

Basildon Borough Council Planning Obligations Strategy

July 2015

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1. Introduction

1.1 Purpose of this document

- 1.1.1 The Council is in the process of preparing a Local Plan for the Borough for the period 2011-2031. A significant amount of preparatory work has already been undertaken which has included the preparation of a Core Strategy Preferred Options Report in 2011 which was the subject of public consultation between February and April 2012. This was followed by the preparation of a Local Plan Core Strategy Revised Preferred Options Report in December 2013 which was the subject of public consultation between February and April 2014. This approach was in accordance with the Council's then adopted Local Development Scheme (the "LDS") 2013 - 2016 which indicated that the Council would first adopt a Core Strategy and support this with a Site Allocations DPD and other DPD's to provide an appropriate Local Development Framework for the Borough.
- 1.1.2 On the 4th December 2014 the Council adopted a revised LDS, which has replaced the programme to prepare the suite of documents in the previous LDS, with a commitment to prepare an integrated Local Plan, a Community Infrastructure Levy (CIL) Charging Schedule and a Policies Map Local Plan Document. The LDS sets out a timetable for the preparation of each of these documents with the Local Plan planned for adoption in the first quarter of 2018 together with the CIL Charging Schedule.
- 1.1.3 This means that the Council will not have a CIL Charging Schedule in place until 2018 and there is therefore a need for the Council to have supplementary guidance in place to enable negotiations to take place with regard to the planning obligations that may be required to support development proposals. This is particularly important due to the changes that were introduced on the 6th April 2015 by virtue of regulation 123 of the CIL Regulations which limits the use of planning obligations in two ways. The first is to prevent planning obligations and CIL payments from overlapping; the second is to limit the collection of pooled contributions through planning obligations. The first is achieved by reg 123 (2), which prohibits a planning obligation from being relied on as a reason for the *grant* of planning permission where the obligation provides for the funding or provision of 'relevant infrastructure'. Where a regulation 123 list has not been published setting out the types of infrastructure which is to be funded through CIL contributions, 'relevant infrastructure means any infrastructure. The second restriction is achieved by reg 123(3), which means that a planning obligation cannot be used fund a project or type of infrastructure if there have been 5 separate obligations on or after 6th April which fund that project or type of infrastructure.
- 1.1.4 As Basildon Council will not have an adopted Local Plan or CIL Charging Schedule in place by the 6th April 2015, it will have limited scope to require funding or provision of planning obligations to fund any infrastructure required to enable developments to take place.
- 1.1.5 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 20 of the Basildon Borough Council Core Strategy Revised Preferred Options Report 2013 (the "CSRPOR"). It will be replaced by a future Supplementary Planning Document (SPD) once the Council has an adopted Local Plan and Community Infrastructure Levy (CIL) in place.
- 1.1.6 Although the CSRPOR is not an adopted document it has been prepared with the benefit of a considerable evidence base of documents and the results of the consultation from the earlier Core Strategy Preferred Options Report in 2012. The CSRPOR has identified a need for 16,000 additional homes and 8,600 jobs between 2011 and 2031. This growth will result in increased pressure on local infrastructure, services and facilities, creating demand

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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 the development is mitigated and that the necessary infrastructure is provided. The Council expects new development to contribute to site related and other infrastructure needs.

1.1.7 It may be the case that major development proposals come forward before the formal adoption of the Local Plan so it is important that the Council has an evidence based strategy in place to determine the level of contributions required to mitigate the impact of developments. The purpose of this Strategy is therefore to:

- 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 Borough'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 Basildon.

1.1.8. The Planning Obligations SPD supports the following proposed Local Plan strategic objectives:

- I. To improve the employment prospects, education and skills of local people.
- II. To promote sustainable regeneration and deliver housing growth through high quality, locally distinctive, sustainable developments and supporting infrastructure.
- III. To support and promote the growth in local economies and businesses to benefit local people.
- IV. To support local people to improve their health and well-being.
- V. To treat the cause of crime, anti-social behaviour and disorder and improve community safety.

1.1.9. This SPD will replace the Basildon Interim Planning Obligations Policy 2008.

1.2 Status

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

1.2.2 As Basildon Council will not have an adopted Development Plan in place by the 5 April 2015 and will not therefore also have a CIL in place, the approach that will be taken is that the Council will consider each application on an individual basis using the legal tests

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set out in the guidance. Requests for contributions (planning obligations) will be done on the basis that they are:

- a) necessary to make the development acceptable in planning terms
- b) directly related to the development
- c) fairly and reasonably related in scale and kind to the development.

However these are now subject to the restrictions in regulation 123(2), and in 123(3), which says that the Council cannot 'pool' contributions from 5 or more developments to fund a particular infrastructure requirement.

- 1.2.4 The Council will put in place procedures to monitor the number of contributions towards individual infrastructure items to ensure that the limit on 'pooled' contributions is not exceeded.
- 1.2.5 The Council will negotiate the appropriate level of specific site-related contributions and assess the impacts on an individual site basis, in accordance with the three tests. Any testing of viability of schemes that needs to be undertaken will be done on a case by case basis.
- 1.2.6 The approach to determining the level and type of planning obligations that may be required to mitigate development set out in this strategy has been derived to a large extent from the considerable work that has already been undertaken to produce the CSRPOP. This sets out a number of development scenarios for how the Borough may be developed to accommodate the predicted levels of need for housing and employment land up to 2031. However nothing in this document should be taken as confirming that any of the Policy Areas for Development and Change (the "PADCs") proposed in the CSRPOP constitute adopted Council policy. Areas for future development will only be confirmed once the Local Plan is adopted in 2018.

1.3 Consultation on the Planning Obligations SPD

- 1.3.1 The Planning Obligations SPD has been subject to public consultation from 19th February to 2nd April 2015.
- 1.3.2 Following consultation the Planning Obligations SPD has been updated to reflect comments received, and then adopted by the Council on 23rd July 2015 as guidance to be used as a material consideration in the determination of planning applications. The Strategy supersedes the Council's Interim Planning Obligations Strategy from 2008.

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 obligation 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 is 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 6th April 2015, whichever is the sooner, the use of planning obligations must be scaled back. This means that the scope for 'double-dipping' (collecting contributions which would otherwise be collected through CIL) has been curtailed and also 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. The section 106 agreements/unilateral undertakings to be entered into with the developers will no longer refer to generic types of infrastructure e.g. education, but will refer to specific projects which are required because of the impacts of the scheme.

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

2.2 The National Planning Policy Framework (NPPF)

2.2.1 Paragraphs 203 to 206 of the NPPF set out the Government's 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 National Planning Policy Guidance (NPPG)

2.3.1 The Planning Obligations Section of the NPPG sets out guidance on the use of planning obligations. It repeats earlier advice that planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the NPPF.

2.3.2 Paragraph 002 of the guidance describes how planning obligations relate to other contributions. It states that developers may be asked to provide contributions for

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infrastructure in several ways. This may be by way of the Community Infrastructure Levy and planning obligations in the form of section 106 agreements and section 278 highway agreements. Developers will also have to comply with any conditions attached to their planning permission. Local authorities should ensure that the combined total impact of such requests does not threaten the viability of the sites and scale of development identified in the development plan.

- 2.3.3 Where the levy is in place for an area, charging authorities should work proactively with developers to ensure they are clear about the authorities' infrastructure needs and what developers will be expected to pay for through which route. There should be not actual or perceived 'double dipping' with developers paying twice for the same item of infrastructure.
- 2.3.4 Paragraph 003 states that policies for seeking obligations should be set out in a development plan document to enable fair and open testing of the policy at examination. Supplementary planning documents should not be used to add unnecessarily to the financial burdens on development and should not be used to set rates or charges which have not been established through development plan policy.
- 2.3.5 Paragraph 004 states that in all cases, including where tariff style charges are sought, the local planning authority must ensure that the obligation meets the relevant tests for planning obligations in that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

2.4 The Community Infrastructure Levy (CIL)

- 2.4.1 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 a Council's Regulation 123 List,¹ needed to support new development across the Borough's administrative area. Planning obligations may not be used to fund an item that is locally intended to be funded by CIL.
- 2.4.2 After 6 April 2015 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 project specific mitigation, and the provision of affordable housing.
- 2.4.3 The CIL and planning obligations need to be complementary contribution mechanisms. However as stated in paragraph 1.1.4 above the Council will not have adopted a CIL by the 6 April, and will therefore need to negotiate planning obligations on a site by site basis to provide any infrastructure improvements necessary to make a development acceptable. The imposition of any obligations must be project-specific and satisfy the tests, set out in paragraph 2.1.2 above.

2.5 Basildon Borough Local Plan

- 2.5.1 The Council does not have an adopted Local Plan and does not have an adopted CIL. Until the Council adopts a CIL it will continue, subject to the restrictions in regulation 123(2) and (3) to negotiate Section 106 contributions where necessary to offset the impact that new development will have on the local community. In terms of identifying the requirements for obligations the Council will use the information and evidence that has already been collected for the preparation of the CSPOR 2012, and the CSRPOR 2013 which was

¹ The CIL Regulation 123 (R.123) list sets out the infrastructure that can be funded in whole or part by CIL.

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informed by an Infrastructure Capacity Baseline Study. Information was provided by the major infrastructure providers such as Essex County Council for Education and Highways, the local CCGs for Health, Anglia Water and Environment Agency for Flood Protection and Water Management.

2.5.2 The Council has also undertaken a number of other evidence base studies which will be used to identify where infrastructure is required to offset the impact of development. These include the Thames Gateway Strategic Housing Market Assessment 2013, Essex Gypsy, Traveller and Travelling Showpeople Local Needs Assessment, Basildon Borough Indoor Sports and Recreation Facilities Study 2012, Playing Pitch Review 2011, Open Space Assessment 2010, and Leisure, Arts, Culture and Tourist Accommodation 2010, Basildon Council Town Centre Masterplan 2012, Basildon Borough Council - South Essex Water Cycle Study 2011, South Essex Water Cycle Study Scoping Report 2009, South Essex Strategic Flood Risk Assessments 2011, South Essex Surface Water Management Plan April 2012, Basildon District Biodiversity and Habitat Service Level Agreement Report 2009, Basildon District Local Wildlife Sites Register 2009, Basildon District Nature Conservation Report - Phase 1 Habitat Survey, Landscape Study Volume 1 Landscape Character and Capacity Assessments 2013, Green Belt Study Report 2013, Conservation Area Appraisals and Management Plans 2012, Essex Borough Local Plan Highway Impact Assessments 2013.

2.5.3 Where relevant these studies are referred to in the sections below.

3.0 Basildon Borough Council approach to Planning Obligations and CIL

3.1 Scope of contributions

- 3.1.1 To address the constraints imposed by the CIL Regulations, Section 106 planning obligations will be used to seek financial and non-financial contributions 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)

3.2 Planning Decisions

- 3.2.1. All planning proposals should comply with Government guidance, the Local Plan (when adopted) assisted by this interim strategy. Failure to do so may lead to a refusal of 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 guidance in the NPPF and NPPG, relevant Saved Policies from the 1998 Basildon District Local Plan and the Council's aspirations for the Borough as set out in the emerging documents that will provide the basis for the emerging Local Plan.

3.3 Planning Conditions

- 3.3.1. Planning conditions are requirements made by the Council, in the granting of permissions to ensure that certain actions or elements related to the development proposal are carried out. They cannot be used to secure financial contributions. In Basildon 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;
- (i) Necessary;
 - (ii) Relevant to planning;
 - (iii) Relevant to the development to be permitted;
 - (iv) Enforceable;

- (v) Precise; and,
- (vi) 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:

- (i) Prescribing the nature of a development (e.g. by requiring affordable housing);
- (ii) 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 a commuted payment to be made, requiring new habitats to be created etc.); and,
- (iii) Mitigating a development's impact on the local area (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, subject to the recent CIL restrictions, 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. S106 agreements, and planning conditions can no longer require a highway agreement to be entered into, and Grampian style conditions which say that development cannot commence or be carried out unless a highway agreement is entered into are no longer allowed. The limitations on pooling infrastructure contributions in Regulation 123(3) do not apply to those provided through Section 278 Agreements. However, Section 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.

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- 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 Essex County Council as the Local Highway Authority.

3.6 The Basildon Community Infrastructure Levy

- 3.6.1. In due course Basildon will adopt a CIL which will be used to pay for a range of community infrastructure that is required to support the needs of sustainable development. The proposed Draft CIL Regulation 123 (R.123) sets out the infrastructure that can be funded by CIL. In the future 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. Once Basildon Council has adopted a CIL then this Planning Obligations SPD will be updated, re-consulted upon and adopted to reflect the adoption of the CIL.

4.0 Affordable Housing

4.1 Introduction

- 4.1.1. Demand for housing in Basildon is high, with high private rents and high house prices. Providing the right types of housing in the right places at the right times is critical to support both the national and local economy. This understanding is backed up by long-standing market needs analysis. The provision of affordable housing is integral to meeting and maintaining a balanced mix of the different types, sizes and tenures needed to meet the wide range of housing demands in the borough.
- 4.1.2 This policy supports Strategic Objective SO6 of the Basildon Borough Core Strategy: Revised Preferred Options Report to;

“Provide sufficient housing, in a range of types and tenure that meet the Borough’s needs, including specialist provision.”

4.2 Planning Policy Context

What is affordable housing?

- 4.2.1 Annex 2 of the National Planning Policy Framework (NPPF) defines affordable housing as:

“Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. 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).

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.

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.”

4.3 Government guidance

- 4.3.1. In relation to affordable housing, the Government’s guidance is provided through the NPPF. Section 6 of the NPPF looks specifically at delivering a wide choice of high quality homes. Paragraph 3.1 sets out the NPPF definition of affordable housing. Paragraph 50 specifically states the following:

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“50. To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

- (i) plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);
- (ii) identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and
- (iii) where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.”

4.3.2 Paragraphs 56 (good design), 159 (need for a Strategic Housing Market Assessment) and 173 to 177 (viability and deliverability) are also relevant to this policy. This guidance has been taken into account in the preparation of this policy.

4.3.3 The Government has also issued new National Planning Practice Guidance in March 2014, which has been taken into account during the preparation of this policy, in particular, sections on planning obligations and design.

4.4 Basildon Borough Council - Existing Development Plan Policies

4.4.1. The current development plan guidance for the Basildon Borough is the 2007 Saved Policies from the 1998 Basildon District Local Plan. In relation to affordable housing this includes Policy BAS S5 which states that:

“In developments of 25 dwellings or more, or residential sites of 1 hectare or more, the Council will expect an appropriate provision of affordable housing on suitable sites.

In this context affordable housing means both low-cost market and subsidised housing, and the type of housing sought will depend on local housing need and the site suitability.

In assessing the suitability of a site for affordable housing the Council will have regard to the site’s location relative to public transport, town centres and other areas of employment, proximity to public open space, schools and other community facilities, particular costs associated with the development and the realisation of other material planning objectives.

The scale and form of provision will be subject to negotiation and may consist of between 15 - 30% of the total number of units.

On certain suitable sites it may be considered more appropriate for the developer to make a financial or other contribution towards affordable housing elsewhere in the District when the factors of provision of affordable housing on the suitable site undermine the viability of the development of the whole site, or the need for a type of affordable housing is different to that which would be provided on that site.

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Agreements on arrangements to ensure their future use as affordable housing to meet the needs of the District will be required.”

- 4.4.2 This policy was formulated with regard to the then national planning policy on Planning and Affordable Housing set out in Circular 6/98 and the Council’s Housing Strategy for the period 1998 - 2002.
- 4.4.3. In 2007 the Council adopted an Interim Planning Obligations Policy to be used as a material consideration when considering planning applications. This set out the following requirement in relation to affordable housing:
- (i) To require the provision of affordable housing on all sites of more than 10 dwellings in accordance with the advice in Planning Policy Statement 3 ‘Housing’.
 - (ii) The level of provision should normally be on the basis that 30% of the units on the site should be made available as affordable housing, except in the circumstances set out in 3 below.
 - (iii) That within Basildon and Wickford town centres as defined in the relevant master plans only 10% of the required affordable housing should be on site with the balance of the 30% being provided off-site or provided in the form of a commuted sum to enable the provision of affordable housing elsewhere in the District.
 - (iv) Where affordable housing is provided the Council be given full nomination rights in perpetuity.
- 4.4.4 The thresholds for the delivery of affordable housing were guided by the advice in Planning and Policy Guidance Note 3 ‘Housing’, which was at that time the relevant government guidance on the provision of affordable housing. This required local planning authorities to set out the range of circumstances in which affordable housing would be required. The national indicative minimum site size threshold was 15 dwellings, however authorities could set lower minimum thresholds.
- 4.4.5. Planning Policy Guidance Note 3 was rescinded together with most other PPGs when the NPPF was published in 2012. The NPPF requires local planning authorities to ensure that their Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. In paragraph 159 it states that local planning authorities should have a clear understanding on housing needs in their area. In particular they should prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries. The SHMAA is required to address the need for all types of housing, including affordable housing and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes).
- 4.4.6 In preparing the 2013 Core Strategy Revised Preferred Options Report (CSRPOR) for consultation the Council used the evidence from the Thames Gateway South Essex: Fundamental Review of Strategic Housing Market Assessment Review 2013 to inform the preparation of the CSRPOR together with the findings from the 2013 Strategic Housing Land Availability Assessment. The evidence from these two documents was drawn together to inform the preparation of the Basildon Borough Housing Growth Topic Paper 2013. In relation to affordable housing the key findings to emerge from the studies is set out below.

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- 4.4.7 The SHMA identifies that the recent levels of private and affordable housing delivery is failing to meet demand. Decreased grant funds, a new regulatory system, welfare reform and viability pressures are all contributing to the significant challenge in delivering new affordable housing across south Essex. The SHMA recommends that 36% of new housing is required to be affordable.
- 4.4.8 The Housing Growth Topic Paper 2013 identifies that between 290 - 320 affordable houses are required per annum over the plan period to meet the Borough's Objectively Assessed Needs, which equates to between 38 - 43% of the total housing need.
- 4.4.9 In accordance with the Council's adopted Strategic Housing Land Availability Assessment (SHLAA) Methodology 2013, an independent Economic Viability Appraisal of the Borough's latest SHLAA has been undertaken. This has indicated as a general conclusion that in current market conditions, an affordable housing policy requirement of 35 - 40% on otherwise 'suitable and available' SHLAA sites, combined with higher value S106/CIL requirements could render some sites unviable.
- 4.4.10 There have been schemes in recent years that on average have provided less affordable housing than sought by the Council's current Development Plan policy. In part, this can be attributed to a significant amount of residential development coming forward through urban regeneration schemes (such as within town centres or as part of estate renewal programmes), where the focus of development has not been purely housing and has involved higher development outlay costs to remediate contaminated land, undertake demolition works or invest in essential infrastructure. In these situations and given the variable economic climate, it is not always going to be possible for the Council to secure the full affordable housing contribution set by its policy. Therefore the Council will build more flexibility into its policy requirements in the future, specifically on the grounds of viability.
- 4.4.11 The Council's policy will use a 'deferred contribution scheme' to test viability both at the time of the application and at an agreed point during the construction programme to reflect any improvement in the housing market or economic climate. Such re-assessment will not only apply to schemes which have otherwise complied with the policy target level of provision.
- 4.4.12 Subject to viability, and where schemes are to provide on-site affordable housing, the Council's policy will be to agree, prior to commencement of development, a programme for the delivery of all the affordable housing units within the scheme.
- 4.4.13 Whilst the best way to secure affordable housing in most cases will be to seek on-site provision, the Council recognises the additional need for flexibility in securing greater housing choice throughout the Borough. For some schemes, it may be better to seek a partial on-site provision and a financial contribution. For others, there may be sound planning reasons why affordable housing should be provided in other ways, such as financial contributions pooled through commuted payments for offsite provision in areas of greater need.
- 4.4.14 If the Council is to agree to all or some of the affordable housing contribution to be provided off-site this will have to be subject to a mechanism for calculating the level of contribution. For this approach to apply the applicant will have to:
- (a) demonstrate that there are no development sites close to the application site where provision could be supplied either on stalled sites or sites available to purchase, and
 - (b) if there are no such sites and there is payment in lieu, this should reflect the off-site provision as a total of overall provision.

4.5 Policy

- (i) The Council will seek provision equivalent to 36% of dwellings in Basildon Borough to be affordable over the plan period 2011-2031 to meet objectively assessed affordable housing needs.
- (ii) Affordable housing will be required on all sites of 10 units or more, or on land of more than 0.2ha at a provisional level of 36%, subject to viability appraisal. The affordable housing tenure split and unit sizes will be as defined as required to meet local needs and priorities within the Housing Market Area as established in the Council's periodically reviewed Housing Strategy.
- (iii) All affordable housing should be provided within the development site. However, where it can be demonstrated that other sound planning reasons exist for not doing so, either of the following alternatives will apply:
 - (a) Partial on-site provision and a financial contribution; or
 - (b) A full financial contribution in lieu of no on-site provision.
- (iv) A commuted payment up to 36% provision will be sought on sites where it is determined that it is not possible to deliver 36% affordable housing on-site. The Council will establish and periodically review a Commuted Payment methodology in its Housing Strategy.
- (v) Proposals for provision of less than 36% must be justified by a viability appraisal which will be independently assessed. Where grounds of viability can be demonstrated to justify provision below the policy threshold, the Council will require the shortfall to be treated as a 'deferred contribution'. The Council will then require a subsequent viability assessment to be undertaken when the scheme is completed and largely occupied and, should viability have improved since the previous viability assessment results were validated, the Council will seek a further payment up to the maximum of the deferred contribution.
- (vi) In line with Core Policy 13 the design and layout of the affordable housing should be in a sustainable form, delivering a development that avoids the concentration and grouping of the entire affordable housing provision to one part of the site.

4.5.1 In relation to (iv) above the Council has produced a Development Viability Appraisal Checklist which sets out the documents and information that will be required to be submitted by any developer seeking to provide less than the 36% policy requirement. This is included as an appendix to this document and will be reviewed regularly to ensure it is up to date and conforms with national guidance. All relevant applications that propose less than 36% affordable housing will be required to provide all the information specified in the checklist.

5.0 Community Facilities

5.1 Introduction

Government Guidance

- 5.1.1 Paragraph 70 of the NPPF seeks to deliver social, recreational and cultural facilities and services needed by the community. It requires planning authorities to plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments. The Council's view is that new development will only create successful and sustainable communities where suitable social and community infrastructure is in place to meet the needs of residents.

Local Guidance and Emerging Local Plan

- 5.1.2 The CSRPO was informed by a number of technical studies and collaboration with local infrastructure providers. The Infrastructure Baseline Report 2013 provides an initial appraisal of the existing social facilities in the Borough and this will in due course inform the preparation of an Infrastructure Delivery Plan (IDP). Meanwhile the baseline report provides an evidence base to help determine the contributions that may be required for community facilities.
- 5.1.3 Core Policy 18 of the CSRPO relates to education, community, leisure and cultural facilities. There are two elements of the proposed policy that are relevant to the provision of community facilities. These are (e) and (g) which state:
- (e) Requiring all new developments that will increase demand for social, leisure and cultural facilities to contribute towards providing new facilities where there is a need created by the development; or to enhance existing facilities in the vicinity to meet expanding needs in accordance with the Council's relevant standards. For larger developments this may also include the provision of land and/or buildings.
 - (g) Facilitating the efficient provision of multi-purpose community facilities that could provide a range of compatible health, community or leisure services, in accessible locations, for the varied communities they serve.

5.2 What is a community facility?

- 5.2.1 For the purposes of this guidance a community facility is defined as a building or space where community led activities for community benefit are the primary use and the facility is managed, occupied or used primarily by the voluntary and community sector. Community facilities can be located in a wide range of venues. These can include purpose-built structures such as community centres and village halls, as well as adapted venues, including: historic listed buildings, converted houses, flats, shops, scout huts and rooms or halls attached to faith buildings.

5.3 Why are community facilities important?

- 5.3.1 Community facilities are a key factor in the development of sustainable communities. Two of the fundamental components of a sustainable community are:
1. Ensuring a community is well served with public, private, community and voluntary services that are appropriate to peoples' needs and accessible to all.
 2. Fair, tolerant and cohesive with a strong local culture and other shared community

activities.

- 5.3.2 They are important for the communities they serve because they enable volunteering, the establishment of community groups and are the means by which local residents can be genuinely empowered. For example a community centre can host residents meetings, pre-school groups, toddler groups, adult education classes, social gatherings and services that address a range of social needs. Providing these facilities at a local level, in convenient locations, increases their accessibility for users and reduces the need to travel. These facilities further raise quality of life creating community cohesion, reducing isolation, reducing fear of crime and creating opportunities for information sharing and participation in community activity.
- 5.3.2 It is in the community's interest that we protect, improve and upgrade the existing community facilities and provide additional facilities in areas where there are not enough. This will ensure there is a range of community facilities available across the Borough. In the interests of sustainability and cost efficiency, it may be appropriate to re-use unoccupied existing buildings or increase usage out-of-hours of buildings used only during certain times.
- 5.3.3 When new residential development occurs consideration needs to be given to the capacity of existing facilities and any impact this development will have on existing provision.

5.4 How is a community facility need identified?

- 5.4.1 There are a variety of ways in which the Council identifies community facility need. These include needs assessments, regular consultation with key community groups and audits of existing facilities.
- 5.4.2 In addition a number of studies have been undertaken to inform both the Core Strategy Preferred Options Report 2012 and the Revised Preferred Options Report 2014. These include the Basildon Borough Local Development Framework - Topic Paper TP7 'Community Infrastructure' (February 2012) and the Infrastructure Baseline Report 2013.

5.5 When is a contribution required?

- 5.5.1 For large scale development of 500 + new units it will be a requirement to include the provision of indoor space which provides flexible use for the community. Such facilities that should be considered are:
- (i) The inclusion of a multi-use space for community groups and clubs to use e.g. village halls.
 - (ii) The ability, or otherwise, of nearby existing facilities to serve the community.
 - (iii) The individual needs and requirements of the locality.
- 5.5.2 It may also be the case that where a number of development sites come forward within a settlement or town within the Borough there will be a requirement for them each to contribute towards one larger indoor facility.
- 5.5.3 As part of the Section 106 Agreement a nominated partner or organisation will be required to be identified as the future operator/manager of the building or space. This could be a Parish Council, Charity or other community group.

5.6 At what point in a development will the contribution be required?

- 5.6.1 The requirement for a contribution towards community facilities and when it is to be provided will be specified in a legal agreement.

6.0 Education and Life Long Learning

6.1. Introduction

- 6.1.1 Basildon will see significant growth in population over the next twenty years and it is important that education provision matches that growth. The Council's Community Strategy recognises that educational attainment at both primary and secondary level within Basildon Borough falls below the Essex average. It is important therefore that new growth in the Borough is accompanied by improved education provision.

6.2 Government Guidance

- 6.2.1. Paragraph 73 of the NPPF, states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.

6.3 Local Guidance and Emerging Local Plan

- 6.3.1. The level of population growth proposed in the CSRPOP will require significant improvements to existing educational facilities throughout the Borough. The evidence used to prepare the CSRPOP has identified that there are issues with regard to the expansion of primary and secondary educational provision in Basildon, Billericay and Wickford over the plan period. The report 'Commissioning School Places in Essex' provides some forecasts for the expected changes, but does not fully consider the implications of growth in the Borough that arises from the Core Strategy proposals. Therefore the Council has established a collaborative working arrangement with Essex County Council, the Local Education Authority (LEA), to develop a comprehensive plan for school places across the plan period.
- 6.3.2 Where appropriate, the Council will seek contributions for the provision of new educational facilities or improvement to existing facilities where there is a need created by the development, in consultation with Essex County Council as the Education Authority. For major residential development this may include a requirement for new educational facilities as part of the development. Specific requirements will in due course be set out in the Borough's Local Development Plan and Infrastructure Delivery Plan. Meanwhile any major development proposals which include significant residential uses will be assessed on whether there is a need for new educational facilities to support the development.
- 6.3.3 Core Policy 18 of the CSRPOP states in relation to education that the Council will:
- (a) Seek improvements to educational facilities including the relocation of South Essex College into PADC1 (Basildon town centre) and the provision of new or expanded primary and secondary schools as part of the Policy Areas for Development and Change.²
 - (b) Support the delivery of appropriate training schemes and apprenticeships with local schools and colleges and improving educational standards to match qualifications and skills to local jobs (in line with Core Policy 7).

² These are the areas proposed for urban extensions.

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6.3.4 Section 106 obligations for new school provision will be considered on a case by case basis. This will be done in conjunction with Essex County Council in their role as the Education Authority. ECC have had a Developer Infrastructure Contributions Guide in place since 2010 and consulted on an updated version in early 2015. These documents will form the basis for the negotiations on the level of contributions required to support proposed development.

6.4 At what point in a development will the contribution be required?

6.3.1 In order to deliver the infrastructure in time to serve residents moving to the new development, it will usually be necessary for contributions to be made prior to commencement. On large developments it may be possible to agree phased payments, timed to coincide with different stages of project delivery.

6.5 Further Information

6.5.1 Details of the criteria that any new school or pre-school site must meet are set out in Essex County Council's 'Education Contribution Guidelines Supplement' which is available to download from Essex County Council's website.

6.5.2 Where appropriate Section 106 Agreements will seek to secure a community use agreement for the public use of school sports facilities. It should be noted that Sport England's 2012-17 Youth and Community Strategy includes goals relating to schools opening up, or keeping open, their sports facilities for local community use. Sport England also offer a range of Design Guidance and advice to maximise the public benefit of community use of sports facilities on education sites.

7.0 Flood Protection & Water Management

7.1. Introduction

7.1.1 Flooding is a natural hazard but through effective long term planning the Borough can adapt and manage the risks associated with flooding so as to better protect people and places. This is particularly important as the likelihood of flooding is expected to increase, both in scale and frequency, in the future as a result of a changing climate. In order to tackle flooding across the Borough it is important to understand the complex causes and then take co-ordinated action.

7.2 Government Guidance

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

7.3 Local Guidance and Emerging Local Plan

7.3.1 The primary mechanism for flooding within the Borough is defined in the Strategic Flood Risk Assessment (SFRA), as pluvial flooding in the urban centres of Basildon, Billericay and Wickford, which leads to high levels of surface water run-off that drainage systems cannot cope with and often coincides with fluvial flooding associated with the River Crouch and its tributaries.

7.3.2 There is also a residual risk of flooding from tidal sources in the southern part of the Borough, close to Vange Creek and East Haven Creek which are part of the tidal estuary of the River Thames. Whilst there are significant flood defences in the form of sea walls along the southern edge of the Borough and two mechanical flood barriers providing a high standard of protection, there is still a residual risk to parts of the Borough in the event of a barrier failing or the flood defence walls being breached by the sea.

7.3.3 Where development is located in close proximity to the River Crouch, its tributaries or other main river, and is part of the functional floodplain in the Borough the Council will require it to be managed, and flood risk off-set with suitable drainage and/or flood defence mitigation in accordance with the South Essex Strategic Flood Risk Assessment and Surface Water Management Plan to the agreement of the Water Authority, Environment Agency and Lead Local Flood Authority (LLFA) as appropriate. Where it is necessary and possible, the Council will seek financial contributions towards watercourse restoration, floodplain improvements in consultation with the Environment Agency and other relevant bodies. The Council will also seek contributions from development where improved public access to river corridors can be secured as part of the Borough's Green Infrastructure network in association with Core Policy 10.

7.3.4 Core Policy 16: Flood Risk and Drainage Management states that:

The Council will work in partnership with the Water Authority, Environment Agency, Essex County Council (Lead Local Flood Authority and SuDS Approval Body) and other relevant flood risk management authorities to ensure that flood risk within the Borough is effectively managed by:

- C) Requiring development to provide appropriate flood alleviation measures or financial contributions to assist in the maintenance or expansion of existing drainage infrastructure, where necessary;

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- D) Taking every opportunity where development lies in close proximity to river corridors or the functional floodplain to seek river restoration and/or floodplain improvements as part of the development and/or through financial contributions; and
- E) Safeguarding areas that provide important surface water and other flood risk management functions for the local or wider area. Where this is not possible the proposed development will be expected to provide water storage of the equivalent size to that which is lost within the development in a suitable location to the satisfaction of the Environment Agency and LLFA.

7.3.5 It is expected that developers will meet the costs of the direct impacts of their development on local drainage and flood risk management through appropriate planning obligations. These will be sought where the development requires;

- (i) Off-site management of surface water to ameliorate the impact of the development on the capacity of the waste treatment works within the Borough.
- (ii) Off-site management of surface water to ameliorate the impact of the development on the risk of flooding to other properties nearby having particular regard to the Critical Drainage Area boundaries identified in the South Essex Surface Water Management Plan - Phase II, III & IV (April 2012).
- (iii) Off-site works to manage any potential increase in the risk of flooding from tidal or fluvial sources arising from the development proposed to properties nearby.

7.3.6 As the Lead Local Flood Authority, Essex County Council has produced the Surface Water Management Plan, referred to above, that includes measures to prevent flood risk and improve resilience against, extreme rainfall. There may be instances where individual sites come forward for development, which in turn raise issues of flood risk or water management. If these cannot be addressed on site or by way of condition, it is anticipated that a Section 106 Agreement may be needed. These may cover sustainable drainage techniques or features and other issues such as:

- * Green Roofs
- * Infiltration trenches/drains
- * Ponds and wetlands
- * Adoption of surface water drainage systems
- * Financial arrangements for the management of surface water drainage systems
- * Access and use restrictions/assurances

7.4 Timing/Trigger for payment or provision of works

7.4.1 The Section 106 Agreement will require the nature of the works to be undertaken to be agreed by the Council, and appropriate contracts to be in place to secure the delivery of off-site work before the commencement of development. This will include securing the agreement of the relevant landowners as well as appropriate agreements from the local drainage company and/or relevant regulatory bodies.

7.4.2 On-site infrastructure may also be provided to alleviate the risk of flooding, and reduce impacts on drainage infrastructure. This will normally form part of the detailed matters submitted and agreed through a planning condition. However, the ongoing maintenance of on-site infrastructure may need to be subject to a Section 106 Agreement.

7.4.3 In order to ensure delivery of drainage and flood risk management infrastructure in line with the delivery of development, any financial planning obligations must be paid when development commences in order to accommodate the impacts of the development.

7.4.4 If the developer is undertaking the physical works themselves, then this must be completed before any part of the development is occupied or used for the first time. The Section 106 Agreement will set out the phasing requirements for planning obligations related to drainage and flood risk management infrastructure.

7.5 Maintenance of flood risk management and drainage infrastructure

7.5.1 Off-site infrastructure will need to be maintained in order to ensure it continues to operate effectively. Additionally, some developments will incorporate on-site flood risk management and drainage infrastructure which will require maintenance beyond the normal timeframe of development.

7.5.2 The developer may be able to get this infrastructure adopted by the local drainage company if it meets their specifications. Where this cannot be achieved, the developer will need to put in place mechanisms to ensure the ongoing maintenance and effective operation of the infrastructure in perpetuity.

7.5.3 Due to the time limited nature of planning conditions, it is considered appropriate for a clause within a Section 106 Agreement to be used to secure the ongoing maintenance of flood risk management and drainage infrastructure for both off-site and on-site provision. Normally the section 106 Agreement will require either:

- (a) The developer to enter into an agreement with the statutory wastewater undertaker to adopt the flood risk management or drainage infrastructure before any part of the development is occupied/used for the first time; or
- (b) The developer to prepare a management plan for the flood risk management or drainage infrastructure, to be agreed by the Council; and to put in place the mechanisms to deliver ongoing management of the infrastructure before any part of the development is occupied for the first time.

7.5.4 Due to the unpredictable nature of flood risk and drainage issues which mean an incident of flooding could occur at any time, later implementation of such maintenance is not considered acceptable.

8.0 Health Services

8.1 Introduction

- 8.1.1 The Basildon Borough Community Strategy 2012-2036 identifies good health services as being the second most important factor in making somewhere a good place to live. When considering the development of new services, residents would like health facilities concentrated in accessible locations with a broad range of provision distributed throughout the built up areas.

8.2 Government Guidance

- 8.2.1 Paragraph 171 of the NPPF states that local authorities should work with public health leads and health organisations to understand and take account of the health status and needs of the local population.
- 8.2.2 Paragraph 001 of the Health and Wellbeing section of the NPPG states that local planning authorities should ensure that health and wellbeing, and health infrastructure are considered in local and neighbourhood plans and in planning decision making.
- 8.2.3 Paragraph 002 includes a reference to the fact that the healthcare infrastructure implications of any relevant proposed local development have been considered.

8.3 Local Guidance and Emerging Local Plan

- 8.3.1 Core Policy 17 of the CSRPO relates to Health and Well-Being and states that:

Health and Well Being

The Council will help to improve the health and well-being of the Borough's communities and reduce health inequalities in the Borough by:

- A) Supporting the provision of new and improved facilities for community-based health care where such improvements are needed and taking opportunities to co-locate with other services wherever practicable;
 - B) Supporting the development and enhancement of the Borough's acute health care provision and the supporting infrastructure needs at Basildon & Thurrock University Hospital's main campus at Nethermayne, Basildon and any other acute health care development as appropriate;
 - C) Supporting the provision of Green Infrastructure, in line with Core Policy 11, and the positive design and layout of proposals, in line with CorePolicy 13; and
 - D) Requiring a Health Impact Assessment (HIA) to be submitted in support of all development proposals for which an Environmental Impact Assessment is required showing, as far as reasonably practicable, how the proposals will limit their impact on health and well being through mitigation or planning obligations.
- 8.3.2. The Infrastructure Capacity Baseline Study prepared as evidence for the CSRPO includes comments received from the NHS Basildon and Brentwood Clinical Commissioning Group (CCG) and the South Essex NHS Partnership Trust.
- 8.3.3. In relation to GP services, the CCG states that usual capacity would require 1 full time

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GP for every 2,000 new residents, notwithstanding that there may be some capacity within existing GP practices. GP services are very location specific, so any capacity would need to be local to the development, for the provision to be meaningful. For each new GP required, it is estimated that a further 80-100m² of space would be required to accommodate each GP and supporting/utility services, either in existing or new premises.

- 8.3.4 The CCG were also asked to comment on the implications if the development shown in the CSRPO were to come forward in the numbers shown on the plan within each Proposed Area of Development and Change (the "PADCs"). The CCG confirmed that it would have a number of implications and lead to the requirements which are set out below.
- 8.3.5 A maximum of 5,788 dwellings are shown within PADCs 13-18 to the east of Basildon and Wickford. Based on an assumption of a proposed 5,788 dwellings with 2.5 occupants each, for broad locations 13-18, this would represent a total population increase of 15,000 at these locations and would be likely to necessitate provision of new primary care premises. A practice of approximately 1200m² would be needed to accommodate population growth of this size.
- 8.3.6 For broad locations 10-12 to the west of Wickford, this may require development of existing premises, or progressing proposals for a new Wickford Health Centre which has been in the planning stages for some time.
- 8.3.7 For broad locations 1-9 around Billericay this would mean a possible increase of approximately 8,000 patients and it is unlikely that existing capacity will accommodate this many new patients. Options for providing sufficient capacity include redeveloping an existing practice and relocation to a new site or a new stand-alone practice. For either option, the assumption would be that a minimum of a further approximately 500m² space would be required.
- 8.3.8 Whilst the above comments were given in response to specific growth scenarios set out in the CSRPO it indicates where the pressure points are in terms of health provision. Before the Council formally adopts a Local Development Plan in 2017 applications for significant residential development may still come forward and will be required to be assessed in relation to the need to contribute to improved local health provision. Where this is the case the level of provision will be calculated on a case by case basis in consultation with the local health providers.
- 8.3.9 Where a development generates the need for a primary healthcare facility, either on site or an improvement to existing local provision, it will be a requirement of a Section 106 Agreement.

8.4 At what point in a development will the contribution be required?

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

9. Highways, Access and Transport

9.1. Introduction

- 9.1.1. Section 4 of the NPPF requires the planning system to promote sustainable transport. The provision of viable transport infrastructure necessary to support sustainable development is important in facilitating sustainable development. It also makes an important contribution towards the wider sustainability and health objectives of the Government.

9.2 Local Guidance and Emerging Local Plan

- 9.2.1 Policy BAS T5 of the 2007 Saved Policies from the 1998 Basildon District local plan states that:

The Council will encourage the improvement of facilities at public transport interchanges, with particular reference to adequate and convenient commuter car parking, secure cycle parking, taxi ranks and bus lay-bys, and maneuvering areas.

- 9.2.2. Core Policy 19 of the CSRPO relates to transport infrastructure and states that:

- (a) In order to secure the long term future and viability of the Borough, and to allow for the increased movement of people and goods expected, the council will work with partners, neighbouring authorities and transport providers to improve accessibility across the Borough, improve safety and quality of life for residents and reduce the Borough's carbon footprint.

Over the Core Strategy period the Council will seek:

- (b) Appropriate provision for works and/or contributions will be required towards providing an adequate level of accessibility by all modes of transport and mitigating the impacts on the transport network, in accordance with Core Policy 20.
- (h) To minimise the negative impacts of transport including air and noise pollution and road safety through requiring developers to implement Travel Plans, implementing demand management, improving existing transport infrastructure, provision of new transport infrastructure and appropriate parking for bicycles, cars and other vehicles.

- 9.2.3 To help prepare the CSRPO the Council commissioned Essex County Council as the Highway Authority to undertake detailed modelling of the Borough's existing highway network to create a base position for 2011. This information was used to model different growth scenarios to predict the likely outcome in 2031 if all the development proposed in the CSRPO were to be implemented together with the background growth that will be generated from outside the Borough. This information has been used to help formulate the preferred option and the broad locations for development in the CSRPO.
- 9.2.4 The results of this work showed that parts of the road network in the Borough are operating at or near capacity, making it vulnerable to congestion incidents which can quickly impact on other routes. This results in queuing at some junctions and interchanges at peak times and unreliable journey times for car and public transport users.
- 9.2.5 Before submission of the Local Plan to Examination-in-Public, the Council will continue to work with Essex County Council and the Highways Agency to identify suitable and appropriate mitigation measures to improve capacity and reduce congestion on the road network in the Borough. The Council will seek the appropriate highway mitigation measures before development can take place and there will be a requirement for new development

to contribute towards the costs of the works.

9.2.6 All development proposals will be assessed on their own merits in relation to the impact they have on the highway network. There are no types of development which are exempt from such highway infrastructure obligations. Development proposals need to mitigate their own impact through the provision of appropriate mitigation measures. These may include:

- (i) Works to footways/cycleways
- (ii) Raised kerbs
- (iii) New junctions
- (iv) Access roads within the site
- (v) Link roads
- (vi) Traffic Regulation Orders, e.g. to impose waiting restrictions
- (vii) Traffic lights
- (viii) Pedestrian crossings
- (ix) Signage
- (x) Contributions to Car Clubs

9.2.7 The exact nature of the requirements will be agreed with Essex County Council as the Highway Authority. The exact nature of the requirements will be informed by work undertaken by Essex County Council in relation to modelling the development scenarios set out in the CSRPOR. This work identified where there would be problems created on the network by the proposed development. This is being taken further by the Highway Authority in that they are testing various mitigation scenarios to identify the works required to enable development in different areas to come forward.

9.3 At what point in a development will the contribution be required?

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

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

9.3.3 Developers will be required to pay fees to cover ECC's costs incurred in approving the detailed engineering drawings, and for inspecting the highway works and issuing the relevant certificate. Details of these fees are to be included in a Section 106 Agreement. Where appropriate a Section 278 agreement under the Highways Act can be entered into between the developer and the Highway Authority. This agreement enables a developer to carry out works on a public highway and is separate to a Section 106 Agreement. The full details of the processes will be set out in any relevant Section 106 or Section 278 Agreement.

10.0 Landscaping (+ Public Realm Works)

10.1 Introduction

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

10.1.2 Landscaping and public realm works may be necessary to make a development acceptable. For example, landscaping may be used to screen a development reducing its impact on the Green Belt, or perhaps reducing the impact of noise from a busy road on the proposed development. Landscaping may also be necessary to support ecology management plans, to manage flood risk, or simply to improve the amenity of an area or quality of the environment. Public realm works meanwhile may be necessary to ensure that a development is properly integrated into the wider urban environment.

10.1.3 The NPPG states that:

One of the core principles in the National Planning Policy Framework is that planning should recognise the intrinsic character and beauty of the countryside. Local plans should include strategic policies for the conservation and enhancement of the natural environment, including landscape. This includes designated landscapes but also the wider countryside.

Where appropriate, landscape character assessments should be prepared to complement Natural England's National Character Area profiles. Landscape Character Assessment is a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place.

The Council has undertaken local landscape character assessments through the Landscape Character Assessments undertaken in 2013.

10.2 Local Guidance and Emerging Local Plan

10.2.1 Core Policy 13 of the CSRPO relating to Design and the Built Environment states that:

The Council will protect and enhance the quality and local distinctiveness of the Borough's built environment through high quality and inclusive design by:

- C) Requiring development to respond positively to the public realm, taking advantage of opportunities to improve the character and quality of the wider area and promoting the enhancement and protection of important local landmarks and gateways into the built environment.

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

10.3 Public Realm Provision

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

- i) Improvements to paving and planting on public highway and other space directly adjoining the site.
- ii) Bespoke planting and any associated paths and boundary treatment relating to the site.

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- iii) Where a development site is adjacent to an open space and requires direct mitigation, e.g. to link the open space into the development or replacement boundary treatment to open space.
- iv) Where development proposals have a direct relationship with enhancements identified in the Basildon Town Centre Masterplan (and also Wickford and Pitsea Plans).
- v) Adoption of the improvements.
- vi) Financial arrangement for their management
- vii) Access and use restrictions/assurances.

10.4 Landscape Improvements

10.4.1 The Landscape Character Assessments undertaken in 2013 include recommendations for improving the landscape quality throughout the borough, and in particular where enhancements are required to areas that have become degraded over time. New development will be required to offset the impact it may have on the local environment by both providing good quality landscaping both within and bordering the development, and for larger schemes to contribute to improvements over a wider area to offset the impact of the development. When preparing landscaping schemes it will be a requirement to use native tree and plant species.

10.5 Timing/Trigger for payment or provision of works

10.5.1 Public Realm and Landscape improvements will usually be required to be completed prior to the first occupation of a development.

11.0 Natural Environment

11.1 Introduction

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

11.2 Policy Background

11.2.1 Paragraph 109 of the NPPF seeks to conserve and enhance the natural environment. It states that the planning system should contribute to and enhance the natural and local environment. It should do this by minimising the impacts on biodiversity and also remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

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

11.2.3 The NPPG states that Section 40 of the Natural Environment and Rural Communities Act 2006, places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the communities made by Government in its Biodiversity 2020 strategy.

11.3 Local Guidance and Emerging Local Plan

11.3.1 Core Policy 9 of the CSRPOR 'Conservation and the Natural Environment' states that:

The Council will protect and in partnership with conservation bodies enhance, restore and/or increase the coverage of, and connectivity between, the Borough's biodiversity and landscape assets through:

A) Promoting the Borough's Landscape Character Areas' management guidelines as part of development;

B) Protecting and enhancing landscape character and local distinctiveness, including the preservation of strategic and locally important views from, and to, key natural landscape features;

C) Protecting and enhancing sites of national and local importance, in accordance with policies within the Development Plan;

D) Ensuring that new development within the Borough does not harm International and European sites of nature conservation, namely Ramsar, SPA and SAC sites, beyond the Borough's boundaries;

E) Protecting priority habitats and species by assisting in the implementation of the Essex Biodiversity Action Plan;

F) Protecting priority habitats and species by assisting in the implementation of the Essex

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Biodiversity Action Plan;

G) Promoting the Living Landscapes initiative and supporting projects that reconnect wildlife habitats both within the Borough and at a landscape scale beyond the Borough boundary; and

H) Protecting and establishing the positive management of the Borough's remaining Ancient Woodland.

11.3.2 Core Policy 10 relating to Green Infrastructure states that:

The Council will seek the protection, restoration, extension, and enhancement of the Borough's Green Infrastructure network.

A. Multi-purpose green infrastructure that is attractive, safe and well designed for recreation or nature conservation, and which meets wider needs or the needs of existing and future residents will be delivered by:

- i. Safeguarding and, where possible and practicable, managing land positively to support a diverse range of wildlife;
- ii. Enhancing and extending strategic networks and other access opportunities for walkers, cyclists, horse-riders and other outdoor recreational pursuits in ways that are compatible with food production, wildlife and carbon storage, in countryside and greenway locations;
- iii. Identifying and maintaining appropriate locations to store and manage excess surface water run-off to prevent the flooding of homes, business and community buildings;
- iv. Incorporating measures that will help to reduce the extent of climate change and/or enable the Borough's communities to adapt better to a changing climate;
- v. Requiring key strategic landscaping on all new major housing and employment development proposals, and incorporating new green infrastructure into new development, where appropriate;
- vi. Developing and improving the urban environment through provision of green infrastructure including parks, gardens, allotments, trees and green roofs; and
- vii. Protecting trees and woodlands of amenity value.

B. Formal open spaces which form part of the Borough's Green Infrastructure network, as set out in the Council's Development Plan, should be enhanced and protected to maximise opportunities for people of all ages to undertake a range of sport and recreational activities by;

- i. Maintaining and enhancing open spaces for a range of informal and formal play, recreation and sporting activities;
- ii. Ensuring that the provision of all open spaces as part of new development (including playing pitches and play spaces) accords with the Council's relevant standards; and
- iii. Minimising the loss of open space or ancillary buildings in use for sport and

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recreation, in accordance with the NPPF and policies within this Core Strategy and Council's Development Plan.

11.3.3 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.

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:

- i. Ecological Mitigation/Remediation
- ii. Major contamination issues;
- iii. Species protection and habitat protection.
- iv. Environmental Enhancements
- v. Biodiversity Offsetting

11.3.4 Where environmental mitigation measures are required to off-set the impacts of a development, there will be a requirement that the mitigation provides adequate compensation for any loss of habitat and natural environments. This process will be informed by reference to the requirements the duties contained in the following legislation and guidance.

- * The Conservation of Habitats and Species Regulations 2010, as amended (Habitats Regulations);
- * The Wildlife and Countryside Act 1981, as amended (WA);
- * The Countryside and Rights of Way (CRoW) Act 2000;
- * The Natural Environment and Rural Communities (NERC) Act 2006;
- * The Protection of Badgers Act 1992;
- * The Hedgerow Regulations 1997;
- * The UK Post-2010 Biodiversity Framework (2011-2020);
- * Biodiversity 2020: A strategy for England's wildlife and ecosystem services;
- * Essex Biodiversity Action Plan (EBAP).

11.4 Timing/Trigger for payment or provision of works

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

11.4.2 Environmental mitigation will largely be required to be carried out prior to the commencement of the development, with any further works being complete prior to the first occupation of the development. Some further environmental issues may require ongoing mitigation to take place. Where the development cannot fully mitigate its impact on these

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environmental matters, compensatory measures may be sought. These will only be sought where all other avenues of mitigation have been exhausted. The appropriate level of compensation will be considered on a case by case basis.

12.0 Open Space (Recreation & Leisure)

12.1 Introduction

12.1.1 Much of the existing open space in Basildon was planned as an integral part of the original New Town concept. Open space has always played an important role in shaping the form and character of the Borough and it is important that new development continues to contribute to this characteristic. Attractive, accessible and well-designed open space can support and enhance the appearance of an area, creating more desirable places to live and work.

12.1.2 The Council expects that all residential developments should contribute to the provision of open space and recreational facilities, or where appropriate contribute to the enhancement of existing gardens and open spaces. Development in close proximity to Conservation Areas may be required to contribute to general enhancements to the open areas within the Conservation Area.

12.2 Government Guidance

12.2.1 Section 8 of the NPPF states that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. It states at paragraph 73 that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

12.2.2 Paragraph 001 of the NPPG relating to Open Space, Sport and Recreational facilities states that:

“Open space should be taken into account in planning for new development and considering proposals that may affect existing open space. Open space, which includes all open space of public value, can take many forms, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure, as well as being an important part of the landscape and setting of built environment, and an important component in the achievement of sustainable development.”

12.3 Local Guidance and Emerging Local Plan

12.3.1. Core Policy 18 of the CSRPO includes at (e) a requirement that:

“All new development that will increase demand for social, leisure and cultural facilities to contribute towards providing new facilities where there is a need created by the development; or to enhance existing facilities in the vicinity to meet expanding needs in accordance with the Council’s relevant standards. For larger developments this may also include the provision of land and/or buildings.”

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12.3.2 The existing Planning Obligations SPD makes reference to the fact that at the present time individual planning applications are assessed on their merits, and that this is mainly because at that time the Council did not have a proper audit of Open space available to determine those parts of the borough where additional provision was necessary. However since that time the Council has completed a number of studies that have enabled the Council to identify the shortfalls in provision across the borough. The studies are:

- (i) Basildon Borough Indoor Sports and Recreation Facilities Study - October 2012
- (ii) Playing Pitch Review 2011
- (iii) Open Space Assessment 2010
- (iv) Leisure, Arts, Culture and Tourist Accommodation in Basildon District 2010.

12.3.3 These studies have identified where there is shortfall in provision across the Borough and provide the evidence to justify the provision of new or improved open space to be provided to support new development. Of particular importance in assessing the open space requirements for new development is the 2010 Open Space Assessment of the Borough. It was prepared in accordance with the good practice guidance set out in the then PPG 17 "Sport, Open Space and Recreation and with advice from CABI. It audited all existing open spaces in the borough in terms of their quantity, quality and accessibility. It identified where there is a need for enhancing existing provision and where new provision is most needed across the Borough and established a set of standards which new development is expected to adhere to.

12.3.4 The Open Space Assessment was adopted by the Council in 2010 as a material consideration in the determination of planning applications. It sets out minimum standards that new development is expected to adhere to in relation to open space provision, in terms of accessibility, quality and quantity. The three standards are set out below.

Accessibility Standard

People living and working in Basildon District should not have to travel more than 400 metres to each at least one of the following accessible typologies:

- Urban Park & Gardens (including Country Parks)
- Natural or Semi-Natural Green Space
- Amenity Green Space

This is approximately a 6 minute walk.

In addition, people living and working in Basildon District should not have to travel more than 2km to reach all of the following typologies:

- * Urban Parks & Gardens (including Country Parks)
- * Natural or Semi-Natural Green Space
- * Outdoor Sports Facilities
- * Allotments and Community Gardens

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Quality Standard

Open spaces should be improved and enhanced to meet the Quality Vision where possible.

With the exception of Urban Parks and Gardens and Civic Spaces, each open space should achieve a minimum quality score of 50% (a higher-reasonable rating), or at least maintain the rating as determined in this document [the Open Space Assessment], whichever is the higher.

Urban Parks and Gardens and Civic Spaces, due to their more extensive use and range of functions, should achieve a minimum quality score of 60% (a good rating), or at least maintain the rating as determined in this document [the Open Space Assessment], whichever is the higher.

New open spaces, defined as those not included in the 2007 audit, will be expected to achieve a 'good' quality rating as determined in this document [the Open Space

Assessment] and shall be maintained to this standard for a minimum of 20 years. Good urban design principles should be used to inform the layout of new open space.

Spaces scoring less than 50%, as determined in this document, should be considered for improvement and enhancement as identified through the Council's quality audit to meet the demands of stakeholders.

Quantity Standard

A minimum of 5.7 ha of accessible open space should be available per 1,000 population of each Settlement Area in the following proportions;

- * 2.6 ha of Natural Green Space
- * 3.1 ha of Urban Park & Garden (including Country Parks) or Amenity Green Space
- * An appropriate level of outdoor sports provision should be available per 1,000 population of each Settlement Area (to be further informed by the PPG 17 Playing Pitch Assessment).

For New Development In Urban Areas

New development in urban areas should contribute a minimum of 46m² of accessible open space in the following proportions, calculated by projected occupancy and the number of new net residential units, having considered the specific requirements of the Settlement Area and subject to the following criteria:

- * 21m² of Natural and Semi-Natural Green Space
 - * 25m² of Urban Park & Garden (including Country Parks) or Amenity Green Space, and
- A. For developments that would achieve the applicable Accessibility Standard to open space, without the need for new onsite provision, contributions will be required to enhance the quality standard of open spaces in the vicinity and/or making improvements to the links between them and the development site.
 - B. For development sites of 1ha or greater, that do not meet the Accessibility Standard, new open space provision will need to be made onsite and integrated into the development's layout and design, so long as its size can be equal to or greater than 0.1 ha.
 - C. Where new on-site open space provision would otherwise be smaller than 0.1ha (and therefore discouraged) equivalent contributions for the enhancement of open

spaces in the vicinity will be required.

For New Development Outside Urban Areas

New development outside the urban boundary will contribute to the provision of open space in line with the expected standards, having taken account of the specific needs and priorities of the Settlement Area. This will be based on the following criteria:

- * 26m² of Natural and Semi-Natural Green Space
- * 31m² of Urban Park & Garden (including Country Parks) or Amenity Green Space

Each of these standards cannot be read in isolation and must be balanced with the other provision standards given in this document to establish an appropriate level of provision based on the prevailing needs of a location.

12.3.5 The Council will seek to secure on-site or off-site provision of open space in accordance with the above standards, in order to serve the needs of the 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.

12.3.6 If sufficient details have been provided in relation to the quantity and layout of open space, in accordance with the above standards, through a full planning application, it will not be necessary to include these within a Section 106 Agreement as they can be secured through a planning condition.

12.3.7 However, where an outline application is submitted, the Council will seek to secure through a Section 106 Agreement, contributions to achieve the minimum open space requirements set out in the above standards.

12.4 Additional Playing Pitch Provision

12.4.1 On major developments of 500+ units there may be a need to provide additional playing pitches in accordance with Sport England's Playing Pitch Strategy Guidance. The need for provision and the level at which it will be required to be provided will be subject to negotiation with Sport England and will be informed by the Council's Playing Pitch Review 2011.

12.5 Phasing of the Open Space Provision

12.5.1 In order to ensure that the open space identified through the planning application is delivered in a timely manner, to accompany the provision of housing and support sustainable and healthy communities, a clause will be included within section 106 Agreements concerning the specific phasing of open space provision.

12.5.2 The requirement in respect of phasing will be that all open space provision on a site must be completed before more than 80% of the market dwellings are occupied. It is however recognised, that depending on the location of the open space provision within a development scheme it may not be possible to deliver the open space provision at the start of a scheme, and it may be necessary to deliver the open space in phases as different sections of the development are completed. The phasing arrangements for each scheme will therefore be negotiated, having regard to the requirement that no homes abutting an area of open space will be occupied until that area of open space is complete.

12.6 Ongoing Maintenance of Open Space Provision

12.6.1 In order that the open spaces provided within a development site continue to benefit the community in perpetuity, it is essential that they are maintained to a high standard. The Council will therefore seek through Section 106 Agreements for the developer to establish a mechanism by which open spaces within the development site will be maintained to a high standard in perpetuity. This must be agreed before the development can commence, and must be operational before more than 80% of the market housing can be occupied.

12.6.2 The Council will not agree to the transfer of new open spaces into the Council's ownership.

13.0 Training Schemes

13.1 Introduction

13.1.1 Core Policy 7 (E) of the CSRPO states that:

“The Council will work with its partners to strengthen connections between local job opportunities and apprenticeship and training schemes with local schools and colleges, reducing the number of young people in the Borough that are not in education, employment or training and the unemployed.

The Council will also maximise through Planning Obligations the opportunity of apprenticeships to contribute to the Borough’s key regeneration and development schemes.”

13.1.2 A range of consultation was undertaken from 2009 through to 2011 for the Council’s Community Strategy, with almost a third of residents stating that improvements to the educational attainment of people in the Borough is important and the priorities were to raise educational standards and the number of young people in training. The Core Strategy Preferred Options consultation supports this opinion and also identifies that there is a need for an improved local workforce to strengthen the economy, provide better opportunities for local people, reduce deprivation and the amount of in-commuting, and support town centre regeneration. The Council’s Community Strategy also aims to match skills with job opportunities.

13.1.3 The Council’s Economic Development Service has produced a ‘Use of Local Labour and Apprenticeships 2013’ document which sets out guidance in relation to major developments and the use of local labour and apprenticeships. This states that, in line with the Council’s employment and training priorities, as outlined in the Corporate Plan the Council requires that:

- * Contact is made with Basildon Council or the Council’s nominated agent, prior to commencement on site, to ensure that any apprenticeship opportunities are identified and advertised in the local community.
- * Detailed information on the schedule or works for any construction project is made available to Basildon Council.
- * Information on recruitment needs of contractors and sub-contractors is offered, in the first instance, to Basildon Council or the Council’s nominated agent, Jobcentre Plus.
- * A written statement is offered to all prospective contractors and sub-contractors at the tendering stage and prospective tenants of the commercial/business element of any development setting out the above commitment.

13.1.4 On all major developments the Council expects developers to comply with the above requirements.

14. Implementation of this Planning Obligations SPD

14.1 Negotiation/Viability

- 14.1.1 Planning obligations 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 Strategic Housing Land Availability Assessments undertaken in relation to the preparation of the CSRPOR.
- 14.1.2 The costs involved in delivering a workable, high quality development should be anticipated and reflected in the price paid for the land and should not reduce the ability of a site to provide what is required under the planning obligations. The 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. The price paid for land is not 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.
- 14.1.3 There may be exceptional circumstances where development proposals are unable to meet, in full, the contributions required under this policy. If the applicant can demonstrate, to the satisfaction of the Council, that the scheme cannot be fully compliant and remain financially viable, the Council may consider a reduced level of contributions in one or more areas.
- 14.1.4 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 assessments 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 or well recognised appraisal tool, to be agreed with the Council in advance of the assessment. The viability 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 Land Value or Alternative Use Value)
- 14.1.5 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 by the above should not be included as a reason to demonstrate a non-viable development.
- 14.1.6 Once submitted, the viability assessment will be considered and assessed by the Council and an independent viability assessor appointed by the Council, with full costs to be borne by the applicant. Commercially sensitive information will be treated in due confidence
- 14.1.7 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.

14.2 Drafting of Section 106 Agreements

- 14.2.1 Section 106 Agreements will be drafted by the Borough's Legal Services team, or by other solicitors acting on behalf of the Council. Applicants will be required to pay the Council's reasonable costs incurred in drafting and completing the agreement. The proposed Heads of Terms of any Agreement will need to be established before instructions to draft a section

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106 agreement are sent to Legal Services and the agreement must be completed before any planning permission can be issued.

- 14.2.2 In all circumstances where a legal agreement is required, the applicant will be expected to provide details of land ownership at the beginning of the application process. These should be copies of the Title Document and plan obtained within the preceding 3 months from the Land Registry, or if the land is unregistered, copies of the most recent conveyance.

14.3 Financial Contributions

- 14.3.1 Where a financial obligation is necessary, payment would normally be required on commencement or on first occupation of a development. However, in the case of a large-scale development, it may be that the payments would be phased in order to meet the proportional impact of each phase. Trigger points for payments will be included in the legal agreement, as will the period in which any contribution will have to be spent.

- 14.3.2 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.

14.4 Monitoring of Compliance with Agreements

- 14.4.1 The Council has in place monitoring procedures to ensure that all contributions are complied with at the appropriate time. The Council will take action where contributions are not provided within the agreed timescale.

Appendix I –

Development Viability Appraisal Checklist

To enable the council to appraise the viability of a development, all documents specified in the checklist are required. External Cost Consultants and Valuers may be employed by the Council to verify the documents supplied and this will be notified to the applicant. The costs of the independent verification shall be borne by the applicant.

In recognition of the sensitivity of the information supplied, BBC confirms that all financial information supplied for assessing the viability of scheme is to be kept confidential and will be not made publicly available as part of the Planning Officer's report.

On completion of the viability appraisal, a summary statement making a recommendation (without quoting confidential information) will be provided to the Planning Officer by the Manager of Housing Strategy. This statement will be included within the Planning Officers report and will detail the level of the contribution to affordable housing the development is required to make.

It is in the applicant's interest to provide all the supporting information required to ensure the process can be completed as quickly as possible. Applicants who are not prepared to submit the documents required to undertake Development Appraisal for external verification and validation of the scheme's viability or to work on an open book approach, will nullify any rationale for lowering the percentage of affordable housing. The presumption will be that without verifiable evidence relating to site specific economics, there is no justification that can be made to reduce the S 106 requirements. Where an application is to be determined by the relevant Development Control Committee, the original affordable housing contribution sought by the council will be presented to the Committee with a statement confirming the applicant's refusal to provide any reasonable justification for offering a lower level of affordable housing. In the event that information is missing or is not provided the Council will take the view that viability cannot be adequately tested and therefore no case has been made. This will result in the applicant's viability argument being dismissed.

So as to assist Developers in their Land Investment Decisions some important information is set out below in regards to the Council's approach to Viability testing.

Basis for assessing viability.

Appraisals should generally follow a residual value approach where the land value is the output of the appraisal. This implies a fixed profit assumption. The output of the appraisal is then compared to an appropriate viability benchmark to determine whether the scheme is in surplus or deficit. It is expected that where there is an identified surplus this will be applied to meeting in full the policy requirements of the development plan.

Approach to establishing suitable viability benchmarks:

Market Value

The RICS Guidance Note 'Financial Viability in Planning', while allowing for the use of Existing Use Value, supports an approach of a site value as a benchmark which is determined by the Market Value of land with the special assumption that regard is had to Development Plan policies and other material planning considerations. That which is contrary to the Development Plan is to be disregarded.

It is vital that viability assessments using the RICS Guidance note methodology accord fully with the site value definition, and properly take into account development plan policies when determining site value. This is also required by the Planning Practice Guidance which states that:

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“In all cases, land or site value should: reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge ...”.

The Development Plan forms the starting point for determining planning applications, and any additional value generated by a development is reliant on the planning consent. The process of securing a planning consent generates additional value from which planning obligations are secured.

The RICS Guidance makes it clear that the site purchase price may or may not be material in determining the Site Value. The guidance states that:

“A viability appraisal is taken at a point in time, taking account of costs and values at that date. A site may be purchased some time before a viability assessment takes place and circumstances might change. This is part of the developer’s risk. Land values can go up or down between the date of purchase and a viability assessment taking place; in a rising market developers benefit, in a falling market they may lose out.

The guidance identifies various factors should be taken into account when considering the price paid including that:

“A developer may make unreasonable/overoptimistic assumptions regarding the type and density of development or the extent of planning obligations, which means that it has overpaid for the site. ...”

When establishing a benchmark land value within a viability assessment, full account must be taken of the Basildon Development Plan and guidance

Existing or Alternative Use Value (EUV & AUV)

EUV

The process for establishing an appropriate benchmark land value for a viability assessment is one of the most important issues within a viability assessment because this indicates the threshold for determining whether a scheme is viable or not. A development is deemed to be viable if the ‘residual land value’ is equal to or higher than the benchmark land value as this is the level at which it is considered that the landowner has received a ‘competitive return’ and will release the land for development. There are various guidance documents which reference benchmark land values and offer differing approaches to assessing land value.

A commonly taken approach to assessing the benchmark land value is the Existing Use Value plus a premium (EUV plus) approach, which is based on the current or Existing Use Value of a site plus a landowner premium. This follows the premise that a landowner could sell their site based on the value of the land in its current use without bringing the land forward for development. In most cases the income generating potential and value of current uses will be lost as a result of a development and so the landowner should receive at least the value of the land in its ‘pre-permission’ use when bringing forward land for development. A premium is added to this to provide the landowner with an additional incentive to release the site for development having regard to their circumstances.

A key benefit of this approach is that it clearly identifies the uplift in value arising from the grant of planning permission because it enables comparison with the situation in which planning permission has not been secured.

The council supports the view that this approach is most conducive to achieving the goals of the planning system and considers that this should form the primary basis for determining the benchmark land value in most circumstances.

It is important that existing use value is fully justified with reference to comparable evidence that is specific to the current use and which excludes any ‘hope value’ associated with development on the site or alternative uses. The council will apply the following definition of Existing Use Value:

“The value of the site in its existing use, assuming that it remains in that use and that there is no hope value to reflect development on the site or alternative uses.”

Transactions used to justify an existing use value must be genuinely comparable to the application site, and should relate to sites and buildings of a similar condition and quality, or otherwise be adjusted accordingly. Any premium applied should also be justified reflecting the individual circumstances of the landowner. For example, for a site in a poor state of repair or that does not meet the current requirements of the landowner, a limited premium would be expected, whereas a site that fully meets the operational needs of a profitable business which may require relocation may require a higher premium. Where an existing use and the value of this to the landowner is retained within a development, less of an incentive is likely to be required for the land to be made available for development, and a lower benchmark would be expected

AUV

1.1 An Alternative Use Value (AUV) approach to the benchmark land value will only be accepted where there is a valid consent for the alternative use or if the alternative use would clearly fully comply with the Development Plan as required by PPG³. The acceptability of an alternative use proposal is a matter for consideration by planning officers as part of the application process and therefore sufficient information must be provided for officers to make a reasoned determination as to the prospects of the scheme securing planning consent. A full viability appraisal must be submitted together with a provisional design indicating how the use can be accommodated on the site.

Formula for commuted sums.

In all instances the developer will be required to provide an appraisal modelling both a policy compliant scheme and the proposed scheme if different. The policy compliant scheme must include fully evidenced valuations of the affordable housing.

Where the Council accept that delivery on site is not feasible and that a payment in lieu of affordable housing is appropriate the following formula will apply to compute the scale of the payment due

In lieu payment = C x D

C = A - B

D = VPU - VAU

C = the unit shortfall on affordable housing delivery where;

A = The policy compliant numbers of units that should be provided on site

B = Units provided on site

D = the net cost of providing affordable housing where;

VPU = the average value of private units in the scheme

VAU = the average value of affordable housing units had they been included in the scheme

³ Planning Practice Guidance, Paragraph 24

Basildon Borough Council

Development Viability Appraisal Checklist

Documents to be provided in electronic format where possible

1.	Developmental Proposal – Overview	Date Received
1.1	A brief description of the scheme, with site area (ha), mixed use development details and reasons why the applicant considers there is an economic case for lower levels of affordable housing than those requested by the Council.	
1.2	Latest revision of Site Layout Plan and unit layout drawings	
1.3	<p>Accommodation Schedule</p> <p>Total Number of Dwellings - type, square metre size, number of beds and mix including proposed number, type, size and mix of Affordable Housing.</p> <p>This should provide both net sales areas (NSA) and Gross internal floor areas (GIA)</p>	
2.	Development Revenues	
2.1	<p>Market Values</p> <p>Market values of sale units on a per unit basis and shown by reference to per sq m basis) with total revenue for the whole site. Please include a summary sales specification and indicate the car parking (number and type) to be provided per unit.</p>	
2.2	Sales revenues for other mixed-use elements with calculation to give capital values including rental stream and yields used.	
2.3	<p>Sale of Affordable Housing units (based on requirements of the Council and calculated by the offer of affordable housing being made by RSL)</p> <p>In the absence of an RSL offer full details of the assumptions used to derive values and any supporting calculations should be provided.</p>	
2.4	Value of ground rents/leases including assumptions regarding rents and capitalisation yields adopted	
2.5	Service charge information	

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2.6	All sales information provided in items 2.1 to 2.5 to be supported by professionally analysed evidence of values for comparable units in the area of the development for independent verification on a unit-by-unit basis (e.g. 1 bed 2 person flat with balcony, view, car space etc). Evidence for item 2.3 should consist of the offers received for the affordable housing element (if applicable). Commercial elements should reference relevant letting and sales evidence in support of the figures provided	
3.	Development Costs	
3.1	Build Costs Building Cost of units with supporting build up. Please provide a detailed cost plan to support the headline costs being used. This should be provided in an elemental format together with a relevant specification for the proposed development. The specification should reflect the anticipated market values to be achieved by the scheme. Any plans not submitted as part of the application but relied upon to provide the cost plan should also be provided	
3.2	Cost of building Affordable Housing units to meet the Housing Corporation's Design and Quality Standards such as Lifetime Homes Standard, the DCLG's Code for Sustainable Homes or equivalent replacement standards.	
3.3.	Other Site infrastructure costs/external works i.e., roads, sewers, services, highways/access, landscaping, connections etc.	
3.4	Abnormal Costs with supporting professional evidence.it is important that sufficient information is provided to enable an effective analysis of these costs	
3.5	Details of Contingency sum or percentage.	
3.6	Development Costs Professional fees identified by specialism together with supporting information of appointment.	
3.7	Other costs - Planning fees - Site investigations - Building regs fees, NHBC etc	
3.8	Off Site Works - if relevant	
3.9	S106 Contributions Details of contributions for all Planning Obligations, other than AH, with brief summary of item.	

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3.10	<p>Finance Structure</p> <p>Details of Financing Arrangements which includes the cost of financing the scheme over development period including funding fees, interest rate assumptions based on monthly costs and anticipated Cash Flow forecasts.</p>	
3.11	<p>Profit</p> <p>Required profit margin/return(s) i.e Profit on cost/revenue</p>	
3.12	<p>Residual land valuation</p> <p>Anticipated land value based on a residual valuation approach. Appraisals should be included for both a policy compliant scheme and the proposed scheme if different</p>	
3.13	<p>Details of land acquisition terms although of contextual interest the Council would not expect price to form the basis for benchmarking the scheme</p>	
3.14	<p>Evidence to support costings identified in items 3.1 to 3.13. This should include detailed breakdown of costs provided by appropriate professionals and a method statement of how costs have been calculated. Breakdown of provisional sums should be clearly shown. Figures for comparable schemes should also be supplied.</p>	
4.	Current Use Details	
4.1	<p>Details of current use of the site and planning uses</p>	
4.2	<p>Current value of site for existing planning use - supported by professional evidence and assessment at the date of the appraisal. Including current tenancy details, estimated rents, yields and level of suggested land owner premium if applicable</p>	