmentally sustainable forms of infrastructure to support the demands of the city, including digital and cultural infrastructure'.
- 1.1.5 The SPD will;
- Aid the smooth functioning of the planning application process by explaining the Council's process and procedures for using planning obligations to local residents, developers and landowners;

- Clarify the relationship between planning conditions, planning obligations and the Community Infrastructure Levy (CIL);
- Explain the circumstances under which the Council will collect planning obligations to mitigate the impacts of a development on the city's infrastructure;
- Help ensure the timely provision of environmentally sustainable forms of infrastructure to support growth; and,
- Assist in securing both local and national objectives in respect of the provision of sustainable development in Cambridge

1.1.6 This SPD will replace the following adopted document:

- Cambridge City Council Planning Obligations Strategy SPD, March 2010

## 1.2 Status

1.2.1 This is the draft version of the Planning Obligations Strategy SPD 2014, agreed by the Executive Councillor for Planning and Climate Change at Development Plan Scrutiny Sub Committee on 25 March 2014.

1.2.2 This SPD (once adopted) will support Local Plan policies on delivering infrastructure and sustainable growth and will be a material consideration in the determination of relevant planning applications. The SPD itself has been prepared in accordance with the Planning and Compulsory Act 2004 (as amended) and having regard to the National Planning Policy Framework (paragraph 153) and the accompanying Planning Practice Guidance.

## 1.3 Consultation on the Planning Obligations Strategy SPD

1.3.1 The Draft SPD will be submitted to the Planning Inspectorate on 28 March 2014 to support the examination of the Cambridge Community Infrastructure Levy. The Draft SPD will also be the subject of public consultation for a period of six weeks. The consultation for this SPD will run from:

**9am on 2 June 2013 to 5pm on 14 July 2014**

1.3.2 There are a variety of ways to respond to the consultation:

- **Online** by visiting: <http://cambridge.jdiconsult.net/ldf/>
- By filling in and returning a **response form** available from: <https://www.cambridge.gov.uk/planning-obligations-strategy-spd>
- By **emailing** a response form to: [policysurveys@cambridge.gov.uk](mailto:policysurveys@cambridge.gov.uk)

- By **posting** a response form to: Planning Obligations Strategy SPD Consultation, Planning Policy, Cambridge City Council, PO Box 700, Cambridge, CB1 0JH

1.3.3 Following consultation the Draft Planning Obligations Strategy SPD will be updated to reflect comments received. The Planning Obligations Strategy SPD will be adopted by the Council on the same date as the CIL Charging Schedule (anticipated in early 2015) when it will become a material planning consideration in the determination of planning applications. This Planning Obligations Strategy SPD will then supersede the Council's existing Planning Obligations Strategy, March 2010.

1.3.4 The final version will be amended prior to adoption to reflect some or all of the following:

- Comments received on this draft document;
- Any amendments to the submission Draft CIL Charging Schedule;
- Any amendments to relevant policies in the adopted version of the Cambridge Local Plan 2014 submission version; and,
- Any governmental policy changes.

1.3.5 This document will be subject to final consideration and approval by the Executive Councillor for Planning and Climate Change at the City Council's Environment Scrutiny Committee before its adoption.

1.3.6 A Sustainability Appraisal and Habitats Regulations Assessment Screening Report has been carried out and consulted upon for the emerging Cambridge Local Plan 2014, with consultation taking place between 19 July 2013 and 30 September 2013. These documents will also be made available to view during this consultation. As the draft SPD supports the Cambridge Local Plan, there is no further need to partake in a separate Sustainability Appraisal or Habitats Regulations Assessment for this document.

1.3.7 An Equalities Impact Assessment will also be made available.

## **1.4 Background**

1.4.1 This document has been prepared by Cambridge City Council (the local planning authority). Throughout this document, when the words 'we' or 'us' are used, we are referring to Cambridge City Council.

1.4.2 To find out more about the Planning Obligations Strategy SPD or to respond to our consultation please visit: <https://www.cambridge.gov.uk/planning-obligations-strategy-spd>.

1.4.3 If you would like to contact us, please do so as follows:

- You can email us at [policysurveys@cambridge.gov.uk](mailto:policysurveys@cambridge.gov.uk) – please ensure you refer to the Planning Obligations Strategy SPD.
- You can also write to us at: Planning Policy, Cambridge City Council, PO Box 700, Cambridge, CB1 0JH - please ensure you refer to the Planning Obligations Strategy SPD.
- You can call planning policy on: 01223 457000

## **2. Legislative and Planning Policy Context**

### **2.1 Legislative Context**

2.1.1 The legislative basis for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended by later legislation including Section 12 of the 1991 Planning and Compensation Act and the Planning Act 2008.

2.1.2 CIL was introduced by the Planning Act 2008 and came into force through the CIL Regulations 2010 (as amended) on 6 April 2010. As of that date regulation 122 made it unlawful for a planning obligation to be taken into account when determining a planning application for development, or any part of a development, if the obligation does not meet all of the following tests:

- It is necessary to make the development acceptable in planning terms;
- It is directly related to the development; and,
- It is fairly and reasonably related in scale and kind to the development.

2.1.3 The purpose of the tests are to distinguish the different roles that both CIL and planning obligations have when used together to support new development. The CIL Regulations also specify that upon the adoption of a CIL, or by 6<sup>th</sup> April 2015, whichever is the sooner, the use of planning obligations must be scaled back. This means that a planning obligation cannot be used to fund a project or type of infrastructure if there have been 5 separate obligations on or after 6 April 2010 which fund that project or type of infrastructure.

2.1.4 Cambridgeshire County Council as the Highways Authority may also use Section 278 of the Highways Act 1980 to secure private sector funding for works to the highway network where necessary to serve the proposed development, except where they are intended to be funded through the CIL.

### **2.2 The National Planning Policy Framework (NPPF)**

2.2.1 Paragraphs 203 to 206 of the NPPF set out the Governments policy on planning obligations. These paragraphs reiterate the tests for planning obligations set out in the CIL Regulations; restate the principle that planning conditions are preferable to planning obligations; require local authorities to take into account changes in market conditions over time in policies and planning obligations and make sure they are sufficiently flexible to prevent planned development from being stalled.



## **2.3 The Community Infrastructure Levy (CIL)**

- 2.3.1 The CIL is a charge which local authorities can place on developers to help fund infrastructure needed to support new development in their areas. It will partially replace the existing Section 106 system. 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 infrastructure, as set out in the Council's Regulation 123 List<sup>1</sup>, needed to support new development across the City Council's administrative area. Planning obligations may not be used to fund an item that is locally intended to be funded by CIL.
- 2.3.2 Following its introduction CIL receipts will be used to help fund, in whole or part, infrastructure needed to support or mitigate the impact of new development over an area, whereas Section 106 planning obligations will remain for on-site mitigation, including the provision of affordable housing. A separate Draft Affordable Housing SPD is being produced alongside this document.
- 2.3.3 The CIL and planning obligations need to be complementary contribution mechanisms. This SPD will clarify how the Council intends to implement each mechanism in partnership.

## **2.4 Cambridge Local Plan 2014 Submission Version**

- 2.4.1 The proposed Cambridge Local Plan 2014 is due for submission to the Secretary of State for Examination in Public in March 2014. It is anticipated that the Draft Cambridge Local Plan will be adopted by the Council in early 2015. Proposals which require planning obligations should be considered in accordance with the Cambridge Local Plan 2014 (once adopted). This SPD will support and supplement the Local Plan, and so will be an important material consideration in the decision making process.
- 2.4.2 The Local Plan outlines that planning obligations are required to secure appropriate forms of development which meet the necessary on and off-site infrastructure requirements, whilst ensuring sustainable development. The overarching reasoning and justification for planning obligations is set out in the Vision for Cambridge to 2031 and the Local Plan Strategic Objectives as well as the following policies of the Local Plan:
- Policy 1 – The presumption in favour of sustainable development
  - Policy 85 – Infrastructure Delivery, planning obligations and the Community Infrastructure Levy (Appendix 1)

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<sup>1</sup> The CIL Regulation 123 (R.123) list sets out the infrastructure that can be funded in whole or part by CIL. The Cambridge City Council Draft Regulation 123 List can be found at Appendix 2 for information.

2.4.3 Other policies within the Cambridge Local Plan 2014: Proposed Submission provide specific and detailed justification for various types of planning obligation e.g. Policy 68 – Open space and recreation provision through new development. Such policies are referred to in the relevant sections of this SPD.

## 2.5 Cambridge CIL Charging Schedule – Submission Version

2.5.1 The Council consulted on its Draft CIL Charging Schedule between October 28<sup>th</sup> and December 9<sup>th</sup> 2013. The Council intends to submit its Draft CIL Charging Schedule for examination alongside the Draft Cambridge Local Plan 2014 in March 2014. It is anticipated that Cambridge City Council’s CIL will come into effect in April 2015.

2.5.2 Cambridge City Council is proposing to charge CIL in respect of new development at the following rates:

Use	Charge £/sq.m
Residential (C3; C4 including sheltered accommodation)	£125
Retail (A1 – A5 and sui generis uses akin to retail*)	£75
Student Accommodation	£125
All other development including B, C1, C2 and D class uses	£0

\* sui generis akin to retail includes petrol filling stations; shops selling and/or displaying motor vehicles; retail warehouse clubs.

2.5.3 Further information on the Council’s CIL is available on the Council’s website <https://www.cambridge.gov.uk/community-infrastructure-levy>. The Draft CIL Charging Schedule and Supporting Information should be read alongside this document.

### **3. Cambridge City Council approach to Planning Obligations and CIL**

#### **3.1 Scope of contributions**

3.1.1 To address the limitations imposed by the CIL Regulations, Section 106 planning obligations in the city will be scaled back and used to seek financial and non-financial obligations as set out below. The priority areas for Section 106 agreements as set out in this document are not exhaustive and the Council may wish to negotiate other forms of planning obligations depending on the individual circumstances of a site and proposal, where obligations are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development in question.

3.1.2 The Council expects new development to contribute to site related and other infrastructure needs through a combination of the following mechanisms:

- Planning conditions (Site/development related)
- Planning obligations to secure developer contributions or works in kind e.g. s106 Agreements (site/development related)
- Cambridge Community Infrastructure Levy (Strategic, local and city wide requirements)

#### **3.2 Planning Decisions**

3.2.1 All planning proposals should comply with Government guidance, the Local Plan (once adopted) assisted by this SPD (once adopted). Failure to do so may lead to a refusal for planning permission unless amendments can be made, planning conditions imposed or legal agreements introduced to minimise any potential negative impact of the development site.

3.2.2 In making planning decisions, the Council will need to reach an appropriate balance between a wide range of competing planning objectives and material considerations in order to control the development and use of land in the wider public interest. A balance will need to be struck between the relevant policies in the Local Plan and the specific circumstances of each case.

#### **3.3 Planning Conditions**

3.3.1 Planning conditions are requirements made by the Council, in the granting of permission, to ensure that certain actions or elements related to the development proposal are carried out. They cannot be used to secure financial contributions. In Cambridge such conditions are likely to cover construction arrangements, external materials and landscaping, and

measures to ensure that the development is carried out in accordance with the approved plan.

3.3.2 Paragraph 203 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Paragraph 206 of the NPPF states that planning conditions should only be imposed where they are;

- Necessary;
- Relevant to planning;
- Relevant to the development to be permitted;
- Enforceable;
- Precise; and,
- Reasonable in all other respects.

The policy requirement is known as the six tests. The Council will consider whether an issue can be satisfactorily addressed through a condition, which meets the tests before negotiating a planning agreement.

3.3.3 Where there is a choice between imposing planning conditions and entering into a planning obligation to manage the impacts of a new development, the use of planning conditions is always preferable.

### **3.4 Planning Obligations**

3.4.1 Planning obligations are legally binding agreements entered into between a Local Authority and a developer under section 106 of the Town and Country Planning Act 1990. They are private agreements negotiated between planning authorities and persons with an interest in a piece of land. They are intended to make development acceptable that would otherwise be unacceptable. They provide the mechanism by which measures are secured to mitigate the impact of development on facilities and infrastructure that are geographically or functionally related to it.

3.4.2 Planning obligations do this through:

- Prescribing the nature of a development (e.g. by requiring affordable housing<sup>2</sup>);

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<sup>2</sup> The Council is currently producing an Affordable Housing SPD which will be consulted on alongside the Planning Obligations Strategy SPD

- Securing a contribution from a developer to compensate or re-provide for loss or damage created by a development (e.g. through the transfer of land, requiring of a commuted payment to be made, requiring new habitats to be created etc.); and,
- Mitigating a development's impact on the locality (e.g. through the securing of environmental improvements and the provision of both on and off-site infrastructure and facilities to serve the development such as new roads and junction improvements which, without the proposed development taking place would not be required).

3.4.3 The outcome of the use of planning obligations should be that the proposed development is brought into compliance with Local Plan policies and that any development specific works are undertaken satisfactorily. Used effectively, planning obligations can significantly increase the quality of development.

### **3.5 Section 278 Agreements**

3.5.1 Section 278 (S.278) agreements under the Highways Act are legally binding agreements between the Local Highway Authority and the developer to ensure delivery of necessary highway works. Currently, the limitations on planning obligations in Regulation 123 do not apply in Section 278 Agreements. S.278 Agreements cannot be required for works that are intended to be funded through the CIL, with the exception of the Highways Agency where those restrictions do not apply.

3.5.2 S.278 Agreements are not the responsibility of the Council as Local Planning Authority. Further guidance on S.278 Agreements can be found on the Department of Transport website and from Cambridgeshire County Council as the Local Highway Authority.

### **3.6 The Cambridge Community Infrastructure Levy**

3.6.1 Funds raised through the CIL will be used to pay for a wide range of community infrastructure (strategic, citywide and local) that is required to support the needs of sustainable development. The proposed Draft CIL Regulation 123 (R.123) list that sets out the infrastructure that can be funded by CIL can be found at Appendix 2 for information. Section 106 agreements will not be used to secure infrastructure that has already been identified for delivery and investment from CIL funds through the draft R.123 list.

3.6.2 The R.123 list can evolve over time to reflect changing priorities for the provision of infrastructure. Should a type of infrastructure be removed from the R.123 list then the Council may seek to negotiate planning obligations for that type of infrastructure.

### 3.7 Obligation types

3.7.1 The following sections set out the obligation types which may be required as part of any Section 106 Agreement. The matrix below offers a guide to what infrastructure types could be provided/funded by S.106 Planning Obligations and what could be funded by the Cambridge City Council CIL. This is a guide only, the list is not exhaustive.

**Table 1: S.106/CIL Requirements**

	Planning obligations/ conditions <sup>3</sup>	CIL
<b>Affordable Housing*</b>	✓	
<b>Transport</b>		
Strategic highway or transport		✓
Site specific infrastructure	✓	
<b>Education **</b>		✓
<b>Open Space</b>		
Informal open space, provision for children and teenagers	✓	
Indoor sports facilities, Outdoor sports facilities, Allotments (excluding where a new development leads to the loss of any of these facilities and re-provision is required on-site or directly related to that site to make that development acceptable in planning terms)		✓
<b>Waste</b>		
Household waste and recycling facilities	✓	
Large scale waste and recycling facilities		✓
<b>Libraries and lifelong learning facilities**</b>		✓

<sup>3</sup> Infrastructure and other items to be delivered through Section 106 Agreements, S.278 of the Highways Act or Planning Conditions

	Planning obligations/ conditions <sup>3</sup>	CIL
<b>Community facilities</b> (excluding where a new development leads to the loss of a community facility and re-provision is required on-site or directly related to that site to make that development acceptable in planning terms)		✓
<b>Public Art</b>		
Citywide public art projects		✓
On site through design considerations (by condition)	✓	
<b>Public Realm</b>		
Strategic public realm projects		✓
Site-specific public realm improvements/projects	✓	
<b>Natural Environment</b>		
Strategic mitigation measures		✓
On site mitigation	✓	

**\*Affordable Housing is not dealt with in this document. The Council is currently developing an Affordable Housing SPD which will be consulted upon and adopted alongside this document**

**\*\* Education and Libraries and Lifelong Learning Facilities are not dealt with in this document as they are listed on the Council's Draft CIL Regulation 123 List and so are not eligible for funding via planning obligations while they are on that list.**

## **4. Transport**

### **4.1 Introduction**

4.1.1 The Council is committed to ensuring that new developments will be located to help minimise the distance people need to travel, and be designed to make it easy for everyone to move around the city and access jobs and services by sustainable modes of transport.

### **4.2 Policy background**

4.2.1 ***Draft Transport Strategy for Cambridge and South Cambridgeshire*** – Key transport objectives for Cambridge and South Cambridgeshire are set out in this document. The Draft Transport Strategy is being progressed alongside the Draft Cambridge Local Plan 2014 and the Draft South Cambridgeshire Local Plan 2014. The purpose of the strategy is to

- Provide a detailed policy framework and programme of schemes for the area
- Support the Cambridge and South Cambridgeshire Local Plans and take account of committed and predicted levels of growth, detailing the transport infrastructure and services necessary to deliver this growth.

4.2.2 ***Cambridge Local Plan 2014 Submission Version*** – The key relevant Local Plan policies are:

- Policy 5 – Strategic Transport Infrastructure. Development proposals must be consistent with and contribute to the implementation of the transport strategies and priorities set out in the Transport Strategy for Cambridge and South Cambridgeshire.
- Policy 80 – Supporting sustainable access to development. This policy prioritises access by walking, cycling and public transport in new developments.
- Policy 81 – Mitigating the transport impact of development. This policy ensures that sufficient information is supplied with all development proposals that the transport impact is suitably assessed, usually in the form of a transport assessment; a travel plan will accompany all major development; and that reasonable and proportionate financial contributions/ mitigation measures are secured where necessary to make the transport impact of development acceptable.
- Policy 82 – Parking management.

### **4.3 What can be funded by CIL?**

4.3.1 Funding for transport infrastructure required as a result of incremental growth will normally be required by the Council as part of the CIL and other mainstream funding programmes. Strategic transport improvements to support growth, including measures to



promote walking, cycling, prioritise public transport and highways traffic calming and capacity improvements where appropriate could benefit from CIL funds.

#### **4.4 What can be funded by planning obligations?**

- 4.4.1 Most developments generate new transport movements. In the case of many development schemes, specific works and improvements will be required either on-site or off-site to mitigate the direct impact of the development scheme on the transport network and to make the proposed development acceptable, for example improvements to junctions, provision of traffic signals, traffic calming, walking and cycling related measures, public transport enhancements, etc. These can be described as development specific transport works and are normally required to be implemented as part of the development scheme.
- 4.4.2 Obligations will be sought where there is a requirement to improve existing, or construct new, highway infrastructure in order to access development in a safe and appropriate manner or to mitigate the effects of the development on the highway network.
- 4.4.3 Obligations will also be sought where there are requirements to improve non-car accessibility infrastructure in order to access development in a safe and appropriate manner or to mitigate the effects of the development on the transport networks.
- 4.4.4 There is no threshold below which a transport obligation may not be required and there are no types of development that would be exempt from transport infrastructure requirements.

##### ***Types of obligations***

- 4.4.5 Cambridgeshire County Council is the Highway Authority for the Cambridge City Council area. Cambridge City Council consults Cambridgeshire County Council on planning proposals that affect the highway network. Cambridgeshire County Council provides advice on the scope of obligations for transport infrastructure works and measures where it is considered there is a need to mitigate the impact of new development on the transport networks. A range of transport measures may be required as a result of individual schemes, however, the main types of obligations are likely to be, inter-alia:
- *Travel Plans* - A Travel Plan is a package of measures to reduce car travel to and from a proposed site, and to encourage the promotion of more sustainable forms of transport by increasing the awareness of travel options, such as walking and cycling, and through the provision of facilities to support such options. Travel Plans should include targets for the reduction in travel related impacts and include resources for supporting and maintaining the travel plan. Travel Plans are likely to be secured via planning

conditions on most sites, but may require a planning obligation on larger or more complex development proposals;

- Works required to secure safe access and egress from the development site to the adjoining highway network or to mitigate the direct impact of the development on the off-site road network;
- Provision of internal roads to adoptable standard;
- Site-specific pedestrian and cycle facilities;
- Site-specific measures to improve public transport services and facilities;
- The provision, removal or relocation of street furniture; dropped kerbs; pedestrian crossings; traffic lights; signage; or trees;
- Contributions to enforce car free and car capped development;
- Contributions to car clubs; and
- Contributions to low emission vehicle infrastructure.

4.4.6 Provision for on-site facilities can be made through planning conditions and a Section 38 or Section 278 Agreement under the Highways Act 1980, and they may also be secured through a S.106 planning obligation.

4.4.7 In most circumstances the obligation will be on the developer to implement the approved works via the relevant legal agreements. However there may be some circumstances where it would be acceptable to contribute a sum of money to the local highways authority to implement the work on the developer's behalf. Where improvements are secured in this way, developers will be required to either develop a costed up scheme in consultation with the local Highways Authority or commission the local Highway Authority to design and implement the scheme.

4.4.8 Where a developer is obliged to implement a transport improvement through a planning obligation, or has made a financial contribution to the local highway authority to implement an item of transport infrastructure directly related to a specific development, the timing of implementation will be clearly specified in the planning obligation agreement relating to the development. The trigger for payment (of the financial contribution) is likely to be related to the implementation of the development.

## **5. Open Space and Recreation**

### **5.1 Introduction**

- 5.1.1 Open spaces, regardless of ownership, are a key aspect of high quality urban environments and are fundamental to the character of the city. Attractive, accessible and well-designed open space can support and enhance the appearance of an area, creating more desirable places to live/work and underpinning economic success.
- 5.1.2 The Council expects that all residential developments should contribute to the provision of open space and recreation facilities.

### **5.2 Policy background**

- 5.2.1 **Cambridge Local Plan 2014 Submission Version:** Policy 67 – Protection of Open Space, Policy 68: Open Space and Recreation Provision through New Development and Policy 73: Community Sports and Leisure Facilities are the key policies which give justification for obligations in connection with open space in Cambridge City. The following policies also make reference to the need for provision of Open Space:
- Policy 7 – The River Cam;
  - Policy 8 – Setting of the city;
  - Policy 9 – The City Centre;
  - Policy 13 – Area of major change and opportunity areas – general principles;
  - Policy 16 – Cambridge Biomedical Campus Major Area of Change, Policy 17 – Southern Fringe Areas of Major Change, Policy 20: Station Areas West and Clifton Road Area of Major Change, and Policy 25 – Old Press/Mill Lane Opportunity Area;
  - Policy 55 – Responding to context;
  - Policy 56 – Creating successful places
  - Policy 69 – Protection of sites of local nature conservation importance;
  - Policy 73 – Community, sports and leisure facilities.
- 5.2.2 Appendix I – Open Space and Recreation Standards of the Draft Cambridge Local Plan 2014 identifies standards for the provision of Open Space and guidance on the application of these standards. The guidance is designed to ensure a consistent approach to the provision of open space through new developments.

5.2.3 **Technical Guidance:** Relevant technical guidance that supports the Cambridge Local Plan 2014 Submission Version includes:

- Open Space and Recreation Strategy 2011 (an updated version will be adopted alongside the Local Plan). This sets out the vision for open space and recreation provision in Cambridge;
- Cambridgeshire Green Infrastructure Strategy 2011;
- Cambridgeshire Horizons (2008). The Cambridgeshire Quality Charter for Growth;
- Natural England (2009). Green Infrastructure Guidance;
- Sport England Facilities and planning guidance.

5.2.4 The Council will soon be carrying out a review of Open Space and Recreation Strategy 2011, in conjunction with a Playing Pitch Strategy. Once complete, these will supplement Appendix I of the Cambridge Local Plan 2014 Submission Version and help determine priorities and inform contributions.

### 5.3 Categories of Open Space Provision

5.3.1 The City Council's standards for the provision of open space and recreation facilities are set out in Appendix I of the Cambridge Local Plan 2014 Submission Version and are based on five types of provision:

- Outdoor sports facilities – includes playing pitches, courts and greens;
- Indoor sports facilities – formal provision such as sports halls and swimming pools;
- Provision for Children and Teenagers – equipped children's play areas and outdoor youth provision;
- Informal Open Space Provision – informal provision including recreation grounds, parks and natural green spaces;
- Allotments.

### 5.4 What can be funded by CIL?

5.4.1 Funding towards the following infrastructure can be provided by the City Council's CIL:

- Indoor sports facilities (excluding where a new development leads to the loss of a sports facility and re-provision is required on-site or directly related to that site);

- Outdoor sports facilities (excluding where a new development leads to the loss of a sports facility and re-provision is required on-site or directly related to that site);
- Allotments.

## **5.5 What can be funded by planning obligations**

5.5.1 Planning obligations will be used to secure, allow access to, and maintain newly created public open space. Informal open space and provision for children and teenagers will be secured through planning obligations.

5.5.2 In accordance with Policy 73 – Community, sports and leisure facilities, the loss of a facility that was last in use as a community, sports or leisure facility will only be permitted if it is demonstrated that:

- The facility/site can be replaced within the new development or relocated to at least its existing scale, range, quality and accessibility for its users. For leisure uses it should satisfy peak period need; or
- The facility is no longer needed.

In these exceptional circumstances re-provision of the facility on, or directly related to, the development site will be secured via planning obligation.

## **5.6 On-site provision of open space through planning obligations**

5.6.1 The Council will seek, in accordance with Policy 68, to secure on-site provision of open space, where appropriate, in order to serve the needs of the new community and create an attractive living environment. The precise type of on-site provision required will depend on the size and location of the proposal and the existing open space provision in the area. Where possible additional open space should be designed into the scheme. It is the Council's preference that Open Space provided through S.106 agreements be provided on-site.

5.6.2 **Standards for provision** – Requirements will be calculated using the open space standards set out in Appendix I of the Cambridge Local Plan 2014: Propose Submission (and Table 2 below). The Open Space and Recreation Strategy 2011 (and any subsequent updates) gives further guidance on specific requirements for the provision of open space, including in relation to catchments areas, existing areas of deficiency and the design of new open space provision.

**Table 2: Open Space Standards**

Type of open space	Standard
Provision for children and teenagers	0.3 hectares per 1,000 people
Informal open space	2.2 hectares per 1,000 people

**When the standards should be applied**

5.6.3 The standards are applicable to residential units created as a result of development, regardless of whether they result from new build or conversions. Certain types of housing will not always need to meet the full standard.

5.6.4 Provision will not be required in the following exceptions:

- Provision for children and teenagers will not be sought for those parts of developments consisting of one bedroom units.
- The standards do not apply to nursing homes within class C2.

5.6.5 The open space requirement for specialist housing will be considered on its own merits, taking into account the needs arising from that development.

5.6.6 For each type of open space and recreation provision the following should be taken into account:

- a. The size and character of the proposed development;
- b. Townscape considerations;
- c. Its location in relation to adjacent housing and existing open space; and
- d. Opportunities for creating open space and recreation provision nearby.

5.6.7 The standards are based on specific types of open space. However consideration should be given to including other types of open space and recreation provision and these could help to meet the standards. Where there are deficiencies in certain types of open space provision in the area surrounding a proposed development, the Council will seek variations in the component elements to be provided by the developer in order to overcome them.

### **How the standards should be applied on-site**

- 5.6.8 The amount of land required to meet the standard will be calculated for each type of open space or sports provision. This is done by calculating the number of new residents arising from new development. The number of people will be taken from the information provided in the design and access statement for the planning application. The design and access statement will provide the indicative number of bedspaces/residents in order to meet the requirements of Policy 50: Residential Space Standards of the Cambridge Local Plan 2014: Proposed Submission.<sup>4</sup> For student housing and houses in multiple occupation, the number of people to be accommodated will be used.
- 5.6.9 It is acknowledged that the smaller the site the less opportunities there are likely to be to practically provide the full range of open space requirements as set out in Appendix I of the Cambridge Local Plan 2014: Proposed Submission (and Table 2 above).
- 5.6.10 It is also acknowledged that once CIL has been adopted, the ability to pool financial contributions from planning obligations will be restricted to five obligations per project or type of infrastructure. The restriction on pooling will restrict the Council's ability to fund open space through financial contributions. This emphasises the need for development proposals to meet their open space requirements on site.
- 5.6.11 In light of this, the Council is keen to explore, in the first instance, the opportunity to deliver some form of on-site open space no matter what size of scheme is proposed.
- 5.6.12 **Informal Open Space** - The expectation is that some form of open space will be delivered on-site on all developments. On smaller developments examples of this could be hard landscaping, a sandpit, a barbeque area, a bench and a tree or basic shrubbery, etc. items which collectively are easy to maintain. Opportunities should also be sought on all developments to provide small areas of natural and semi-natural greenspace (e.g. soft surfaces for jogging, sitting out or dog walking).
- 5.6.13 While it is acknowledged that it will not be possible to deliver amenity greenspace (informal playspace used for kickabout and casual playspace) on some smaller developments, it should be considered on all developments of 25 dwellings and over. Provision may also be required on developments of less than 25 dwellings subject to design and context considerations.

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<sup>4</sup> Policy 50 – Residential Space Standards sets out the minimum designated occupancy per dwelling type and unit size



- 5.6.14 On larger developments, for example 100 dwellings or more, larger types of informal open space, such as urban parks and gardens and larger areas of natural green space, should be considered.
- 5.6.15 **Provision for Children and Teenagers** – While it is acknowledged that it will not be possible to deliver Local Areas for Play (LAPs - small age appropriate equipped play areas) on some smaller developments, LAPs should be considered on-site on all developments of 10 dwellings and over. Provision may be required on developments of less than 10 dwellings subject to design and context considerations.
- 5.6.16 Locally Equipped Areas for Play (LEAP)(kickabout areas, adventure playgrounds), should be considered on-site on all developments of 50 dwellings and over. Provision may be required on developments of less than 50 dwellings subject to design and context considerations.
- 5.6.17 Neighbourhood Equipped Areas for Play (NEAP)(Multi-use games area, skate park, bike park) and Youth Space should be provided on-site as part of larger developments of 100 units or more. Provision may be required on developments of less than 50 dwellings subject to design and context considerations.
- 5.6.18 **Maintenance of on-site provision** – In respect of open space provided on-site as part of a development, arrangements will need to be made for its maintenance and management, including the costs of replacing worn out or damaged equipment.
- 5.6.19 The Council will not normally consider adopting an area of informal open space that is less than 300m<sup>2</sup> in size or adopting provision for children and teenagers that is less than 100m<sup>2</sup> in size. Where open space provided as part of a development does not meet the threshold required by the City Council for adoption, the developer should provide a strategy for the future management and maintenance of that open space.
- 5.6.20 Where the thresholds for adoption are met maintenance fees will normally involve the payment of a commuted sum to the Council based on the cost of maintenance and management for a period of 12 years, although there may be instances where the circumstances of a particular site require a contribution calculated on a longer period where there is sufficient justification. Maintenance fees for informal open space and provision for children and teenagers are set out below.
- 5.6.21 **Maintenance of informal open space** – Maintenance costs will be calculated based on the following standards. It should be noted that maintenance fees for large scale complex applications may need to be negotiated on a case by case basis.



**Table 3 – Maintenance of informal open space**

Function/Description of works	12 Year Maintenance Fee	12 year replacement cost <sup>5</sup>
Furniture - Big Belly solar compactor bin/unit	£2700	£5,500
Furniture - Bollards/Drop bollards/unit	£60	£170
Furniture - Bow Top Steel Fence/linear metre	£60	£40/3m
Furniture - Cycle Racks/unit	£300	£419
Furniture - Direction Sign/unit	£600	£600
Furniture - Dog bins/unit	£180	£125
Furniture – Country Gate - self-closing mechanism/unit	£180	£432
Furniture - Historic city bench/unit	£600	£620
Furniture - Wooden bench (play areas)/unit	£600	£950
Furniture - Steel bench/unit	£600	£492
Furniture - Wooden bin/unit	£300	£650
Furniture - Metal Bin/unit	£600	£620
Furniture - Litter bins	£600	£250
Furniture - Steel flowers bench (play areas)/unit	£600	£512
Furniture - Information Signs/unit	£600	£880
Furniture - Metal 70x70mm steel horizontal rail/linear m	£60	£40
Furniture – Noticeboard/unit	£600	£420
Furniture - Street Lighting/unit	£1,500	£1,200
Furniture - Steel seat /unit	£600	£650
Furniture - Wooden Knee Rail Fencing/m	£60	£14
Furniture - Wybone Royal Parks & Ipswich (Wheely) bin	£600	£950
Grass - Amenity (boxed) up to 20mm/100m <sup>2</sup>	£188	£0
Grass - Amenity (unboxed) up to 50mm/100m <sup>2</sup>	£140	£0
Grass - Bulb Planted/100m <sup>2</sup>	£348	£0
Grass - Meadow collect/100m <sup>2</sup>	£609	£0
Grass - Ornamental/100m <sup>2</sup>	£328	£0
Grass - Rough Cut 75mm to 200mm Non collect/100m <sup>2</sup>	£1,218	£0
Hard Surface - Block Paving – Concrete/m <sup>2</sup>	£60	£25.20
Hard Surface - Elastomeric Tech aggregate	£60	£40
Hard Surface - Feature Paving – Clay/Granite/m <sup>2</sup>	£60	£42
Hard Surface - herbicide spraying/1500lm	£769	£0
Hard surface – hoggin including installations/m <sup>2</sup>	£32	£10
Hard Surface - Macadam Path/m <sup>2</sup>	£60	£27
Hard Surface - Resin bound aggregate (KBI)	£178	£33
Hard Surface - Self-binding gravel/m <sup>2</sup>	£128	£12

<sup>5</sup> Replacement costs are based on the realistic lifecycle of equipment. Where this lifecycle is longer than 12 years a pro rata rate is applied.

Function/Description of works	12 Year Maintenance Fee	12 year replacement cost <sup>5</sup>
Hedge - Formal formative prune	£874	£0
Hedge - Informal Box shaped	£437	£0
Hedge - Rural	£1218	£0
Litter and Dog bin emptying	£1,560	£0
Litter picking	£9,091	£0
Monitoring – Bat boxes	£3,600	£0
Monitoring – Bird boxes	£1,800	£0
Shrubs - Amenity excluding herbaceous/100m <sup>2</sup>	£1,748	£600
Shrubs - Amenity including herbaceous/100m <sup>2</sup>	£3,496	£1,500
Shrubs - Ornamental predominately – Herbaceous/10m <sup>2</sup>	£2,098	£70
Shrubs - Rose Bed maintenance/100m <sup>2</sup>	£2,330	£666
Trees - from 90cm to Extra Heavy Std - Watering required /unit	£540	£0
Trees - from 90cm upto Extra Heavy Std - No Watering/unit	£240	£0
Trees upto 90cm - Plantation/Buffer/ Screen - Watering & Mulch/100m <sup>2</sup>	£4,746	£0
Trees upto 90cm - Watering required and mulching/unit	£310	£0

Source: Cambridge City Council Streets and Opens Spaces Team

5.6.22 **Maintenance of provision for children and teenagers** – Commuted sums for the maintenance and replacement costs for the provision for children and teenagers are to be calculated as follows based on recently agreed planning obligations:

**Table 4 – Maintenance of play space for children and teenagers**

Facility	Standard for provision	12 year Maintenance Fee	12 year replacement cost
Local Areas of Play (LAPs), Locally Equipped Areas of Play (LEAP's), Neighbourhood Equipped Areas of Play (NEAP's) and Youth Space	0.3ha/000 people	£109/person (£362/m <sup>2</sup> )  (This figure is based on a LAP of 100m <sup>2</sup> in area with at least 4 pieces of equipment for younger children costing £36,200 to maintain for 12 years)	LAP - £15,000 LEAP - £30,000 - £60,000 NEAP - £60,000 - £90,000

Source: Cambridge City Council Streets and Opens Spaces Team

5.6.23 Maintenance contributions will be index linked to the Building Cost Information Service (BCIS) and take account of any increases in the index during the time period that elapses from the adoption of the SPD and the date the maintenance fee is due to be paid.

## **5.7 Provision of open space via financial contributions in lieu of on-site provision**

5.7.1 In accordance with Policy 68 of the Cambridge Local Plan 2014: Proposed Submission it is only in exceptional cases that financial contributions would be deemed acceptable in lieu of on-site provision. This can only apply in the following circumstances:

- a. If the proposed development would be of insufficient size in itself to make the appropriate provision feasible within the site (in accordance with the open space standards); or
- b. In exceptional circumstances , if taking into account the accessibility/capacity of existing open space sites/facilities and the circumstances of the surrounding area the open space needs of the proposed residential development can be met more appropriately by providing either new or enhanced provision off-site.

5.7.2 Where a financial contribution is deemed to be acceptable the open space standards outlined in Table 2 are applicable. This financial contribution will be negotiated on a case by case basis, and will be subject to the limitations of pooling funds from different schemes to one particular infrastructure improvement or provision.

5.7.3 When financial contributions are sought for the provision or improvement of open space they will be calculated using the number of persons likely to inhabit the development and the cost basis for provisions will include costs of maintenance for a 12 year period.

## **6. Waste recycling**

### **6.1 Introduction**

6.1.1 There needs to be an emphasis on developments addressing their own waste implications and having the necessary recycling provision in place to serve the needs of occupiers. Cambridgeshire County Council is the waste planning authority for Cambridge and deals with all strategic waste issues. All development needs to make provision for waste recycling in order to be sustainable.

### **6.2 Policy Background**

6.2.1 **NPPF** – The NPPF emphasises, at paragraph 156, the need for waste management and the provision of waste management infrastructure.

#### **6.2.2 Cambridge Local Plan 2014 Submission Version:**

*Policy 85 – Infrastructure Delivery, planning obligations and the Community Infrastructure Levy* sets out the justification for planning obligations in connection with new developments.

*Policy 57 – Designing new buildings* stipulates that new buildings will be supported where they can demonstrate that they successfully integrate functional needs such as refuse and recycling.

*Policy 27 – Carbon reduction, community energy networks, sustainable design and construction, and water use* requires developers to outline their approach to site waste management, making specific reference to the RECAP Waste Management Design Guide and its associated toolkit.

#### **6.2.3 Cambridgeshire and Peterborough Minerals and Waste Core Strategy 2011:**

Policy CS16 – Household Recycling Centres states that new development will contribute to the provision of household recycling centres.

Policy CS28 – Waste Minimisation, re-use, and Resource Recovery requires new development to contribute to the provision of bring sites.

The Core Strategy requires that a RECAP Waste Management Design Guide Toolkit (see below) must be submitted with each planning application.

#### **6.2.4 RECAP Waste Management Design Guide 2012:**

This Guide sets out practical information on the provision of waste storage, waste collection, recycling, and bring sites. It includes a Toolkit which provides a framework for developers and planners to assess what contributions will be required towards the provision of Household Recycling Centres and bring sites

### 6.3 What can be funded by CIL?

6.3.1 Provision for strategic household waste recycling can be considered for CIL funding.

### 6.4 What can be funded by S.106 planning obligations?

6.4.1 Financial contributions will be required from all developments for the provision of household waste and recycling receptacles on a per dwelling basis and will be used to fund the number of receptacles generated directly by the needs of development.

**Table 5: Developer Contributions towards waste receptacles**

Houses	£80 per house based on 3 x standard bins
Flats	£150 per flat (based on provision of large communal Eurobins which are litre for litre more expensive than small bins.)

6.4.2 For large scale developments consideration will be given to the need to incorporate additional mini recycling centres (bring sites) within the development site based on the likely level of additional demand generated by the development. Developments over 200 dwellings will be assessed on an individual basis to consider the potential for underground mini recycling facilities.

## **7. Public Art**

### **7.1 Introduction**

- 7.1.1 Public art provides social, economic and cultural benefits and can improve the quality of the built environment and provide distinction and character. Public art can mitigate the impacts of new development through measures that help to re-establish local identity and sense of place. In this way public art can also be considered a form of community infrastructure that should be funded.
- 7.1.2 The provision of public art should form an integral element to new development in order to help mitigate its impact on its physical environment and setting.

### **7.2 Policy background**

- 7.2.1 **NPPF** - 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.
- 7.2.2 **Cambridge Local Plan 2014 Submission**  
*Policy 85 – Infrastructure Delivery, planning obligations and the Community Infrastructure Levy* sets out the justification for planning obligations in relation to new development.  
*Policy 56 – Creating successful places* states that development proposals should embed public art as an integral part of the proposals as identified through the Council’s Public Art Supplementary Planning Document.
- 7.2.3 **Cambridge City Council Arts Strategy 2011 – 2014**; This documents sets out the Councils intention to ensuring that support for the arts is maintained and developed
- 7.2.4 **The Audit and Needs Analysis of Arts Infrastructure in the City of Cambridge 2013**; This document looks at priorities in the development of arts infrastructure.

### **7.3 What can be funded by CIL?**

- 7.3.1 Public art projects required to address the cumulative impact of development, and that have a citywide benefit, could be funded via CIL.

### **7.4 What can be funded by planning obligations?**

- 7.4.1 S.106 planning obligations will not be used to secure public art. However, all major development of 10 or more dwellings, or a site area of 0.5ha or more will be required to

make provision for public art in order to mitigate its impact on its physical environment and setting.

- 7.4.2 Where public art is required it should be considered as part of the design process and incorporated into the submitted planning application. Public Art is likely to be dealt with by way of a planning condition to reinforce the normal design/development requirements.

## **8. Public Realm**

### **8.1 Introduction**

8.1.1 Creating a well-used and active public realm helps foster a sense of community and reduces crime. The way buildings front on to public spaces, through proposed uses, functions and activity and the way open spaces are designed to meet the needs of residents and visitors is crucial to the creation of high quality and enduring places.

8.1.2 The Council is committed to ensuring that all new development proposals contribute to a high quality public realm.

### **8.2 Policy background**

8.2.1 **NPPF** - 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.

#### **8.2.2 Cambridge Local Plan 2014 Submission Version**

*Policy 85 – Infrastructure Delivery, planning obligations and the Community Infrastructure Levy* sets out the justification for planning obligations in relation to new development

*Policy 56 – Creating successful places* states that development proposals should create and improve public realm, open space and landscaped areas that respond to their context and development as a whole and are designed as an integral part of the scheme. Proposals should also use materials, finishes and street furniture suitable to their location and context.

*Policy 59 – Designing landscape and the public realm* states that high quality public realm must be designed as an integral part of new development and co-ordinated with adjacent sites and phases

8.2.3 The Council intends to set out more detail on how development can contribute to these improvements through the production of a City Centre public realm strategy supplementary planning document.

### **8.3 What can be funded by CIL?**

8.3.1 Where necessary the Council will use CIL to fund or part fund strategic projects to improve the streetscene and built environment. This would be in relation to projects that have a citywide benefit, such as city or neighbourhood centre public realm improvements, but are not directly related to a development site.



## **8.4 What can be funded by planning obligations?**

8.4.1 For developments large enough to have public space within the site most matters will be dealt with by planning condition.

8.4.2 Section 106 Agreements may be required to address issues in respect of site-specific on-site and directly related site public realm improvements. Examples of what might be required are provided below, the list is not exhaustive:

- Carriageway surfacing;
- New or improved footways;
- Removal of street clutter;
- Street furniture;
- Street lighting;
- Cycle stands.

## **9. Natural environment**

### **9.1 Introduction**

9.1.1 Cambridge's natural environment helps define the character and setting of the city, and contributes significantly to Cambridge residents' quality of life. The Council is committed to maintaining and enhancing the natural environment against the background of a successful, growing city.

### **9.2 Policy background**

9.2.1 **NPPF** - 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 should do this by minimising the impacts on biodiversity and also remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

9.2.2 Paragraph 118 of the NPPF states that if significant harm to the environment as a result of the environment cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused.

#### **9.2.3 Cambridge Local Plan 2014 Submission Version**

Local Plan policies that are significant to nature conservation include:

- *Policy 69 – Protection of sites of local nature conservation importance; and,*
- *Policy 70 – protection of priority species and habitats; and,*
- *Policy 71 – Trees.*

### **9.3 What can be funded by CIL?**

9.3.1 Strategic improvements to landscape, habitats, access to the countryside and major green infrastructure projects could be funded by CIL

### **9.4 What can be funded by planning obligations?**

9.4.1 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 means of a planning conditions.

9.4.2 Depending on the scale of the development there may be circumstances where schemes require mitigation measures to be included in a S.106 Agreement. Matters which could be included in a S.106 Agreement include, but are not limited to:

- Ecological Mitigation/Remediation;

- Major contamination issues;
- Species protection and habitat protection.

## **10. Other Potential Development Specific Requirements**

### **10.1 What may be required via planning obligations?**

10.1.1 Chapters 4 to 10 may not represent all possible planning obligations requirements that may be applicable to any individual development. The precise circumstances of each development will be different and therefore there may be additional development specific requirements, such as mitigation measures, that may be needed to address the impact of individual developments. Such requirements by reason of their nature will need to be assessed on a site by site basis. The list below sets out some additional potential planning obligations that may be applicable, depending on the individual circumstances and constraints of the development site and the nature of the proposed development. This list is not exhaustive. The relevant policy reference from the Cambridge Local Plan 2014 Proposed Submission are given in each case:

- Arts and Cultural facilities (Policy 73, Policy 85);
- In exceptional circumstances, where granting planning permission leads to the loss of community, sports or leisure facilities, the City Council will secure alternative provision to the existing scale, range, quality and accessibility for its users (Policy 73, Policy 85);
- Impacts on the historic environment (Policy 61, Policy 63, Policy 85);
- Pollution/Air Quality mitigation measures (Policy 36, Policy 85);
- Sustainable Drainage Systems (SUDS) (Policy 31, Policy 85).

## **11. Implementation**

### **11.1 Negotiation/Viability**

- 11.1.1 Planning obligations, like CIL, are a necessary cost of development and it will be expected that the likely cost of obligations, including the cost of affordable housing provision, will be factored into development from an early stage. The Council has tested the viability of development as part of the preparation of the Cambridge Local Plan 2014 Submission Version and the Cambridge Submission CIL charging schedule. The viability assessments<sup>6</sup> tested the impact of the proposed CIL rates, alongside Local Plan policies and planning obligations on development. The results of these residual land value development appraisals produced land values that would still incentivise landowners to make their land available for redevelopment. These results were based on area-wide viability assessments, which included additional headroom (i.e. the CIL rates are not set at the margins of viability), something that would not be relied on for site-specific cases.
- 11.1.2 The costs incurred in delivering a workable, high quality development should be anticipated and reflected in the price paid for land and should not reduce the ability of a site to provide what is required under the planning obligations.
- 11.1.3 Anticipated costs must include affordable housing, site clearance and remediation, good quality, design measures, landscaping, noise and other environmental attenuation measures, and appropriate infrastructure provision. Price paid for land may not be a determining factor if too much has been paid or historic land values or developer profit margins are being protected at the expense of required planning contributions.
- 11.1.4 There may be exceptional circumstances where development proposals are unable to meet, in full, the policy requirements of the Development Plan. 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.
- 11.1.5 In order to determine such applications the applicant is required to submit an 'open book' viability assessment to the Council. In all cases, the Council requires viability assessment to be undertaken using a residual land value approach. The applicant should use the Homes and Communities Agency Development Appraisal Tool (<http://www.homesandcommunities.co.uk/ourwork/development-appraisal-tool>) or an equivalent well recognised appraisal tool, to be agreed with the Council in advance of the

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<sup>6</sup> Local Plan/CIL Viability Assessment, Small Sites Affordable Housing Viability Assessment, Student Accommodation Affordable Housing Viability Assessment, SHLAA Viability Assessment

assessment. 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 land value for the proposed scheme, which can then be compared against a benchmark or threshold land value (Market Value, / Existing Use Value or Alternative Use Value).

- 11.1.6 Viability costs should only include costs that are essential to the development, or required through Local Plan policies, National and local legislation, regulation and guidance. The provision of additional benefits to development not required through the above e.g. additional parking spaces, underground parking, should not be included as a reason to demonstrate a non-viable development.
- 11.1.7 The schedule of information to be provided as part of a Financial Viability Assessment on any development scheme can be found at Appendix 3.
- 11.1.8 Once submitted, the viability assessment will be considered and assessed by the City Council and an independent viability advisor appointed by the City Council, with full costs to be borne by the applicant. Commercially sensitive information will be treated in due confidence, however it may be necessary to report the key issues and broad conclusions to elected members at the time of their consideration of the planning application.
- 11.1.9 Where the applicant fails to demonstrate that a reduced level of contributions should be applied or that the level of planning obligations that the development can viably support cannot mitigate the impact of the proposed development, then the planning application will be refused.
- 11.1.10 If it is proved that meeting the full policy requirements for affordable housing would make a scheme unviable, then negotiations will take place to reduce the planning obligations to a point which maximises affordable housing, but results in a viable well designed scheme.
- 11.1.11 The Growth and Infrastructure Act 2013 provides a route for applicants who already have the benefit of extant permission on a site to apply under Section 106BA of the Town and Country Planning Act 1990 to reduce the quantum of affordable housing included in a development if the original provisions of the associated Section 106 agreement render the development unviable. Further guidance in relation to applications under Section 106BA is included in the Council's Draft Affordable Housing Supplementary Planning Document.

## **11.2 Legal Agreements**

- 11.2.1 Section 106 (S106) of the Town and Country Planning Act 1990 (as amended) allows the local planning authority to enter into a legally binding agreement with a landowner in association with the granting of planning permission in order to secure planning obligations.
- 11.2.2 The Council's S106 agreement includes clauses to secure the provision of planning obligations. The agreement is made by Deed between the landowner (s), Cambridge City Council, Cambridgeshire County Council and any other person with an interest in the application site.
- 11.2.3 In all cases where a planning obligation is to be secured by S106 the Council's Legal Services will usually produce the first draft and the applicant will be required to pay the Council's legal and administrative costs incurred in negotiating and completing the deed and the costs of the transfer of any land to the Council, as well as to pay a contribution towards the cost of monitoring for compliance.
- 11.2.4 The proposed Heads of Terms of any Agreement will need to be established before instructions to draft a section 106 agreement are sent to Legal Services and the agreement must be completed before any planning permission can be issued. The applicant will be expected to provide Heads of Terms reflecting the obligations outlined in this SPD, and reflecting all parties with interests in the relevant land.
- 11.2.5 Where it considers it appropriate, and having first assessed whether there is any risk to the City Council and County Council in doing so, the City Council may decide to make it a condition of a planning permission that there shall be no commencement (including demolition) until such time as the terms of the section 106 agreement in accordance with the approved Heads of Terms and template have been agreed and entered into by all the parties with interests in the land.
- 11.2.6 Where the City Council decides that such a condition is not appropriate, for example (but not limited to the following example) because one or more of the site specific Heads of Terms are not drafted with sufficient certainty, the permission will not be issued until the section 106 agreement has been completed. Failure to complete the agreement in a timely manner may risk refusal.
- 11.2.7 Any references to financial contributions will be index linked to the Building Cost Information Service (BCIS) and take account of any increases in the index during the time

period that elapses between the date of the deed and when the contribution is due to be paid.

11.2.8 Further information can be obtained by contacting the Council's Legal Services on: 01223 457414.

### **11.3 Practical points for preparing and completing planning applications**

11.3.1 In order to enable the completion of planning obligations to take place quickly and effectively, the following points should be borne in mind:

- Use of conditions including Grampian type conditions<sup>7</sup> or Unilateral Undertakings<sup>8</sup> rather than S.106;
- Use of standard clauses where possible;
- Proposed Heads of Terms should be submitted with planning applications/as soon as possible following registration of planning applications. The applicant should notify the planning case officer of the solicitor they intend to instruct to act on their behalf in relation to the S.106 Agreement. They should also ask their solicitor to contact Legal Services so that the appropriate undertaking for the City Council's and (where a party) the County Council's legal costs can be provided (or to cover the cost of external solicitors if the City Council decides that this is appropriate). Up to date evidence of title should also be provided at an early stage;
- As all parties with an interest in the application may need to be party to any planning obligation relating to it, applicants should inform and involve landlords and anyone else with an interest in the land (for example, a bank with a charge) at an early stage. If such parties are not involved until the first draft of the planning obligation is produced, this can slow down the process considerably;
- Where contributions to the City Council and County Council towards physical or social infrastructure are required through a planning obligation they will be index linked to reflect any increases in the index (as described in paragraph 11.2.7).

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<sup>7</sup> A Grampian Condition is a planning condition attached to a decision notice that prevents the start of the a development until off-site works have been completed.

<sup>8</sup> A unilateral undertaking is a simplified version of a S.106 Agreement. It is a legal deed that is only entered into by the landowner and not the Council. It will only be appropriate circumstances.



## 11.4 Monitoring of planning obligations

- 11.4.1 Once a planning obligation is signed, administrative costs are incurred on tasks such as checking legal agreements, processing financial contributions in accordance with the terms of the obligation, updating the Council's S.106 database, monitoring of triggers associated with the provision of on-site/off-site infrastructure, and monitoring conditions that secure planning obligations. The list is not exhaustive.
- 11.4.2 This requires compliance checks, monitoring, project management and implementation by the City Council. Standard charges will apply to recoup these costs. These standard charges will be imposed on a per clause basis as outlined in Table 6 below in line with Policy 85 of the Draft Cambridge Local Plan 2014.
- 11.4.3 Large-scale developments may be agreed by negotiation, although this will incur an additional administrative charge. Such agreements will need to be agreed as part of the S.106 negotiation process on a development specific basis.

**Table 6 – Monitoring Charges**

Type of planning obligation	Monitoring Charge
Monitoring charges on financial and non-financial planning obligations	The management and administration charge will be 5% of the total contribution(s) (subject to a maximum charge of £50,000).
Large Scale Development	To be considered on a case by case basis. May be agreed by negotiation, subject to an additional management and administration charge. The default position for administration charge will be 5% of total contribution(s).

## 11.5 Review of planning obligations and expenditure of contributions

- 11.5.1 In order to ensure that information on planning obligations receipts and expenditure is available and the system is fully accountable, the following measures are an integral part of the City Council's processes:
- Reports on planning applications presented to Planning Committees/Area Committees will identify any key aspects of planning obligations recommended by the planning officer;

- A copy of each planning obligation will be placed on the public planning register in association with the planning decision notice to which it relates;
- An overview of contributions received and projects funded will be reported to Environment Scrutiny Committee;
- The Council has a system of devolved decision making in place whereby Area Committees prioritise how devolved funding from or within contribution categories is used on local projects to provide or improve local facilities. At the same time some developer contributions from major developments are assigned to a citywide fund for strategic projects benefiting more than one area in the city.

## Appendix 1

### Cambridge City Council Submission Draft Local Plan 2014 – Policy 85: Infrastructure delivery, planning obligations and the Community Infrastructure Levy

#### **Policy 85: Infrastructure delivery, planning obligations and the Community Infrastructure Levy**

Permission will only be granted if it can be demonstrated that there is, or will be, sufficient infrastructure capacity to support and meet all the requirements arising from the new development. Where existing infrastructure will be placed under strain due to the impact of new development, improvements to existing infrastructure or compensatory provision should be made so that an appropriate level of infrastructure is maintained.

Infrastructure provision will reflect the Council's priorities for infrastructure set out in the Cambridge and South Cambridgeshire Infrastructure Delivery Study and its successor documents. The Council will work positively with neighbouring authorities and Cambridgeshire County Council on infrastructure issues, including the Community Infrastructure Levy (CIL), which the Council is committed to introducing in 2014. Until the introduction of the CIL, and to a lesser degree thereafter, the Council will continue to use planning obligations under Section 106 of the Town and Country Planning Act 1990 to ensure developer contributions towards necessary infrastructure are maximised.

Planning permission for new developments will only be supported/permitted where there are suitable arrangements for the improvement or provision and phasing of infrastructure, services and facilities necessary to make the scheme acceptable in planning terms.

Planning obligations and/or a future CIL could be required for the following:

- a. transport infrastructure
- b. public transport
- c. drainage and flood protection
- d. waste recycling facilities
- e. education
- f. healthcare
- g. leisure and recreation facilities
- h. community and social facilities
- i. cultural facilities, including public art
- j. emergency services
- k. green infrastructure
- l. open space
- m. affordable housing

The above list is not exhaustive and there may be scope for requiring developer contributions towards a wider range of infrastructure measures. Contributions could

also be used to secure ongoing maintenance where this is deemed appropriate.

The introduction of CIL in 2014 will be accompanied by a review of the Council's guidance on planning obligations, and will ensure that the range and level of contributions towards local infrastructure needs are kept up to date and maximised in the context of emerging CIL practice and guidance.

## Appendix 2 – Draft Regulation 123 List

### Cambridge City Council

#### Community Infrastructure Levy Draft Regulation 123 List

(Version to accompany the Community Infrastructure Levy Draft Charging Schedule consultation)

The infrastructure listed below will be eligible to be funded through the Community Infrastructure Levy. The Draft Regulation 123 list, as set out below, defines which projects and/or types/sections of infrastructure that the Council will fund through CIL revenues. It will take effect upon the implementation of the Council's CIL Charging Schedule.

The list is not definitive, and in no order of priorities, as no formal decisions have yet been taken to confirm how CIL funds will be allocated amongst the listed infrastructure projects. It is a list of infrastructure that CIL could be used to fund, subject to Council priorities and the levels of available CIL funding.

Ultimately, it will be necessary to prioritise both within theme areas (e.g. strategic transport) and also between theme areas (e.g. education or community facilities). Factors such as whether an infrastructure element is essential or even required by legal statute or regulation if a development was to go ahead would be taken into account.

#### **CIL Draft Regulation 123 List – Infrastructure types and/or projects that will, or may, be funded in whole or in part by CIL:**

<b>Strategic Transport Infrastructure (excluding development specific mitigation works on, or directly related to, a development site)</b>
<b>Education Infrastructure</b>
<b>Strategic household waste recycling facilities</b>
<b>Libraries and lifelong learning facilities</b>
<b>Community Facilities (excluding where a new development leads to the loss of a community facility and re-provision is required on-site or directly related to that site)</b>
<b>Strategic public realm improvements</b>
<b>Indoor Sports Facilities (excluding where a new development leads to the loss of a sports facility and a re-provision is required on-site or directly related to that site)</b>
<b>Outdoor Sports Facilities (excluding where a new development leads to the loss of a sports facility and a re-provision is required on-site or directly related to that site)</b>
<b>Allotments</b>
<b>Strategic Green Infrastructure</b>

## Appendix 3 – Viability Appraisal Review Information Requirements

The Council has produced this viability appraisal review checklist to provide advice to applicants on the information the City Council expect to be submitted if an applicant wishes to pursue a case of non-viability. This following information is expected from the applicant if a development is proposed which does not provide the amount or type of affordable housing and/or financial contributions expected through Cambridge City Council's Development Plan policies. This is not exhaustive but provides a basic guide as to what to include within a viability assessment:

### A.1 Viability Assessment Reports & Appraisals – general points:

- The applicant should provide a brief covering report providing an overview of why the viability case is being made. This should detail the viability case being made - what the issue is – it should be clear on the request / offer that is being made (i.e. the extent of departure from Policy compliance considered necessary) and the reasons why in the applicant's view this should be considered;
- The report should be accompanied by the supporting information / evidence associated with the viability assessment and appraisal(s) / sensitivity tests;
- Homes and Communities Agency (HCA) Development Appraisal Tool (DAT) or similar agreed toolkit to be used;
- The appraisals content and summaries to be supplied in PDF and also "live" (functional) appraisal version(s) to aid the review process;
- Appraisal(s) should be consistent with and clearly linked to (explained by) the written submission / covering report;
- Appraisals should show the optimum planning obligations position that can be reached in the opinion of the applicant based on their viability assessment;
- Applicants should provide a policy compliant assumptions version to illustrate the differences / viability issues;
- If sensitivity analysis carried out – provide an explanation of sensitivity assumptions.

### A.2 Scheme Details and Context – the report/appraisal(s) should include / provide the following:

- **An Ordnance Survey based site plan and overview layout plan**
  - To include indication of the location and extent of any adjoining highways works or similar.
- **Scheme description/details to include**
  - Site areas (ha) - gross and net (developable);
    - land areas for any other non-residential / ancillary / other uses
  - Confirmation of resulting development density;

- Total residential unit numbers; both market and affordable (with percentage of affordable housing);
- Residential unit schedules (market and affordable housing) with:
  - type of units;
  - number of bedrooms;
  - floor areas (usually GIA);
  - any non-saleable floor areas / net : gross ratio.
- Any commercial / other / mixed use development details – equivalent information (to include gross and net internal floor areas).
- **Details of timings and any phasing**
  - Include numbers and types of units in each phase);
  - Assumed project / phase start and end dates;
  - Construction start and period;
  - Sales period, rate of sale and any post construction sales period;
  - affordable housing timing;
    - construction period;
    - payments / handover / receipts.

**A.3 Site Value – the report/appraisal(s) should include / provide the following:**

- **Details of current use(s)** of the site and planning context / status (with any relevant supporting information);
- **Value of site / premises** at the assessment (current) date – include supporting evidence
  - Full explanation with valuation and other supporting details where relevant;
  - Details of any special assumptions and planning risk adjustment being made with respect to alternative use value assessment as a basis for site value;
  - Clear approach on whether site value being used as an appraisal input or as a benchmark against which a RLV is being compared (i.e. is the viability benchmark based on land value or profit);
  - Land purchase and timing details may be relevant – including background, basis / planning assumption, any conditions, etc.
- **Land purchase related costs / fees**
  - Stamp duty, legal and any agent’s fees plus supporting information if necessary.

**A.4 Gross Development Value (GDV) – the report/appraisal(s) should include / provide the following:**

- **Assumed sales values**
  - Provide sales values both as £ per unit and £/m<sup>2</sup>;

- Ground rents;
  - Total revenue summarised;
  - Provide supporting evidence including analysis of any comparables research / agents advice / other justification;
  - Service charges or any other deductions / incentives that may impact on value.
- **Affordable housing revenue assumptions**
    - Provide revenue assumptions both as £ per unit and £/m<sup>2</sup> (where based on offer(s) from Registered Providers please indicate offer and provide supporting evidence);
    - Indicate tenure assumptions - by unit type and overall mix (e.g. affordable rent / shared ownership or similar ratio);
    - Affordable and/or social rent assumptions
      - Rent assumptions;
      - Percentage of market rent assumed;
      - Other financial criteria used to calculate affordable housing revenue where applicable.
    - Assumptions for shared ownership revenue
      - Percentage initial equity share and percentage rent on retained equity;
    - Equivalent information / explanation on any other AH models / variation.
  - **Commercial / Non-Residential Values (where applicable):**
    - Rental values;
    - Yields;
    - Void rates;
    - Rent free periods;
    - Tenant incentives;
    - Any other area that impacts on value (e.g. purchasers costs).

Above to be provided with supporting evidence.

#### **A.5 Development Costs – the report /appraisal(s) should include / provide the following:**

- **Build Costs**
  - Basis and source of build cost assumptions / estimates – e.g. all-in / unit costs plus external / site works; contingency percentage and any other costs additions;
  - £/m<sup>2</sup> rates for each element (if separated) and totals provided.
- **Other**
  - E.g. abnormal (provide supporting evidence);



- Site or other works;
- Infrastructure or services related costs etc. not otherwise allowed-for.
- **Build cost related fees**
  - Details and basis / percentage (of build costs). E.g. professional fees (architect, planning, surveyors etc.).
- **Survey / investigation or similar costs**
  - Provide details and supporting evidence.
- **Sustainability standards** - Provide details and supporting evidence for costs relating to:
  - Sustainable design & construction costs (Code for Sustainable Homes / renewable energy or equivalent for both market and affordable);
  - Any additional measures and costs.
- **S.106 obligations and contributions**
  - Provide details and costs including explanation and any Council / formulaic calculations;
  - Anticipated CIL liability and any relevant assumptions where applicable.
- **Finance costs**
  - Finance rates assumed (negative & positive cashflow balance);
  - Related fees;
  - The appraisal cash flow should be provided.
- **Development Profit**
  - Clear statement on target return / assumed fixed appraisal input and basis (percentage of value / percentage of cost or other) including:
    - Profit assumptions on private / affordable housing and commercial / other non-residential elements of the scheme where applicable.
- **Sale & marketing costs**
  - Usually expressed as a percentage of value with details of any separate elements provided.
- **Legal fees on sale**
  - Provide details and supporting evidence where applicable. Generally expressed as a rate per unit or percentage of value.

Please note: Documents and accompanying evidence should be provided by the applicant / their agent(s) as a package with an explanatory note of the components / appendices in electronic format where possible. Depending on scale of plans and size of reports, printed copies of some elements may be requested to aid the review.