

**Planning Obligations Supplementary Planning
Document Second Review**

2021

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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 the implementation of existing policies contained in Gateshead's Local Plan, which currently comprises:

- Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne (CSUCP) (adopted March 2015)
- Making Spaces for Growing Places (MSGP) - Site Allocations and Development Management Policies

2. The main policy this SPD supports is CSUCP Policy DEL1: Infrastructure and Developer Contributions.

3. The SPD is also set within the context of the Council's Community Infrastructure Levy (CIL) adopted in 2016. For a significant proportion of planning applications CIL is now the primary method by which the Council seeks developer contributions to pay for infrastructure to support development growth. It is through planning obligations, however, that the Council seeks contributions needed to mitigate the specific impacts of development, which are not covered by CIL.

4. This SPD will:

- Clarify the relationship between planning conditions, planning obligations, and other legal agreements;
- 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 quanta 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 S.106 Agreements, are legally binding agreements entered into between a Local Authority and a landowner or, in the case of a unilateral undertaking, made solely by the landowner. 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 its 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.

9. 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 covers the following specific obligation types:

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

*Projects or infrastructure not covered by the CIL list

Other types of obligations may be required, and these will be agreed on a case by case basis.

How to use this document

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. [Planning - Gateshead Council](#)

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 in the CSUCP and MSGP. The provisions of this SPD, which supports the CSUCP and MSGP, will constitute a material consideration in the decision making process.

12. The SPD supplements policies within the Local Plan:

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
- CS11 Providing a Range and Choice of Housing
- CS13 Transport
- CS17 Flood Risk and Water Management
- CS18 Green Infrastructure

- DEL1 Infrastructure and Developer Contributions

MSGP

MSGP12 Housing Space Standards

MSGP14 Mitigating the impacts of development on the transport network

MSGP15 Transport aspects of the design of new development

MSGP29 Flood risk management

MSGP30 Water quality and river environments

MSGP31 Green infrastructure and flood management schemes

MSGP32 Maintaining and protecting green infrastructure

MSGP 36 Woodland, trees and hedgerows

MSGP37 Biodiversity and geodiversity

MSGP40 Providing and enhancing open space, sports and recreation facilities

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), regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010, and The Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019. Government policy on planning obligations is set out in Paragraphs 54 to 57 of the National Planning Policy Framework, 2019 (NPPF) and National Planning Practice Guidance (NPPG).

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. Amendments to the CIL regulations 2019 include the removal of pooling restrictions.

15. Regulation 122 of the CIL Regulations and Paragraph 56 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; and
- 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 clear and precise, directly related to the development and necessary to make the development acceptable in planning terms. 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.

Gateshead Community Infrastructure Levy (CIL)

21. Gateshead Council's CIL was adopted on 10 November 2016 and came into operation on 1 January 2017. The CIL currently covers development of dwellings, hotels, retail, supermarkets and retail warehouse developments in identified areas of Gateshead. Outside of these identified zones a zero-levy charge applies. The charging schedule and charging zones can be found on the Council website at:

<https://www.gateshead.gov.uk/media/2095/Gateshead-Regulation-123-Infrastructure-List-Nov-2016/pdf/Gateshead-Regulation-123-Infrastructure-List-Nov-2016.pdf?m=636669091632970000>

22. The Community Infrastructure Regulations require the Council to set out a Regulation 123 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 section 106 of the Town and Country Planning Act or Section 278 of the Highways Act 1980. The list also specifies exceptions for certain infrastructure types that will not be funded through CIL (and so could be required to be delivered by other mechanisms subject to compliance with regulations). The list may be reviewed and updated as required and the latest version can be viewed at:

<https://www.gateshead.gov.uk/media/2095/Gateshead-Regulation-123-Infrastructure-List-Nov-2016/pdf/Gateshead-Regulation-123-Infrastructure-List-Nov-2016.pdf?m=636669091632970000>

Infrastructure Funding Statement

23. As a result of recent changes to the Regulations implemented through the Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 (which came into force on 1 September 2019), authorities will now need to report on what they have received and spent through CIL and developer contributions and include information for the following year on CIL allocation.

24. It is intended that Regulation 62 is to be omitted and a new Regulation (121C) is proposed which will mean each calendar year (between 2nd Dec – 31st Dec) the Council must publish an Infrastructure Funding Statement in relation to the next calendar year detailing the infrastructure projects or types of infrastructure which it intends will be wholly or partly funded by CIL. The Council's CIL Regulations 123 list will be replaced by the Council's new Infrastructure Funding Statement by 31 December 2020.

Vacant Building Credit

25. Vacant building credit is applicable where a vacant building is brought back into a lawful use, or is demolished to be replaced by a new building. Policy and guidance on vacant building credit is set out in the NPPF and Planning Practice Guidance. An example of calculating vacant building credit is included in Appendix 1.

Section 278/38 agreements

26. A section 278 agreement (or S278) is a section of the [Highways Act 1980](#) that allows developers to enter into a legal agreement with the council to make alterations or improvements to a public highway, as part of planning approval. It is an offence to carry out any works within the public highway without permission of the Highway Authority. No construction work affecting the highway should commence until an S278 has been completed. The Council reserve the right to take any appropriate legal action against offenders.

Examples of work covered by an S278 include:

- new access into a development site (i.e. a roundabout, signalised junction, right turn lane or a simple priority junction)
- new signalised pedestrian crossings or improvements to existing junctions close to the development site.

A Section 38 agreement (or S38) is a section of the Highways Act 1980 that can be used when a developer proposes to construct a new estate road for residential, industrial or general purpose traffic that may be offered to the Highway Authority for adoption as a public highway

Summary

27. 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 (not exhaustive)
Planning Conditions	To make otherwise unacceptable development acceptable These may restrict what you can do on the premises, or require you to get specific approval for aspects of the development, before you can proceed	Including accessible and adaptable dwellings, noise, mitigation measures, green infrastructure, and materials.
Grampian Conditions	A condition precluding the commencement of development permitted by a planning permission until particular measures have been undertaken	Environmental and infrastructure improvements.
Planning Obligations	To make otherwise unacceptable development acceptable Planning obligations can secure particular necessary infrastructure which is normally provided on or immediately adjoining the	Affordable housing, public open space and children's play facilities, new or enhanced bus services and also to address direct site-specific impacts of development, often as commuted sums.

	site or would impose requirements that cannot be secured by condition such as the payment of monies for particular infrastructure to be provided by the Council.	
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 123 Infrastructure List (now replaced by Infrastructure Funding Statement) which includes a 15% neighbourhood portion to be spent in the locality of a development site.
Section 278 Agreements	Provides for alterations to the adopted highway to be funded by developers	Highway improvements

Part 2 Guidance

Onsite/Offsite

28. Developers should provide the 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. Offsite provision or mitigation may be required in neighbouring local authority areas where the development has cross boundary impacts. The Council will work collaboratively with the relevant local authority/ies in these cases.

29. 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 necessary infrastructure or a measure. Close proximity will be assessed on a case by case depending on the type of infrastructure required and development proposed.

Viability

30. The National Planning Policy Framework (NPPF) Feb 2019 and Planning Practice Guidance (PPG) sets out the approach to viability at both the plan making stage and decision making stage.

31. Gateshead's Local Plan has been rigorously tested for viability A number of development appraisals have been undertaken testing both site specific areas of Gateshead and an area wide approach using relevant development market information and incorporating sensitivity testing,

which showed that at a plan-wide level most sites return a viable outcome. The Council will review testing in accordance with the statutory time frame for reviewing Local Plans.

32. In accordance with the NPPF (Para. 57) it is up to the applicant to demonstrate to the Council whether particular circumstances justify the need for a viability assessment at the planning application stage.

33. Viability assessments submitted to the Council will need to be in accordance with the revised NPPF and PPG. A guidance note for developers in the submission of viability assessments is included in Appendix 3.

Index linked

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

Types of Obligation

Affordable housing

Issue	Guidance and policy
Which developments require affordable housing	Developments of 15 or more homes
Standards	<p>NPPF (para 64), 2019 states ‘Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups’.</p> <p>Based on the affordable housing needs identified in the SHMA 2013 & 2017 15% of total homes provided to be affordable homes.</p> <p>The Councils preference is for 65% subsidised rent and 35% subsidised home ownership, and, based on the SHMA for: subsidised rent 20% 1 bed, 40 % 2 bed, 20% 3 bed 20% 4 bed, and 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</p>

	location considered suitable by the Council within Gateshead. It should result in provision of no fewer than the number of dwellings of the appropriate size that would have been required on site.
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 or land transfer.</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 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. Formula for calculating commuted sum in Appendix 1.</p>
Maintenance	None
Relevant policy	CS11

Commutated Sums (Financial Contribution)

35. The Council may utilise the monies received from such commuted sums for any purposes it considers appropriate for the provision of affordable housing. This may 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
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Which developments require public open space	MSGP40 sets out requirements for provision of open space, including standards, which will be determined on a site by site basis. CSUCP policies CS14, CS18, AOC2, 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 MSGP40, detailed standards provided in appendix 18 of MSGP. Formula specified in appendix 2.
How delivered	By the developer, to be completed before completion of the development. Or, where development is expected to be phased over a number of years, provision will be made as per an agreed phasing plan. Payments in lieu of provision will only be acceptable where it has been clearly demonstrated that neither on-site, nor off-site provision of new open space by the developer are possible. MSGP40 provides potential for the enhancement of existing areas of open space to increase their recreational and/or amenity value, and the contribution required would be calculated on the same basis as the provision of new open space. Enhancement of existing areas will be acceptable, and the contribution required would be calculated on the same basis as the provision of new open space. The Council will maintain a list of projects that contributions can be attributed to, and this will be recorded through the obligations monitoring process.
Maintenance	Landowner in accordance with an agreed management plan. Off-site provision will usually be maintained by the Council and the cost for this will be included in the contribution.
Relevant policy	MSGP40 MSGP32

Facilities for children and young people

Issue	Summary of guidance and policy
Which developments require play provision	MSGP40 sets out requirements for provision of play facilities, including standards, which will be determined on a site by site basis. 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.
Standards	<p>In accordance with MSGP 40, detailed standards provided in Appendix 18 of MSGP and any relevant SPDs.</p> <p>Formula for the area required is in appendix 2.</p>
How delivered	<p>By the developer, to be completed before completion of the development.</p> <p>Or, where development is expected to be phased over a number of years, provision will be made as per an agreed phasing plan.</p> <p>Or where development is expected to last a longer period of time, provision will be made as per an agreed phasing plan.</p> <p>Payments in lieu of provision will only be acceptable where it has been clearly demonstrated that neither on, or off site provision of new facilities by the developer are possible.</p> <p>Enhancement of existing areas will be acceptable and the contribution will be calculated on the same basis as the provision of new.</p> <p>The Council will maintain a list of projects that contributions can be attributed to, and this will be recorded through the obligations monitoring process.</p>
Maintenance	<p>Landowner in accordance with an agreed management plan.</p> <p>Off-site provision will usually be maintained by the Council and the cost for this will be included in the contribution.</p>
Relevant policy	MSGP40 CS 14, CS18, GN1, GV1-GV7

Highways

Issue	Summary of guidance and policy
Which developments require highway and transport infrastructure	Improvements to transport infrastructure (including public transport services) needed to mitigate the impact of development and make it acceptable in planning terms will be considered on a case by case basis.

Standards	<p>Guidance on the approach towards designing for transport can be found in the Council's emerging Transport Design Guide and MSGP, or through discussion with appropriate officer. The CSUCP details site specific policy requirements.</p>
How delivered	<p>Agreement on measures needed and how they will be delivered will be made prior to the issuing of planning permission.</p> <p>Monetary contributions to allow pooling of resources and the future delivery of larger transport schemes will be sought where appropriate. Such contributions will be secured through s106 agreements where there is a direct link to the development.</p> <p>Improvements to public transport services will normally require the involvement of third parties (bus companies and/or Nexus) in negotiations, albeit they would not normally be signatories to the s106 agreement itself.</p> <p>Travel Plans are normally required through planning conditions. However there may be occasions when s106 agreements are used to secure these.</p> <p>S278 agreements are the preferred mechanism for delivery of highway improvements, with new highways normally being provided through S38 agreements.</p>
Adoption	<p>The nature and extent of areas to be adopted will be agreed with the Council through a s38 process, we will endeavour to agree the principles during the planning process.</p>
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. New or improved pedestrian or cycle routes in particular will sometimes involve works outside the adopted highway. Provisions for continued maintenance of such infrastructure will need to be agreed as part of negotiations on the agreement.</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 (or future equivalent list) includes strategic transport infrastructure. Where appropriate it may be necessary to pool resources including contributions received through CIL and obligations secured by s106 agreement for the

delivery of transport infrastructure projects that fall under the infrastructure types in the 123 Infrastructure List.

Targeted Recruitment and Training Provision

Issue	Summary of guidance and policy
Which developments require employment and training management provision	<p>The requirement for considering the need for employment and training provision will apply to all major non-residential planning applications, as defined in the Town and Country Planning (Development Management Procedure) Order 2015 and housing developments of 100 or more.</p>
Standards	<p>In line with our strategic approach 'Making Gateshead a Place Where Everyone Thrives' Gateshead Council seeks wherever possible to maximise the wider social values and community benefits of major developments to help secure the social and physical regeneration of the borough for the lasting benefits of the community. The council seeks to maximise the added benefits to be obtained from regeneration activity.</p> <p>To achieve this the Council is committed to implementing requirements for social value, community benefits and particularly Targeted Recruitment and Training (TR&T).</p> <p>The Council's Economic Development Service manage implementation of these policies and are available to help facilitate operational achievement of this.</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 for the benefit of local residents. 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. A financial contribution would be secured through a planning obligation.</p>

Maintenance	Not required
Relevant policy	CSUCP CS5

Sustainable Drainage Systems (SuDS)

Issue	Summary of guidance and policy
Which developments require SuDS	<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 in accordance with the SuDS 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>
Standards	<p>Standards set out in CSUCP Policies, including Neighbourhood and Village Growth site policies, to address local flood issues.</p> <p>NPPG ID7 para 83 sets out the technical standards for SUDS</p> <p>Gateshead Strategic Flood Risk Assessment and Newcastle and Gateshead Surface Water Management Plan.</p> <p>Forthcoming Gateshead SuDS Technical Guidance Note. Local design, construction and maintenance standards for adoption by the Council.</p> <p>Drainage assessments will be required to ensure regard is given to these standards.</p>
How delivered	Refer to the forthcoming SuDS Technical Guidance Note for advice on the range of maintenance and management options available to developers for SuDS.

	<p>SuDs are usually delivered through Planning Conditions.</p> <p>A planning obligation will be required if the Council's preferred maintenance model, which will be detailed in the SuDS Technical Guidance Note, is taken up. 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>Other maintenance models will be considered, provided the proposed minimum standards of operation are appropriate and there are clear arrangements for the lifetime maintenance. Alternative SuDS maintenance models will be secured through planning conditions, supported by a SuDS management/maintenance plan.</p>
Adoption	<p>Under the Council's preferred maintenance model, the Council will adopt SuDS, situated on open space and public highways after completion, provided the SuDS comply with the forthcoming Gateshead SuDS Technical Guidance Note on local design, construction and maintenance standards and adoption process. Further adoption details will be provided in the forthcoming SuDS Technical Guidance Note.</p>
Maintenance	<p>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 Technical Guidance Note.</p>
Relevant policy	<p>CS17, AOC2, GN1, GV1, 2, 3, 4, 5, 6, 7 KEA2, UC – QB2, QB3, MSGP29</p>

The Council's 123 Infrastructure List (or future equivalent list) includes strategic flooding and green infrastructure. Where specific infrastructure projects fall under the infrastructure types in the 123 Infrastructure List, financial planning obligations will not be sought for the same project.

Green Infrastructure

Issue	Summary of guidance and policy
Which developments require Green Infrastructure	Where there are locationally specific requirements necessary to make the scheme acceptable due to the impacts of development or increased demand is created.
Standards	<p>Delivery should make the most of multifunctionality of purposes and uses including OpenSpace, Ecology, SuDS, Climate Change, Highways.</p> <p>The Green Infrastructure Delivery Plan sets projects, gaps and areas for requirements.</p>
How delivered	<p>Provision will be made on-site in the majority of schemes.</p> <p>Green Infrastructure will normally be considered at an Outline application stage. Where it was not considered at outline stage, it can be considered at reserved matters, and this would be agreed on a case by case basis.</p>
Maintenance	In accordance with MSGP32 2) f. to secure maintenance and long-term management.
Relevant policy	MSGP32

The Council's 123 Infrastructure List (or future equivalent list) includes strategic green infrastructure. Where specific infrastructure projects fall under the infrastructure 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 results in a significant residual adverse impact on ecology and/or measurable net loss of biodiversity that requires mitigation and/or compensation 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</p>

	<p>submitted ecological report in accordance with BS 42020: Biodiversity Code of Practice for Planning and Development.</p> <p>The requirement, or otherwise, for ecological mitigation/compensation and/or biodiversity net-gains measures is determined on a case by case basis. In accordance with good practice guidelines offsite measures should be delivered as close as possible to where the impact(s) occur and seek to achieve the same level of ecological value and function as those habitats/features affected</p> <p>Development will be required to achieve a measurable biodiversity net gain.</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 neither on or off site provision 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>
Maintenance	Developer in accordance with an agreed management plan.
Relevant policy	CS18, MSGP36, MSGP37

The Council's 123 Infrastructure List (or future equivalent list) includes strategic green infrastructure. Where specific infrastructure projects fall under the infrastructure types in the 123 Infrastructure List, financial planning obligations will not be sought for the same project.

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</p>

	<p>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	<p>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 and the forthcoming SuDS Technical Guidance Note.</p>
How delivered	<p>Provision is usually made through a Planning Condition.</p> <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>
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</p>

	main rivers. Northumbrian Water is responsible for maintaining the public sewerage network and managing the risk of flooding from that system.
Relevant policy	CS17, AOC2, QB1, QB2, QB3, GN1, GV1,2,3,4,5,6,7 KEA2, MSGP29, MSGP30, MSGP31

The Council's 123 Infrastructure List (or future equivalent list) includes strategic flood and water infrastructure for MetroGreen (i.e. strategic land drainage network, tidal flood defence along the River Tyne and strategic compensatory storage in the River Derwent) which is intended to be funded through CIL. Where specific infrastructure projects fall under the infrastructure types in the 123 Infrastructure List, financial planning obligations will not be sought for the same project.

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

Issue	Summary of guidance and policy
Which developments require community or sporting provision	Where development would result in the 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	MSGP40
How delivered	Delivered by developers through a planning obligation. Payments in lieu of provision will only be acceptable where it has been clearly demonstrated that neither on, or off site provision by the developer are feasible or viable. (Note – the provision of strategic sports infrastructure could be funded through CIL as part of Strategic Green Infrastructure)
Maintenance	Developer in accordance with an agreed management plan.
Relevant policy	MSGP40, CS8, CS9, CS14, CS18, GN1, GV1, 2, 3, 4, 5, 6, 7

Part 3 Monitoring and Implementation

Monitoring

36. Monitoring of obligations will be undertaken by the Council to ensure all obligations entered into are complied with on the part of both the developer and the Council. Obligations will be reported in the Annual Monitoring Report.

A fee will be sought for the monitoring of Planning Obligations as set out below.

Obligation Category	Fee
<u>Financial Monitoring</u>	
Financial Contribution with commencement trigger	£258.63 <i>(per obligation)</i>
<u>Financial Monitoring</u>	
Financial Contribution with future trigger	£517.26 <i>(per obligation and per trigger point)</i>
<u>Physical Monitoring</u>	
Obligations on site during construction and post occupation e.g. <ul style="list-style-type: none"> • Employment & training Plans • Local workforce commitments • Restriction of occupation 	£517.26 <i>(per obligation and per trigger point)</i>
<u>Physical Monitoring</u>	
Developer provision e.g. <ul style="list-style-type: none"> • Open Space/Play • Affordable Housing • Highway works 	£517.26 <i>(per obligation and per trigger point)</i>
Very large or complex developments may require a longer monitoring with commensurate monitoring charges	<i>*On application</i>
Request to confirm compliance with S106 Obligations	£52.42 <i>(per obligation)</i>

The CIL, S106 and Monitoring Officer Sarah Kelly can be contacted on 0191 433 39 32 or Sarahkelly@Gatesehad.gov.uk .

Enforcement

37. 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

38. 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.

Pre-application advice

39. The Council offers a dedicated pre-application advice service, which is subject to a fee. [Planning advice for businesses and commercial developments - Gateshead Council](#)

40. Pre-application advice can 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 without any unnecessary delay.

Planning Performance Agreement

41. A planning performance agreement (PPA) is a project management tool which sets timescales for actions between the local planning authority and an applicant. It can 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

42. 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 paragraph 36 and the Council's annual fees and charges list.

43. 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 obligation.

44. In the majority of cases, use of a 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 undertaking.

45. 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 development 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.

Appendix 1

Affordable housing

An example of calculating affordable housing:

If the market value of a dwelling is £150,000 and a registered provider would purchase the dwelling for £120,000 then the transfer value of the dwelling would be £120,000.

$$(A)150,00 - (B)120,00 = £30,000$$

If the affordable housing percentage to be provided is 15% of a total 100 dwellings:

$$(C)15\% \times (D)100 = 15$$

The commuted sum calculation would be:

$$(£30,000) \times (15) = 450,000$$

Total commuted sum = £450,000

Formulae, Vacant Building Credit

Vacant building credit is calculated as follows:

Where A = Affordable Housing Percentage

Where B = Proposed number of dwellings

Where C = Total floorspace

Where D = Proposed net additional/new floorspace

Where E = Existing floor space

Where F = the gross required number of affordable homes

Where G = the net required number of affordable homes (applying vacant building credit)

Where H = The proposed net additional floor space (D) as a % of the Total floor space (C)

An example is provided below:

Affordable housing percentage: 15% (A)

Proposed total number of dwellings: 31 dwellings (B)

The gross required number of affordable homes (F) = $[31(B) \times 15(A)] \div 100 = 4.65$

Existing floor space: 365m² (E)

Proposed total floorspace: 585m² (C)

Proposed net additional/new floorspace (C)-(E) = 220m² (D).

The proposed existing floor space 365m² (E) as a % of the Total floor space 585m² (C) = $(E) \div (C) \times 100 = 62.39\%$ (H)

On this basis the net affordable housing contribution (G) is:

$62.39\%(H) \times 4.65(F) \div 100 = 2.9(G)$ which is rounded up to 3

Appendix 2

Open Space

The anticipated population of the development is calculated based on the total number of bed spaces (persons) accommodated within the development, with regard to the dwelling types set out in Table 1 of the Technical housing standards - nationally described space standard, March 2015¹. An occupancy adjustment will be included in the calculation, to multiply the number of residents generated from NDSS by 0.6. The resulting figures give an approximation of average household size in Gateshead at the time of the SPD's preparation (2.27 people per dwelling).

MSGP40 expects new housing developments of 10 dwellings or more to provide at least 1.99ha of open space per 1,000 anticipated residents.

Population x 19.9 = open space requirement on-site in m²

Commuted sums (off-site provision)

£20 per m² required

Play

The anticipated population of the development is calculated based on the total number of bed spaces (persons) accommodated within the development, with regard to the dwelling types set out in Table 1 of the Technical housing standards - nationally described space standard, March 2015

MSGP40 expects new housing developments of 10 dwellings or more to provide at least 0.07ha of open space per 1,000 anticipated residents.

Population x 0.7 = play area required on-site in m²

Commuted sums (off-site provision)

£170 per m² required, adjusted annually for inflation if necessary.

Appendix 3

Viability Assessments - Guidance Note for Developers

Where proposals for development accord with all relevant policies in the Local Plan, no viability assessment will be required to accompany the application. For proposals that do not comply with policy requirements the applicant will be required to evidence the reasons for the non-compliance and if necessary provide a viability assessment based on the Council's relevant standardized inputs for consideration where:

- I. further information on constraints and/or infrastructure costs is required; or
- II. exceptional site-specific circumstances and costs can be demonstrated.

Viability assessments must be submitted with the planning application or to the relevant planning case officer within Development Management immediately following submission. An initial check will be carried out to ensure it includes all relevant information.

The viability assessment should take the form of a professional report providing a commentary on the reasons for submission and why the site is not financially viable.

¹ MSGP13 requires all new homes to be built in accordance with the Nationally Described Space Standards (NDSS), or successor standards, as a minimum.

The report must also include the residual valuation calculation and clearly demonstrate the inputs used in the valuation. Where a site is allocated in the up to date local plan for the use proposed, indexed viability assumptions from the published assumptions in the local plan viability report (as set out below) or site-specific data should be used. Variation from those assumptions should be justified.

The residual valuation should be in a form that can be interrogated by Gateshead Council or their appointed agent. Ideally this should be presented electronically using Argus Developer software which allows interrogation of the valuation and development inputs.

The viability assessment will be interrogated by the Strategic Director of Corporate Services or appointed agent and a report prepared for Development Management.

In accordance with the NPPF and PPG the viability assessment will be made public unless there is exceptional circumstances which justify its non publication.

Gateshead Council Standardised Viability Appraisal Inputs

The following assumptions have been derived in the published Newcastle and Gateshead Local Plan Viability and Deliverability Report (Sept. 2018) as reasonable strategic assumptions.

Base: 2Q2018, Subject to Indexation

Viability Assumptions Summary – Residential Development

Site Types	Type 1 - 1 dwellings Type 2 - 15 dwellings Type 3 - 50 dwellings Type 4 - 100 dwellings Type 5 - 100 apartments Type 6 - 40 sheltered housing / assisted living flats
Gross areas (Ha)	Type 1 - 0.03 to 0.04Ha Type 2 - 0.30 to 0.33Ha Type 3 - 1.33 to 1.39Ha Type 4 - 3.33 to 4.00Ha Type 5 - 0.25Ha Type 6 - 0.57Ha
Net areas (Ha)	Type 1 - 0.03 to 0.04Ha (100% of gross area) Type 2 - 0.30 to 0.33Ha (100% of gross area) Type 3 - 1.20 to 1.25Ha (90% of gross area) Type 4 - 2.50 to 3.00Ha (75% of gross area) Type 5 - 0.25Ha (100% of gross area) Type 6 - 0.40Ha (70% of gross area)

Units per net Ha	Type 2 - 45 to 50 Type 3 - 40 to 42 Type 4 - 33 to 40 Type 5 - 400 Type 6 - 100						
Dwelling size (based on NDSS averages)	Number of beds		Low (sq m)	High (sq m)	NDSS Average (sq m)		
	1b flat		39	50	44.50		
	2b flat		61	70	65.50		
	3b flat		74	95	84.50		
	2		70	79	74.50		
	3		84	108	96.00		
	4		97	130	113.50		
Density	Value area	15 units	50 units	100 units	100 flats	Assisted Living	
	High	4,173	3,508	2,880	22,280	4,560	
	High mid	4,055	3,456	2,880	-	4,560	
	Mid	3,806	3,328	2,813	-	4,560	
	Low mid	3,920	3,332	3,270	-	4,560	
	Low	3,920	3,299	3,270	-	4,560	
	The above shows density on a sq m per net Ha basis						
Residential Values and Costs	Evidence of local market values/capitalised rental income and costs or alternatively use of averages below:						
Revenue – market value	High area - £3,050 psm High mid area - £2,550 psm Mid area - £2,150 psm Low-mid area - £1,875 psm Low area - £1,700 psm						

	25% increase for sheltered housing / assisted living flats
Revenue – affordable housing	Affordable Rent – 55% of MV Shared ownership / intermediate – 70% of MV Discounted market sale – 80% of MV
Plot construction costs	High area – BCIS median Low, low mid & mid areas – BCIS lower quartile (£1,097 psm) High mid area – in between lower quartile & median For single dwellings, flatted schemes and assisted living the BCIS median has been applied See Values Profile Areas map in Appendix 1
Externals, Contingency & professional fees	Total 25% of plot construction costs
Abnormals- additional site specific abnormals would have been deducted from the benchmark land value	£150,000 per net Ha
Marketing and sales fees	15 or more dwellings – 3% of revenue Sub 15 dwellings – 1.5% of revenue
Legal fees	Market value dwellings – £600 per unit Affordable housing – £300 per unit
Finance	Debit rate – 6.5% Credit rate – 3%
Build rates	Type 1 - 9 months Type 2 - 12 months Type 3 - 24 months Type 4 - 36 months Type 5 - 15 months Type 6 - 12 months
Sales rates per annum	Type 1 - 1 p.a. Type 2 - 15 p.a. Type 3 - 25 p.a. Type 4 - 33 p.a. Type 5 - Sold as a single entity to a single investor Type 6 - 25 p.a.
Developer Profit	20% on revenue for market value dwellings and 6% on revenue for affordable dwellings Decreased to 10% on revenue for Built to Rent (i.e. Type 5) Zero profit for single dwellings (i.e. Type 1) on the basis of an owner occupier developer

Benchmark Land Value- should be site specific or no higher than these averages	Value area	Urban / sub urban (£ / Ha)	Non-urban (£ / Ha)
	High	£2,100,000	£530,000
	High mid	£1,600,000	£480,000
	Mid	£900,000	£420,000
	Low mid	£500,000	£380,000
	Low	£200,000	£360,000
Section 106 contributions (average allowance)	£2,000 per dwelling in Gateshead		
CIL	Urban / suburban – High area £30 per sq m Non-urban – High mid area £60 per sq m		
M4 (2) standard	Average £1317per dwelling		

Viability Assumptions Summary – Non-residential Development

COMMERCIAL SCHEME TYPES					
DEFINITION AND USE CLASS	EXAMPLE SCHEME TYPE	GIA (SQ.M)	SITE COVERAGE (PLOT RATIO)	SITE SIZE (HA)	ROOMS IF APP.
B1 (A) OFFICES - NEIGHBOURHOOD/OUT OF TOWN	OFFICES	2,000	80%	0.25	
B1 (A) OFFICES - NEWCASTL CENTRAL AREA	OFFICES	4,000	400%	0.10	
OUT OF CENTRE HOTEL	HOTEL NOT CENTRAL AREA	3,600	72%	0.50	120
CITY CENTRE HOTEL	HOTEL - NOT NEWCASTLE CENTRAL AREA	8,000	200%	0.40	180
A1,A2,A3,A4,A5 - SMALL RETAIL	CONVENIENCE STORE	279	90%	0.03	
SUPERMARKET- DISCOUNT	SUPERMARKET	1,510	20%	0.76	
SUPERMARKET	SUPERMARKET	5,000	25%	2.00	
A1- RETAIL WAREHOUSE	RETAIL WAREHOUSE	1,000	42%	0.30	
SHARED ACCOMMODATION	STUDENT	16,266	400%	0.41	530
, LIGHT INDUSTRIAL B2, B8	INDUSTRIAL WAREHOUSE	3,000	40%	0.75	

Non-residential revenue allowances	Retail warehouse – £110 to £160psm, yield 6.5% A1-A5 units – £60 to £645psm, yields 7.5% to 8.5% Supermarket – £150 to £215psm, yield 6% Discount supermarket – £150psm, yield 6% Offices – £86 to 226psm, yield 7% to 8.5% Industrial – £40 to £70psm, yields 7.5% to 10% Hotels – £65k to £145k capital per room Student – £2,856 to £5,916 per room p.a., yields 7.5% to 8.5%
Rent free	Retail warehouse – 9 months A1-A5 units – 12 months Supermarket – 15 months Discount supermarket – 12 months Offices – 10 months Industrial – 10 months
Build costs	BCIS median
Externals	Retail warehouse – 15% of BCIS A1-A5 units – 10% of BCIS Supermarket – 15% of BCIS Discount supermarket – 5% of BCIS Offices – 15% of BCIS Industrial – 10% of BCIS Hotels – 5% of BCIS Student – 5% of BCIS
Professional fees	10% of BCIS
Contingency	5% of BCIS
Abnormals- additional site specific abnormals would have been deducted from the benchmark land value	£150,000 per net Ha
Marketing and sales fee	1% of revenue
Letting fee	10% of Yr 1 income
Legals	Sales – 0.25% on revenue Lettings – 5% of Yr 1 income
Developer profit	15% on cost

Benchmark Land Value - should be site specific or no higher than these averages	<u>Urban/suburban</u>	
	High	£2.1million per net Ha
	Medium	£900,000 per net Ha
	Low	£200,000 per net Ha
	<u>Non-urban</u>	
	High	£530,000 per net Ha
	Medium	£420,000 per net Ha
	Low	£360,000 per net Ha

Note: The Use Class Order was updated in 2020, future Viability Assessments will take account of these changes.