

**TITLE OF REPORT: Gateshead Local Plan - Planning Obligation
Supplementary Planning Document (SPD)**

REPORT OF: Paul Dowling, Strategic Director, Communities and Environment

Purpose of the Report

1. The purpose of this report is to seek Cabinet approval to consult on a revised Planning Obligations Supplementary Planning Document (SPD) (Appendix 2) further to receipt of the Examiners Report on the Community Infrastructure Levy (CIL).

Background

2. The current Planning Obligations SPD (adopted 23rd February 2016) was prepared as an interim SPD setting out Gateshead's approach to developer contributions in advance of the Council becoming a CIL charging authority.
3. Following publication of the CIL [Examiners Report](#) (22nd August 2016) into both Gateshead's and Newcastle's CIL Draft Charging Schedules, which recommended their approval subject to some minor modifications, the Planning Obligations SPD has been reviewed for consultation purposes. This is to ensure the SPD conforms with the provisions set out in CIL, and notably to ensure there is no double counting in respect of the categories of infrastructure that are covered by the CIL, as set out on the Council's CIL 123 infrastructure list.
4. It is intended to take reports to Cabinet and Full Council in November recommending adoption of Gateshead's CIL, with development then being liable to charges from early January (the date planning permission is granted being the key date).
5. The need to review the SPD further to CIL has been communicated to developers and other interested parties during previous stages of consultation on the SPD, and was also discussed at the CIL examination. The key updates include:
 - Amendment of all references to CIL to reflect its status as being adopted
 - Removal of primary school education references and formula (included on the CIL 123 Infrastructure List)
 - Other minor changes

6. The purpose of the SPD is not to set policy, but to provide a framework for implementation of policy DEL1: Infrastructure and Developer Contributions of Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle 2010-2030 (CSUCP). The SPD clarifies the relationship between planning conditions, planning obligations and CIL. It will ensure the timely provision of infrastructure required to support growth whilst providing clarity in the consideration of planning applications by explaining to landowners and developers when the council will require planning obligations.
7. Consultation on the revised SPD will take place for 4 weeks from 15th September 2016. Subject to comments received and any subsequent changes required, the SPD will be republished alongside a consultation statement. The intention is to publish the revised SPD before CIL takes effect.

The Proposal

8. Cabinet is asked to approve for consultation purposes the reviewed Planning Obligations Supplementary Planning Document at Appendix 2, with changes highlighted in red.

Recommendations

9. It is recommended that Cabinet approves for consultation the reviewed Planning Obligations SPD at Appendix 2.

For the following reason:

To enable a CIL compliant SPD to be a material consideration in the development management process and to ensure that sufficient infrastructure is provided at a local level to make development acceptable.

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Policy Context and Background

1. The CSUCP was adopted on the 25th March 2015 and forms part of the Gateshead Local Plan. This SPD is supplementary to the CSUCP and the saved polices within the Unitary Development Plan.
2. The CSUCP Plan is a strategic planning framework that will guide development in Gateshead to 2030. It is the first part of the council Local Plan, containing an overall vision and spatial strategy to deliver economic prosperity and create lifetime neighbourhoods. CSUCP covers the whole of the area within the administrative boundaries of Gateshead and includes strategic policies and specific policies for the Urban Core, Sub-Areas and sites.
3. Following from the adoption of the CSUCP, there are a number of large housing development sites coming forward in Neighbourhood and Village Growth Areas, and this SPD will ensure that the infrastructure we need to make these sites acceptable is delivered.
4. The use of Planning Obligations, between the council and developers, is well known. Their purpose is to mitigate the impact of development by providing new infrastructure.
5. The Planning Obligations SPD sets out Gateshead's approach to developer contributions. The SPD does not set policy, but provides a framework for implementation of policy DEL1: Infrastructure and Developer Contributions of the Local Plan. The SPD clarifies the relationship between planning conditions, planning obligations and CIL. It will ensure the timely provision of the specific local infrastructure required to support growth whilst providing clarity in the consideration of planning applications by explaining to developers when the council will require planning obligations.
6. Planning Obligations can secure affordable housing and mitigate the site specific impacts of the development. However the Community Infrastructure Levy Regulations restrict the use of planning obligations and restrict the number of contributions that can be pooled to deliver a type of infrastructure or infrastructure project. No more planning obligations may be collected in respect of a specific infrastructure projects or a type of infrastructure, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010. The changes to the use of planning obligations are to ensure that Councils cannot double charge developers for the same items of infrastructure through both CIL and a planning obligation.
7. Following the adoption of CIL all infrastructure specified on the infrastructure 123 list can no longer be funded by planning obligations, however, site specific infrastructure will remain to be funded by planning obligations, as will all infrastructure up to the date CIL is adopted, subject to the pooling restriction outlined above.

Next Steps

8. Subject to Cabinet approval, it is intended to consult on the revised SPD for 4 weeks from 15th September. The SPD, if subsequently approved, will be used alongside the Gateshead Local Plan to inform decision making on planning applications.

Consultation

9. The Cabinet Members for Environment and Transport have been consulted.

Alternative Options

10. The alternative is not to have a Planning Obligations SPD but this has been discounted because without a robust Planning Obligations SPD there is a risk that necessary and strategic infrastructure will not be delivered in a timely manner.

Implications of the recommended option

11. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that any costs would be met from existing budgets. The SPD will assist in ensuring that the necessary & strategic infrastructure to support development in delivered.
- b) **Human Resources Implications** – There are no human resource implications arising from this report.
- c) **Property Implications** - There are no property implications arising from this report.

12. **Risk Management Implication** – There is a risk that without a robust Planning Obligation SPD that meets legal requirements, necessary and strategic infrastructure will not be delivered in a timely manner placing a strain on existing infrastructure in neighborhood and village growth areas. There is also a risk that there will be double counting in terms of S106 and CIL, should the SPD not be brought up to date.

13. **Equality and Diversity Implications** – There are no equality and diversity implications arising from this report

14. **Crime and Disorder Implications** – There are no crime and disorder implications arising from this report.

15. **Health Implications** – There are no health implications arising from the report

16. **Sustainability Implications** – There are no sustainability implications arising from the report.

17. **Human Rights Implications** - There are no human rights implications arising from this report.
18. **Area and Ward Implications** - All

Appendix 2: Draft Planning Obligations Supplementary Planning Document First Review
SeptemberFebruary 2016

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Introduction

Purpose of this document

1. The purpose of this Supplementary Planning Document (SPD) is to set out Gateshead Council's approach to developer contributions. The SPD does not set policy. It provides a framework for implementation of existing policies contained in the adopted Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne (CSUCP) relating to the impacts of development. The main policy this SPD supports is CSUCP Policy DEL1: Infrastructure and Developer Contributions.

2. It is set within the context of the Council's ~~anticipated~~ adopted ~~ion of the~~ Gateshead Community Infrastructure Levy (Gateshead CIL) ~~in 2016~~. For a significant proportion of planning applications CIL is now ~~will become~~ the primary method by which the Council seeks developer contributions to pay for infrastructure to support development growth. It ~~is will however, be~~ through planning obligations, ~~however,~~ that the Council seeks contributions ~~for infrastructure until CIL is adopted, and thereafter~~ for infrastructure needed to mitigate the impact of a specific development ~~that is not covered by CIL. Therefore, this SPD is an interim document which will be updated, consulted on and then republished at the same time as CIL is adopted and becomes operational, in respect of the categories of infrastructure that are covered by the CIL as set out in the Council's CIL 123 infrastructure list.~~

3. Since 6 April 2015, the Community Infrastructure Levy Regulations 2010 (as amended) limit the use of planning obligations and the requirements set out in this document are subject to that statutory limitation.

4. This SPD will:

- Clarify the relationship between planning conditions, planning obligations, and other legal agreements;
- ~~— Provide interim guidance before Gateshead CIL is adopted and becomes operational;~~
- Help ensure the timely provision of infrastructure to support growth;
- Aid the smooth functioning of the planning application process by explaining the Council's process and procedures for using planning obligations;
- Assist in securing both local and national objectives in respect of the provision of sustainable development; and
- Assist applicants to make successful applications.

5. This SPD will provide clarity to developers, development management officers, stakeholders and local neighbourhoods regarding the basis on which site specific planning obligations will be sought to make a development acceptable in planning terms. It details the obligations that may be required from different types and ~~amount~~ ~~quantum~~ of development, and sets out the basis on which the level of obligation will be calculated, where appropriate.

6. Development often creates a need for specific measures to mitigate its impact, without which there could be a detrimental impact on local amenity and the quality of

the environment which makes the development unacceptable. This SPD will help to ensure that development contributes towards the necessary measures needed to mitigate its impact, resulting in a high quality sustainable environment, where people choose to live, work, learn and play.

7. Planning obligations are secured by an Agreement under section 106 of the Town and Country Planning Act 1990. These Agreements, often referred to as Ss.106 Agreements, are legally binding agreements entered into between a Local Authority and a landowner or solely the land owner in the case of a unilateral undertaking. They provide the mechanism by which planning obligations are secured to mitigate the impact of development. The use of planning obligations is an effective tool to ensure that development is acceptable by mitigating its impact and meeting the objectives set out in national and local planning policies.

8. This SPD deals with procedural matters relating to the drafting and enforcement of Section 106 Agreements. It sets out the types of obligation that the Council may seek to secure from development. It will identify the relevant policy basis, types of development to which the obligation will apply, thresholds over which the obligation will be sought and sets out, where possible, the basis on which the level of obligation will be calculated. It specifically covers the following obligation types:

- Affordable Housing
- Highways and Transport*
- Local Open Space
- Children's Play Facilities
- Local Employment Training and Opportunities
- Sustainable Urban Drainage Systems (SUDS)*
- Ecology
- ~~Education~~
- Flood*
- Community Sporting facilities

*Projects or infrastructure not covered by CIL 123 Infrastructure List

~~9. Once CIL is adopted, some of these types of contributions will be collected through that mechanism, once it becomes operational. The Council's emerging 123 infrastructure list confirms the broad infrastructure categories/projects that this will apply to, specifically. These are likely to be primary school provision, strategic transport infrastructure, strategic flood infrastructure at MetroGreen and strategic Green Infrastructure. Double dipping will be avoided through the revision of this SPD at that time, and through ongoing monitoring.~~

How to use this document

9. The primary users of this document are Development Management officers and developers.

10. Anyone intending to submit a planning application for development is encouraged to read this SPD and contact the Council's Development Management Team for further pre-application advice and information which will identify whether any planning obligations will be required.

<http://www.gateshead.gov.uk/Building%20and%20Development/Planning/advice.aspx>

Document status and relationship to other documents

11. Proposals for development that may require mitigation which will be delivered by planning obligations, should be made in accordance with the relevant **Local Plan** policies **of (currently** the saved policies of the Unitary Development Plan, and the **policies of the** CSUCP. This SPD, which supports the CSUCP, constitutes a material consideration in the decision-making process.

12. The SPD supplements policies within the Local Plan;

Saved UDP Policies

DC1 (part of)

H9

H10

H13

H14

H15

T1

CFR 14,15,20,21,28,29,30

ENV44, ENV46, ENV47, ENV48, ENV49, ENV50 & ENV51

CSUCP

- CS1 Sustainable Growth
- CS2 Urban Core
- CS3 Neighbourhood Areas
- CS4 Rural and Village Areas
- CS5 Employment and Economic Growth Priorities
- CS9 Existing Communities
- CS10 Delivering New Homes
- CS13 Transport
- CS17 Flood Risk and Water Management
- CS18 Green Infrastructure
- DEL 1 Infrastructure and Developer Contributions

Part 1 Context and evidence

National Policy Context

13. The legislative framework for planning obligations is set out in Section 106 of the Town & Country Planning Act 1990 (as amended). Further legislation is set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). Government policy on planning obligations is set out in Paragraphs 203 to 205 of the National Planning Policy Framework (NPPF) and the online National Planning Practice Guidance (NPPG) tool.

14. The CIL Regulations require that local authorities scale back planning obligations to those matters that are directly related to a specific site, or are otherwise not those set out in the Infrastructure List for the Council area. In addition, from 6 April 2015, the CIL Regulations restrict the pooling of planning obligation contributions to no more than five separate planning obligations (entered into since 6 April 2010) which provide for the funding or provision of an infrastructure project or type of infrastructure.

15. Regulation 122 of the CIL Regulations and Paragraph 204 of the NPPF set out the following tests that must be satisfied in order for obligations to be required in respect of development proposals:

- the obligation must be necessary to make the proposed development acceptable in planning terms;
- the obligation must be directly related to the proposed development;
- the obligation must be fairly and reasonably related in scale and kind to the proposed development.

16. Planning obligations will still be required for the provision of affordable housing and site specific measures required to mitigate the impact of development.

Planning Obligations

17. Planning obligations must be directly related to the development and necessary to make the development acceptable. Therefore obligations will only be sought where the nature of the site and proposal makes it necessary to do so.

18. The Council will use planning obligations to mitigate site specific impacts caused by the development. Obligations will only be used where the development could not be permitted without the measures, i.e. where the measures are necessary to make the development acceptable in planning terms.

19. The Council will assess each planning application individually to determine whether an obligation is needed and what matters it should address.

20. Where a proposed development is likely to need a S106 agreement this will be raised with the developer as soon as possible in the process. This is likely to be at pre-application stage if pre-application advice is sought.

CIL

~~22. Gateshead Council will become a CIL charging authority once the CIL charging schedule is adopted and becomes operational in 2016.~~

~~23. The Council will publish an Infrastructure List in accordance with Regulation 123 of the CIL Regulations to specify the categories of infrastructure, and/or specific projects, the CIL monies will help to fund, and further guidance will be provided on this. The provision of affordable housing currently lies outside of the remit of CIL and will continue to be secured through planning obligations.~~

~~24. The Council will ensure that there is no 'double dipping' once the CIL is operational, by adopting a revised planning obligations SPD.~~

Community Infrastructure Levy (CIL)

21. Gateshead Council's CIL, subject to approval by Cabinet and Council, will be adopted in November 2016, and come into operation on [] January 2017.

22. Regulation 123 provides for the Council to set out a list of those infrastructure projects or types of infrastructure that it intends will be wholly or partly funded through the CIL. Developer contributions to the projects listed will not be sought through planning obligations or S278 of Highways Act 1980. The list specifies the types of infrastructure that the authority shall fund through CIL and also specifies exceptions with that infrastructure type that will not be funded through CIL (and so could be required to be delivered by a planning obligation or another source of funding). The list may be reviewed from time to time.

24. The list attached at appendix 4 sets out those infrastructure projects or types of infrastructure that Gateshead Council intends will be, or may be, wholly or partially funded through CIL.

Section 278 agreements

25. A "Section 278 agreement" is an agreement between a developer and the Council in its capacity as Highway Authority made pursuant to section 278 of the Highways Act 1980. The agreement secures alterations or improvements to the adopted highway, having regard to the needs generated by a development. Where highway schemes require developers to dedicate or transfer land within their control for adoption as highway, an agreement pursuant to section 38 of the Highways Act 1980 may also be required either separately or combined with a section 278 agreement and a landowner can also dedicate land to the Highway Authority to enable a road to be widened under section 72 of the Highways Act 1980.

Summary

26. The table below identifies the different mechanisms that will be used to mitigate the impact of development in order to make it acceptable.

Mechanism	Details	Use
Planning Conditions	To make otherwise unacceptable development acceptable These may restrict what you can do on the premises, or requiring you to get specific approval for aspects of the development, before you can proceed	Including noise, green infrastructure, and materials.
Grampian Conditions	A condition precluding the commencement of development permitted by a planning permission until particular measures have	Environmental and infrastructure improvements.

	been undertaken	
Planning Obligations	To make otherwise unacceptable development acceptable Planning obligations can secure particular necessary infrastructure which is are normally provided on or immediately adjoining the site or strategic infrastructure which would mitigate the cumulative impact of a number of sites or would impose controls that cannot be secured by condition	Affordable housing, lifetime and wheelchair homes, on-site public open space and children's play facilities and also to address direct site specific impacts of development, often as commuted sums.
CIL	CIL is a fixed tariff based on size, type and location of development providing a consistent mechanism for pooling contributions from new developments towards the provision of infrastructure across the borough	Borough wide infrastructure as specified in the Council's Draft -123 Infrastructure List (not yet in place)
Section 278 Agreements	Provides for alterations to the adopted highway to be funded by developers	Highway improvements

Thresholds

27. Contributions for affordable housing will not be sought on developments of less than 15 dwellings in accordance with CS policy 11. ~~Contributions for lifetime and wheelchair homes will be limited to the requirements of saved UDP policies H9 and H10. Contributions for public open space and children's play, specific to the site in question, will be limited to the requirements of saved UDP policies CFR20 and CFR28-30, respectively.~~

28. ~~As referred to previously~~, Regulation 123 of the CIL Regulations limits the scope for pooling contributions secured by planning obligations to no more than five obligations for the provision or funding of each infrastructure project or type of infrastructure, taking account of planning obligations secured for that project or type

since 6 April 2010. Hence where the threshold of five obligations has already been met, for the provision or funding of a particular infrastructure project or type of infrastructure no further obligations can be sought for that specific infrastructure project or type of infrastructure.

Location of contributions

29. Developer contributions should be provided on site. Off-site provision will be acceptable only when the developer can clearly demonstrate why on site provision is not possible. Commuted sums will only be acceptable in lieu of on or off site provision where it has been clearly demonstrated that ~~both neither~~ on ~~and or~~ off site provision ~~is are~~ not possible.

Starter homes exception ~~S~~sites

30. As set out in the Starter Homes Written Ministerial Statement of 2 March 2015, starter homes exception sites should not be required to make affordable housing or tariff-style section 106 contributions. Further guidance is ~~n~~ available in the National Planning Practice ~~olicy~~ Guidance.

Housing and Planning ~~Act Bill~~ 2016-2016

31. Part 1 of the ~~Act Bill~~ (not yet in force) places the ~~Government's commitment~~ ~~proposes the Government's commitment~~ to provide a number of Starter Homes for first-time buyers under the age of 40 on a statutory footing. Starter Homes ~~will~~ ~~ould~~ be sold at a discount of at least 20% of the market value ~~with a capped price of no more than £250,000~~. Specifically, the ~~Act Bill~~ places a general duty on all planning authorities to promote the supply of Starter Homes, and provides a specific duty, which will be detailed in secondary legislation, to require a certain number or proportion of Starter Homes on development sites.

32. Part 6 of the ~~Act Bill~~ contains a number of different reforms to the planning system, with the aim of speeding it up and allowing it to deliver more housing. Powers are given to the Secretary of State to intervene in the local and neighbourhood plan making process. A new duty to keep a register of brownfield land ~~suitable and available for housing~~ within a local authority's area will tie in with a new system of allowing the Secretary of State to grant planning permission in principle for housing on sites identified in these registers. It also allows for major infrastructure projects with an element of housing to apply for development consent through the ~~2008~~ Planning Act ~~2008~~ regime, rather than having to seek separate planning permission.

33. When ~~each provision comes into force, the Bill is enacted~~, the Council will adhere to ~~the terms provisions~~ within it, and these will be reflected in the ~~review~~ ~~sion~~ of the SPD if timing permits.

Part 2 Guidance

Onsite/Offsite

Necessary Infrastructure

34. Where possible, developers should provide required provision / mitigation on site. However, there will be cases where this is neither practicable nor appropriate. In these instances, the Council will require financial contributions or physical works towards the off-site provision of necessary measures to mitigate the impact of the development.

Strategic Infrastructure

35. In cases where a number of developments are proposed in close proximity to each other and the cumulative effect will result in the need for a specific mitigating measure, the Council may seek obligations in respect of each of the developments, in order to fund the provision of a necessary infrastructure or measure. Close proximity will be assessed on a case by case depending on the type of infrastructure required and development proposed.

Viability

36. The Council accepts that there may be occasions where development proposals are unable to meet all the relevant policy requirements and still remain viable when considering the cumulative impact of requirements. Where the Council is satisfied that a development cannot be fully policy compliant and remain viable, a reduced package of planning obligations may be recommended. In many cases where viability is an issue, the application will be determined by the Planning and Development Committee and not under delegated powers.

37. In all cases where viability is contested, the Council requires an independent viability assessment to be undertaken normally using the residual valuation model. An assessment made by the developer using, for example, the HCA toolkit ~~are is~~ acceptable as long as the Council can interrogate the information. This will look at the value of the completed development (gross development value GDV); the direct costs of development including site acquisition costs where relevant, build costs, developer profit, finance and the cost of any planning obligations and CIL contributions (gross development costs (GDC)). The residual valuation approach is generally used to assess land with potential for development where ~~the~~ direct comparison with other transactions is not possible. However residual development appraisals should be checked ~~with~~ ~~against~~ suitable market evidence. The comparable method, or ~~such~~ other valuation techniques, may be used to analyse elements of the appraisal such as land value.

38. This approach should test the ability of a development project to meet its costs including the cost of planning obligations while ensuring an appropriate Site Value for the landowner and a market risk adjusted return to the developer in delivering that project. For the purposes of CIL, developer's return has been generically applied at 20% of GDV on private housing and 6% of GDV on affordable. The viability assessment will be appraised by the Council to determine whether the development would be viable/not viable as a result of the obligations being required. Thereafter a balanced view would need to be taken as to whether the obligation is necessary to make the development acceptable in planning terms.

39. The information that is required to be submitted by the applicant to assess viability is included in a list in appendix 3.

Types of Obligation

Affordable housing

Issue	Guidance and policy
Which developments require affordable housing	<p>Developments of 15 or more homes or sites over 0.5 hectares</p> <p>The pooling restrictions on planning obligations under CIL Regulation 123 do not apply to affordable housing financial contributions as there is no pooling restriction on infrastructure that cannot be funded through CIL.</p>
Standards	<p>15% of total homes provided to be affordable homes 65% subsidised rent and 35% subsidised home ownership but this will be assessed on a case by case basis The Councils preference is for 65% subsidised rent and 35% subsidised home ownership, and, based on the SHMA is for: Social/affordable rented subsidised rent – 20% 1 bed, 40 % 2 bed, 20% 3 bed 20% 4 bed, and Intermediate housing subsidised home ownership – 20% - 1 bed, 80% 2 bed. This will be assessed on a case by case basis.</p> <p>Any proposals for off-site provision must ensure that the mix of dwellings set out above is achieved, where appropriate, and in a location considered suitable by the Council within Gateshead. It should result in provision of no less fewer than the number of dwellings of the appropriate size that would have been required on site.</p>
How delivered	<p>Agreement will be made prior to the issue of planning permission.</p> <p>Affordable housing will be secured through a planning obligation.</p> <p>The involvement of a Registered Provider is strongly encouraged. The Section 106 agreement will control occupancy and affordability.</p> <p>Provision should be phased across the development negotiated on a case by case basis, preferably pepper potted.</p> <p>Off-site provision to be made upon commencement of development subject to viability.</p> <p>Payments in Lieu to be made before commencement of development (Where issues relating to the viability of the development is are demonstrated, the timing of the payment of the commuted sum may be subject to further negotiation.)</p> <p>The amount of the commuted sum will only be agreed by the Council once all necessary financial information is provided by the applicant. Where possible this will be done pre-application.</p> <p>Formula for calculating commuted sum in in appendix 1.</p>
Maintenance	None

Relevant policy	CS11
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Commuted Sums (Financial Contribution)

40. The Council will utilise the monies received from such commuted sums for any purposes it considers appropriate for the provision of affordable housing. This will include working with Registered Providers to:

- Identify suitable alternative land or property, ideally with planning permission or with the likelihood of receiving planning permission;
- Prepare and submit schemes for approval, using the funding provided by such financial contributions, either singly or collectively;
- Agree a timetable for the purchase of alternative sites or properties;
- Utilise the financial contributions on sites with existing planning permission in order to either increase the amount of affordable housing or to increase the proportion of homes for Affordable or Social Rented accommodation.

Public Open Space

Issue	Summary of guidance and policy
Which developments require public open space	Where Saved UDP policies H13, H14, CFR20, and CFR21 set out requirements for provision of open space, including standards, and identifying which development these policies will apply to will be determined on a site by site basis. Gateshead Supplementary Planning Guidance 5 provides guidance. CSUCP policies CS14, CS18, and policies for Neighbourhood and Village Growth Areas (GN1, GV1, GV2, GV3, GV4, GV5, GV6 and GV7) also support the provision of open spaces.
Standards	In accordance with draft Gateshead Residential Design Code Supplementary Planning Document. Formula for the area required is in appendix 1.
How delivered	By the developer, to be completed before completion of the development. Payments in lieu of provision will only be acceptable where it has been clearly demonstrated that both neither on and or off site provision by the developer is not are possible.

	<p>The Council has reached the statutory maximum number of planning obligations that can be required in respect of generic open space infrastructure. Planning obligations relating to payments in lieu for open space will only be required where</p> <ul style="list-style-type: none"> • there is an identified infrastructure project need as a result of the development , which is accessible from the development site, • no more than 54 obligations towards that infrastructure project have already been required; • monies can be pooled to contribute to the identified infrastructure project.
Maintenance	Landowner in accordance with an agreed management plan.
Relevant policy	H13, H14, CFR20, CFR21, CS14, CS18, GN1, GV1-GV7

Children's Play

Issue	Summary of guidance and policy
Which developments require play provision	<p>Where Saved UDP policies H15, CFR28, CFR29 and CFR30 set out requirements for provision of play facilities, including standards, and identifying which development these policies will apply to will be determined on a site by site basis. Gateshead Supplementary Planning Guidance 4 provides guidance. CSUCP policy CS18, and policies for Neighbourhood and Village Growth Areas (GN1, GV1, GV2, GV3, GV4, GV5, GV6 and GV7) also support the provision of recreational facilities.</p>
Standards	In accordance with draft Gateshead Residential Design Code Supplementary Planning Document. Formula for the area required is in appendix 1.
How delivered	<p>Developer, to be completed before completion of the development and before first occupation of adjacent dwellings. Payments in lieu of provision will only be acceptable where it has been clearly demonstrated that both neither on and-or off site provision by the developer is-not are feasible or viable. The Council has reached the statutory maximum number of planning obligations that can be required in respect of generic play space infrastructure. Planning obligations relating to payments in lieu for play space will only be required where:</p> <ul style="list-style-type: none"> • there is an identified infrastructure project need as a result of the development, which is accessible from the development site and meets the policy requirements in terms of distance, • no more than 54 obligations towards that infrastructure project type have already been required; • monies can be pooled to contribute to the identified infrastructure project type.

Maintenance	Landowner in accordance with an agreed management plan.
Relevant policy	H15, CFR28, CFR29, CFR30 CS 14, CS18, GN1, GV1-GV7

Highways and Transport

Issue	Summary of guidance and policy
Which developments require highway and transport infrastructure	<p>The need for improvements to highway or other transport infrastructure will be considered on a case by case basis.</p> <p>Improvements to the highway network or other transport infrastructure needed to mitigate the impact of a specific development and make it acceptable in planning terms will be considered on a case by case basis.</p>
Standards	Guidance on the approach towards designing for transport can be found in the Council's draft Gateshead Residential Design Code SPD and associated technical appendices.
How delivered	<p>S278 agreements are the preferred mechanism for delivery of highway improvements, with new highways being provided through S38 agreements. Where developments require highway improvements which are required via a planning obligation these will be identified during the pre-application process.</p> <p>(Note – strategic transport infrastructure is intended to be funded through CIL once adopted.)</p>
Adoption	The nature and extent of areas to be adopted will be agreed with the Council as part of the planning process.
Maintenance	<p>The Council will maintain adopted infrastructure. Commuted sums may be sought for future maintenance in some circumstances, notably where non-standard materials or equipment is agreed.</p> <p>The Council will not maintain infrastructure outside adopted areas.</p> <p>Retaining structures required as part of development proposals will not be maintained by the Council unless otherwise agreed.</p>
Relevant policy	CS13

The Council's 123 Infrastructure List includes strategic transport infrastructure. Where strategic transport infrastructure projects fall under the infrastructure types in the 123 Infrastructure List, financial planning obligations will not be sought for the same project.

Targeted Recruitment and Training and Employment Management Provision

Issue	Summary of guidance and policy
Which developments require training and employment management provision	The requirement for considering the need for targeted Recruitment and Training and Employment provision will apply to all major planning application as defined in the Town and Country Planning (Development Management) Order 2015) excluding planning applications for housing schemes with 100 or less fewer units.
Standards	<p>A number of different labour forecasting tools are available including Construction Skills own http://www.citb.co.uk/research/consultancy/labour-forecasting-tool/, all of which are industry accredited and can be based on cost (£M) of development or type of build and trades used Alternatively it may be that the Homes & Communities Agency guidance and toolkits are more applicable for certain developments. The Council's Economic and Housing Growth Service will advise on the most appropriate arrangements for each case.</p> <p>Alternatively, where a developer has an existing training and recruitment programme, this could be used.</p>
How delivered	<p>The Council will work in partnership with developers to secure a reasonable and proportionate approach to targeted recruitment and training.</p> <p>Targeted recruitment and training requirements will be delivered by developers through a Training and Employment Management Plan for both the construction and end user phases of the development where appropriate. Alternatively, where a developer has an existing training and recruitment programme, this could be used. Where the developer is unable to deliver on site training or employment an equivalent financial contribution will be required.</p> <p>The Training and Employment Management Plan will normally be secured through a planning condition. The financial contribution will be secured through a planning obligation.</p>
Maintenance	Not required
Relevant policy	CSUCP CS5

SUDS

Issue	Summary of guidance and policy

<p>Which developments require SuDS</p>	<p>Infrastructure needed to mitigate the impact of a specific development and to make it acceptable in planning terms, including site specific SuDS, flood mitigation and green infrastructure.</p> <p>Major new development: 10 or more dwellings and non-residential or mixed use (1,000 square metres or more, or 1ha or more) as per in accordance with the SuDSs Ministerial Statement and NPPG ID 7 para 79; will be expected to provide sustainable drainage systems for the management of surface water run-off, unless it is demonstrated to be inappropriate.</p>
<p>Standards</p>	<ul style="list-style-type: none"> - Standards in CSUCP Policies, including Neighbourhood and Village Growth site policies, to address local flood issues. - NPPG ID7 Ppara 83 sets out the technical standards for SUDS - Gateshead Strategic Flood Risk Assessment and Newcastle and Gateshead Surface Water Management Plan. - Forthcoming Gateshead SuDS SPD. Local design, construction and maintenance standards for adoption by the Council. <p>Drainage assessments will be required to ensure regard is given to these standards.</p>
<p>How delivered</p>	<p>A planning obligation will normally be required for the Council's preferred maintenance model as detailed within the SuDS SPD. This will set out the obligation on the developer to construct and secure the maintenance of the SuDS in accordance with a SuDS management plan and/or a SuDS agreement. This will set out the minimum standard of maintenance over the lifetime of the development, funding, and the roles and the responsibilities of the developer, the Council, service management companies (if applicable) and Northumbrian Water.</p> <p>Where the developer demonstrates it is not feasible to follow the Council's preferred maintenance model other maintenance models may be considered provided there are clear arrangements for the lifetime maintenance. These will be subject to compliance with the SuDS SPD and will be secured through planning conditions.</p>
<p>Adoption</p>	<p>Under the Council's preferred maintenance model, the</p>

	Council will adopt SuDS, situated on open space and public highways after completion, provided the SuDS comply with the forthcoming Gateshead SuDS SPD on local design, construction and maintenance standards and adoption process. Further adoption details will be provided in the forthcoming SuDS SPD.
Maintenance	A SuDS Management Plan will be required describing how the SuDS scheme will be maintained within the open space, highways and private property over the lifetime of the development. This should include: a site plan, and a schedule of work setting out the responsibilities and frequency of maintenance tasks, costs and funding. This should comply with Gateshead's SuDS SPD when adopted.
Relevant policy	CS17, AOC2, GN1, GV1, 2, 3, 4, 5, 6, 7 KEA2, UC – QB2, QB3.

The Council's 123 Infrastructure List includes:

- Strategic Green Infrastructure; and
- MetroGreen Strategic Flood Alleviation and Mitigation and Green Infrastructure.

Where strategic infrastructure projects fall within the types in the 123 Infrastructure List, financial planning obligations will not be sought for the same project.

Ecology

Issue	Summary of guidance and policy
Which developments require ecological contributions	Any development that has an impact on ecology that requires mitigation measures to make the development acceptable.
Standards	<p>Priority should be given to the avoidance of impacts at source, whether through re-design or by regulating the timing or location of development activities. If it is not possible to avoid significant impacts, consideration should be given to the provision of on-site mitigation and/or compensation measures. Where impacts remain the provision of off-site measures involving the creation, restoration and/or enhancement of habitats may be required</p> <p>Proposals will be required to provide measures to mitigate any ecological impact of the development as determined by the submitted ecological report in accordance with BS 42020: Biodiversity Code of Practice for Planning and Development.</p>

How delivered	<p>By the developer, to be completed either before commencement of development, phased, or after completion of the development/before first occupation decided on a case by case basis.</p> <p>On site ecological mitigation and / or compensation provided within the curtilage of the proposed development site will be secured by a planning condition. Off-site ecological mitigation and / or compensation provided outside the curtilage of the proposed development site will be secured by planning obligations.</p> <p>Payments in lieu of provision will only be acceptable where it has been demonstrated that both neither on and or off site provision is not are possible. The commuted sum due will be decided on a case by case basis and linked to the extent of mitigating measures required. These will be secured by planning obligations.</p> <p>(Note – strategic ecological infrastructure is intended to be funded through CIL once adopted.)</p>
Maintenance	Developer in accordance with an agreed management plan
Relevant policy	CS18, ENV44, ENV46, ENV47, ENV48, ENV49, ENV50 & ENV51

Education

Issue	Summary of guidance and policy
Which developments require education contributions	Where CSUCP policies for Neighbourhood and Village Growth Areas (GN1, GV1, GV2, GV3, GV4, GV5, GV6 and GV7) require the provision of primary school pupil places or, under policy DEL1, where there is evidence of need.
Standards	Formula for the places required are located in appendix 1
How delivered	<p>Pupil places required to make development acceptable will be delivered by developers through a planning obligation requiring a contribution towards the provision of additional primary school places within the secondary school planning area where the site is located.</p> <p>(Note – It is intended that primary school provision will be</p>

	funded through CIL once adopted.)
Maintenance	None
Relevant policy	CSUCP GN1, GV1, GV2, GV3, GV4, GV5, GV6 and GV7

Flood and water

Issue	Summary of guidance and policy
Which developments require flood and water contributions	<p>Infrastructure needed to mitigate the impact of a specific development and make it acceptable in planning terms, including site specific SuDS, flood mitigation and green infrastructure.</p> <p>Development at risk of flooding over its lifetime including an allowance for climate change, or development which could increase flood risk elsewhere will be required to incorporate flood mitigation measures and manage residual flood risk, informed by the Strategic Flood Risk Assessment.</p> <p>Development will be required to ensure no significant adverse impact on water quality.</p> <p>Development will be required to ensure water supply and foul and surface water infrastructure are provided with adequate capacity.</p>
Standards	The standards of flood and water quality mitigation measures will be determined by individual flood risk assessments, drainage assessments and water quality assessments informed by CSUCP Policies, NPPF and NPPG.
How delivered	<p>Site specific flood mitigation measures required to make development safe over its lifetime, including an allowance for climate change, without increasing flood risk elsewhere will be delivered by developers through planning obligations and planning conditions. These measures may include: on and off site compensatory flood storage, river restoration, land raising, site specific defences, flood resilience and resistance construction measures, evacuation plans, flood warning systems, water treatment techniques and adequate public sewerage system capacity. Planning obligations are most likely to be required to deliver off site flood mitigation measures.</p> <p><u>(Note – strategic flood and water infrastructure for only MetroGreen (i.e. strategic land drainage network, tidal flood defence along the River Tyne and strategic compensatory</u></p>

	<u>storage in the River Derwent) is intended to be funded through CIL once adopted).</u>
Maintenance	<p>The Council (as Lead Local Flood Authority) may adopt strategic flood alleviation infrastructure required to safeguard strategic development areas and support catchment management. The Lead Local Flood Authority and other third parties such as wildlife trusts or service management companies will maintain new strategic flood management infrastructure.</p> <p>Landowners are responsible for site specific flood mitigation measures and management of residual flood risk.</p> <p>The Council (Lead Local Flood Authority) will register new flood management assets which are incorporate in new development which have a significant effect on flood risk.</p> <p>The Highway Authority is responsible for draining adopted highways of surface water in reasonable conditions.</p> <p>Environment Agency is responsible for managing the risk from main rivers.</p> <p>Northumbrian Water is responsible for maintaining the public sewerage network and managing the risk of flooding from that system.</p>
Relevant policy	CS17, AOC2, QB1, QB2, QB3, GN1, GV1,2,3,4,5,6,7 KEA2

The Council's 123 Infrastructure List includes:

- Strategic Green Infrastructure; and
- MetroGreen Strategic Flood Alleviation and Mitigation and Green Infrastructure.

Where strategic infrastructure projects fall within the types in the 123 Infrastructure List, financial planning obligations will not be sought for the same project.

Pre-application advice

41. The Environment Agency provides a free initial pre-application service in the form of a preliminary opinion. As part of this preliminary opinion the Environment Agency highlights any environmental issues we may be concerned about as a statutory consultee. Developers can then receive further bespoke advice, if required, at a chargeable rate. This could include Flood Risk Assessment reviews, meetings, and site visits. The form can be downloaded from <https://www.gov.uk/government/publications/pre-planning-application-enquiry-form-preliminary-opinion>

Community and sporting facilities (other than children's play)

Issue	Summary of guidance and policy
Which developments require community	Where development would result in the

or sporting provision	loss of existing provision, or where existing sports facility provision does not meet identified needs, or where the need generated by a new development would result in there being a deficiency in provision.
Standards	As identified in the Council's playing pitch strategy or the requirements of saved UDP policies CFR14 and CFR15.
How delivered	<p>Delivered by developers through a planning obligation.</p> <p>Payments in lieu of provision will only be acceptable where it has been clearly demonstrated that both neither on and-or off site provision by the developer is are not feasible or viable.</p> <p>(Note – the provision of strategic sports infrastructure could be funded through CIL once adopted and the approach will be informed by forthcoming evidence base studies.)</p>
Maintenance	Developer in accordance with an agreed management plan
Relevant policy	CFR14, CFR15, CS8, CS9, CS14, CS18, GN1, GV1, 2, 3, 4, 5, 6, 7

Part 3 monitoring and Implementation

Monitoring

42. Monitoring of obligations will be undertaken by the Council to ensure all obligations entered into are complied with ~~on the part of~~ by both the developer and the Council. Obligations will be reported in the Annual Monitoring Report. Obligations that are being pooled will be monitored on an ongoing basis to ensure that no more than 5 obligations relating to a type of infrastructure or infrastructure project are ~~sought~~ ~~pooled~~.

Enforcement

43. The Council will enforce obligations where necessary but will seek to remedy failure to comply with an obligation informally in the first instance. Where this is not possible, the Council will seek to enforce the obligation and retrieve its legal costs in taking action against the party in default.

Reporting of Section 106 Obligations and Payments

44. New planning obligations and payments received are reported to every Planning and Development Committee along with a Schedule of each obligation giving information on monies collected via planning obligations and schemes funded through planning obligations.

Practicalities

Pre-application advice

45. The Council offers a dedicated pre-application advice service, which is subject to a fee.

<http://www.gateshead.gov.uk/Building%20and%20Development/Planning/advice.aspx#preapplicationforms>

46. Pre application advice will give an indication of the likely requirement for contributions to be made by the developer (e.g. levels of affordable housing, highways or other contributions). Usually, providing the pre application advice is taken into account, applications can be processed with without any unnecessary delay.

Planning Performance Agreement

47. A planning performance agreement (PPA) is a project management tool which sets timescales for actions between the local planning authority and an applicant. It should cover the pre-application and application stages but may also extend through to the post-application stage. A PPA provides greater certainty and transparency in the process for determining a large and/or complex planning application, and can help to ensure that a clear and efficient process is in place for dealing with an application. They encourage joint working between the applicant and local planning authority and can also help to bring together other parties such as statutory consultees. A PPA is agreed voluntarily between the applicant and the local planning authority prior to the application being submitted, and can be a useful focus of pre-application discussions about the issues that will need to be addressed. As part of the PPA the Council factors in the time it takes to approve a section106 Agreement. A copy of a draft PPA can be provided on request.

Section 106 Agreements

48. Section 106 Agreements are usually drafted by the Council's solicitors but can also be drafted by solicitors acting for the landowner. Applicants will be required to pay

the Council's reasonable costs incurred in drafting/agreeing and completing the Agreement as set out in the Council's annual fees and charges list.

49. Where the landowner does not require a reciprocal agreement from the Council, the Council encourages the use of Unilateral Undertakings, which require only the landowner to enter into the Agreement. A Unilateral Undertaking template is available on the Council's website

<http://www.gateshead.gov.uk/DocumentLibrary/Building/planning/GuidancenoteforPlanningObligations.pdf>

50. In the majority of cases, use of this template will result in the speedier completion of a section 106 Agreement. Where Unilateral Undertakings are submitted to the Council applicants will be required to meet the Council's reasonable costs incurred in dealing with the Agreement.

51. Obligations which require financial contributions will be payable at specific stages in the development process, usually on commencement or on first occupation of the development. However, there may also be ~~cases in~~ large-scale developments where contributions can be phased, in order to match the proportional impact of each phase of the development. Trigger dates for the payment of financial contributions will be included in the section 106 Agreement, as will any time periods by which the contribution is to be spent unless it is a unilateral undertaking. Following receipt by the Council, financial contributions will be held by the Council in interest bearing accounts and will be individually identifiable due to each contribution being allocated a unique finance code. Contributions remaining unspent at the end of a time period specified in the section 106 Agreement will be returned to the payee in accordance with the terms of the Agreement.

52. All financial contributions calculated from formulae contained in this SPD are to be index linked (using a relevant form ~~of~~ indexation) from the date of completion of the section 106 Agreement to the date when the contribution is triggered.

Appendix 1

Formulae

Affordable housing

53. Commuted sums proposed should meet the shortfall between the Market Value of affordable dwellings and market dwellings and so fund the provision of affordable housing elsewhere in Gateshead.

$$(A-B) \times (C \times D)$$

Where A = market value of a dwelling (or sq. m)

Where B is the transfer value of a dwelling (or sq. m) to a Registered Provider

Where C is the affordable housing percentage

Where D is the total number of dwellings (that would have been provided on-site) (or sq. m)

54. The capitalised rental income should be calculated net of any service charges, management charges and voids.

55. The Council will expect the developer to set out in detail their calculations when assessing the level of a financial contribution. This will require independent review by an RICS qualified valuer, at the developer's expense.

56. Where agreement on the amount of the commuted sum payable cannot be reached the appraisal will be sent to a third party for independent scrutiny and validation. Payment for this service must be paid by the developer.

Open Space

58. The anticipated population of the development is calculated as follows:

$$\text{Population} = (1.1 \times A) + (1.5 \times B) + (2.6 \times C) + (3.2 \times D)$$

Where A is the number of 1 bedroomed dwellings.

Where B is the number of 2 bedroomed dwellings.

Where C is the number of 3 bedroomed dwellings.

Where D is the number of 4 or more bedroomed dwellings.

The open space area required is 3Hha per 1000 population so the formula for the site requirement would be:

$$\text{Population} \times 30 = \text{open space requirement on-site in m}^2$$

Commuted sums (off-site provision)

£6.88 per m² required

Play

59. The anticipated population of the development is calculated as for open space:

$$\text{Population} = (1.1 \times A) + (1.5 \times B) + (2.6 \times C) + (3.2 \times D)$$

Where A is the number of 1 bedroomed dwellings.

Where B is the number of 2 bedroomed dwellings.

Where C is the number of 3 bedroomed dwellings.

Where D is the number of 4 or more bedroomed dwellings

$$\text{Population} \times 7\text{sqm} = \text{play area required on-site in m}^2$$

65% of this would be toddler play provision, 20% junior play provision and 15% teen play recreation provision.

Play contributions can count towards open space requirements in relation to the area of on-site provision.

Commuted sums (off-site provision)

£141.52 144.94 per m² required, adjusted annually for inflation if necessary.

Education

60. Anticipated pupil generation is 1 pupil space for every 4 homes for 2, 3, 4 and 4+ bedroomed accommodation and 1 for every 10 homes for flats. Therefore the formula would be

$$\text{Pupil generation} = (N / 4) + (F / 10)$$

Where N is the number of 2, 3, 4 And 4+ dwellings proposed

And F is the number of flats.

The average cost of providing a pupil place in Gateshead has been calculated at £14360.00 per place based on the national average costing¹.

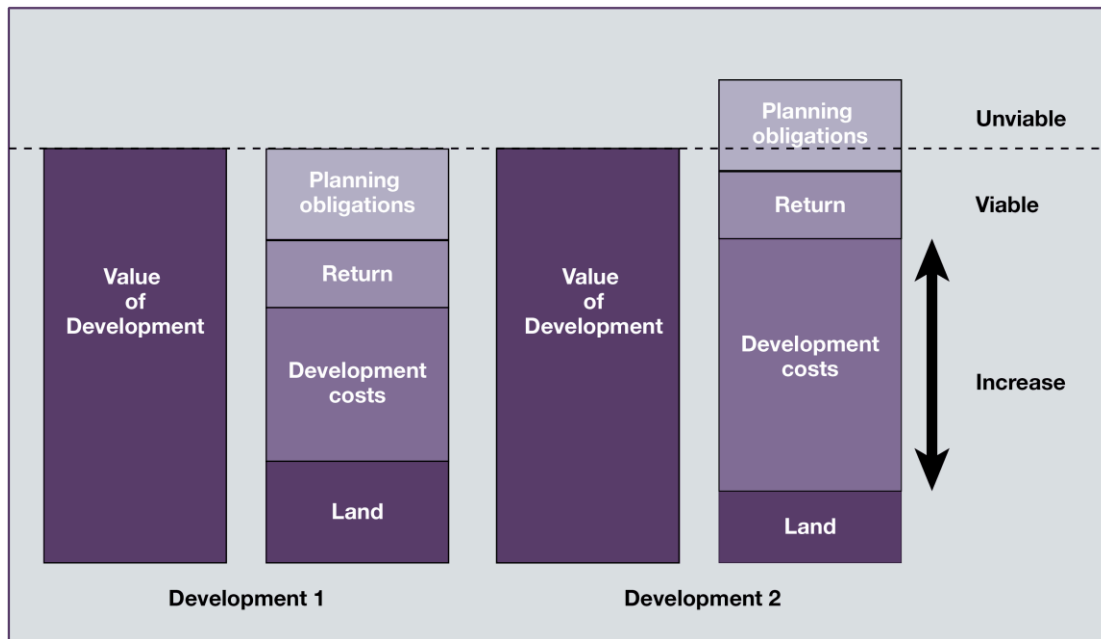
The contribution calculation would be:

Anticipated pupil generation x £14360.00

Appendix 2 Viability model

Viability

61. Comparative development viability model.



RICS Professional Guidance, England.

<https://www.scams.gov.uk/sites/www.scams.gov.uk/files/documents/RICS%20Financial%20viability%20in%20planning.pdf>

¹ National School Delivery Cost Benchmarking, New Build & Refurbished Primary Schools, June 2014

Appendix 3 The information that is required to be submitted by the applicant to assess viability:

- Developer should include within their viability assessment report their appraisal using appropriate software such as the Homes and Communities Agency (HCA) Development Appraisal Tool or Argus Developer. The report should also include the following information as a minimum:
- O.S plan showing the site edged red for identification purposes and identifying gross site area and net developable area of proposed development.
- Type of development proposed to include type of housing proposed
- Proposed unit size for each dwelling
- Number of dwellings
- Proposed sales **price rate** for each dwelling and include source of evidence
- Build cost and source of information
- Developer's Profit
- Other costs associated with development, e.g. site investigation summary report to confirm abnormal costs and why the developer considers such costs abnormal.
- Phasing of scheme to include build rates and sale rates
- Developer/agent view of benchmark land value for the **area of the subject land site** compared to the price agreed (conditionally) with landowner.

- The list is not exhaustive and the developer should include any further information if necessary in support of their viability assessment and be able to provide the Council with any site specific information upon request.

Appendix 4 – Gateshead 123 Infrastructure List –List of Recipient Infrastructure

DRAFT CIL INFRASTRUCTURE LIST <i>Plan Ref (CS and UC), IDP Ref (IDP)</i>	EXCLUSIONS <i>Plan Ref (CS and UC), IDP Ref (IDP)</i>
Transport	
Strategic transport infrastructure including transport corridor improvements (CS13(1)), cycle network improvements(CS13(1)) and key junction/road improvements (CS13(2))	Infrastructure needed to mitigate the impact of a specific development and to make it acceptable in planning terms
Removal of Gateshead Highway flyover and creation of tree lined boulevard from Durham Rd to Redheugh Bridge (Gateshead Boulevard) (CSSG1(v), IDP SG6/7)	
Durham Rd Bus Corridor Phases 4-6 (IDP T5)	
A694 corridor (CS13, GV1(2), IDP GA3.1, GA3.8-3.14)	
A695 Corridor (CS13, GV2 & GV6; IDP GA3.3, GA3.6, GA3.7, GA3.8 & GA3.20)	A695/Greenside Road Junction Improvement (CS GV2 (7ii), IDP GA3.2)
Angel Cycle Route (west) (UC6/GA5.7)	
New park and ride facilities at Eighton Lodge and Follingsby (CS13(1), IDP T7, T8)	Park and ride provision required for the Dunston Hill Neighbourhood Growth Area (CS GN1(1ii), IDP T9)
Heworth Roundabout Improvements (A184 / A185) (CS13, IDP T35)	Lamesley Roundabout Improvements (CS GV5 (1), IDP GA5.1)
A195 (New Rd) Bus Lane (IDP GA6.2)	
Schools	
Provision of new primary school places	
Additional primary school provision required under CS policies GN1, GV1-7 and IDP GA3.18/GA4.8/ GA5.2	
Water, Flood and Green Infrastructure	
Strategic Green infrastructure (CS18)	Infrastructure needed to mitigate the impact of a specific development and to make it acceptable in planning terms, including site specific SuDS, flood mitigation and green infrastructure.