

**Bath & North East Somerset Council**

**Planning Obligations  
Supplementary Planning Document  
(As amended)**

**Original Adoption : April 2015**

**Amendment: August 2019 (Green Infrastructure Sections 3.4, 3.5 and 3.6)**

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## **Executive Summary**

The aim of this Supplementary Planning Document (SPD) is to provide clear guidance in respect of Bath & North East Somerset Council's approach to Section 106 Planning Obligations. The planning policy basis for this SPD is set out within the National Planning Policy Framework (NPPF) (March 2012), National Planning Practice Guidance (NPPG) (March 2014) and Policy CP13 (Infrastructure Provision) of the Council's adopted Core Strategy. This SPD supersedes the Planning Obligations SPD published in 2009 and also Appendix C of the Bath Western Riverside SPD (March 2008, as updated in July 2014).

The SPD provides guidance in relation to Planning Obligations in respect of 9 key policy areas:

- Affordable Housing including Extracare Housing
- Transport Infrastructure Works
- Public Transport
- Green Infrastructure
- Tree Replacement
- Adoption of On-Site Green Space, Allotments and Landscaping Schemes
- Site Specific Targeted Recruitment and Training in Construction
- Fire Hydrants
- Education Facilities

The SPD sets out in detail the national and local planning policy context and demonstrates how the SPD is in conformity with this policy background. It also contains information in relation to the way that Development Management Planning Officers will prioritise planning obligations; the process that will be followed by the Council in seeking planning obligations; the drafting of legal agreements and the liability for costs associated with the preparation of such agreements.

The SPD also sets out the way that the Council will consider the impact of planning obligations on the viability of development proposals; how the Council will ensure that there is no duplication between Section 106 planning obligations and the Community Infrastructure Levy (CIL); and the Council's approach to the monitoring of the delivery of planning obligations, including the Monitoring Fee that will be required.

The SPD then addresses each of the 9 topic areas detailed above in turn, providing background information to each obligation type, the planning policy context for the obligation, the relevant trigger for an obligation to be sought, the level of contribution that will be required and contact details to obtain further information in respect of each obligation.

Lastly, the Appendices to the SPD set out additional relevant supporting information, working examples of the calculation of obligations and pro forma agreements for use by developers.

For more information on *the Planning Obligations Supplementary Planning Document* please contact the Planning Policy team at:  
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## **1.0 INTRODUCTION**

### **1.1 Purpose and Scope of the SPD**

- 1.1.1 This SPD sets out Bath & North East Somerset Council's ('The Council') requirements in respect of planning obligations to be secured from development. The SPD replaces the previous version, which was adopted July 2009, and also Appendix C of the Bath Western Riverside SPD (March 2008, as updated in July 2014), and takes account of the introduction of the Council's CIL Charging Schedule.
- 1.1.2 The SPD provides further detail to the Council's Core Strategy, which provides the strategic planning policy framework for the development of the Bath and North East Somerset administrative area up to 2029, and will assist the Council in its aim of delivering sustainable development throughout the plan period.
- 1.1.3 The SPD provides the detail to Core Strategy Policy CP13, which is the Council's policy that establishes that new development must be supported by the timely delivery of the required infrastructure to provide balanced and more self-contained communities. The policy also confirms that the planning obligations sought by the Council will be based on this SPD and its successors.
- 1.1.4 It is anticipated that this SPD will provide useful guidance for developers, planning officers, elected Councillors and members of the public in respect of the type and level of obligations that developments of different type and size will be expected to deliver.

### **1.2 The Council's overall approach to Planning Obligations**

- 1.2.1 Part 1 of the SPD focuses on the general matters relating to the Council's approach to planning obligations and demonstrates how the SPD complies with national and local planning policy, including the CIL Regulations as amended. Part 1 also sets out the Council's approach to viability and the relevant procedural matters.

### **1.3 The types of obligations that the Council may seek to secure**

- 1.3.1 Part 2 of the SPD focuses on the type of planning obligations that the Council will seek to secure through the Section 106 mechanism. It sets out the policy context and, where appropriate, the trigger above which obligations will be sought in relation to each obligation type. The obligation types are as follows:

- Affordable Housing including Extracare Housing
- Transport Infrastructure Works
- Public Transport
- Green Infrastructure
- Adoption of On-Site Green Space, Allotments and Landscaping Schemes
- Tree Replacement
- Site Specific Targeted Recruitment and Training in Construction
- Fire Hydrants
- Education facilities
- Other Site Specific Measures

1.3.2 The Affordable Housing section of the SPD contains significantly more detail than other sections, by reason that Affordable Housing obligations will be secured solely through the Section 106 mechanism, without funding from CIL. This is in accordance with the CIL Regulations 2010 as amended.

## **PART 1**

### **2.1 National Policy Context**

2.1.1 Section 106 of the Town & Country Planning Act 1990, as amended by Section 12 of the 1991 Planning and Compensation Act, sets out the legislative background against which planning obligations may be sought. In addition, Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 and the CIL (Amendment) Regulations 2011, 2012, 2013 and 2014 are additional legislative regulations. Paragraphs 203 to 205 of the National Planning Policy Framework (NPPF) (March 2012) set out Government policy in relation to planning obligations.

2.1.2 Regulation 122 and Paragraph 204 of the NPPF set out the tests that must be satisfied in order for obligations to be required in respect of development proposals. A planning obligation must be:

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

2.1.3 Planning obligations satisfying the above tests will be limited to site specific obligations required to mitigate the impact of a particular development, however in relation to very large developments the use of Section 106 agreements could also extend to strategic infrastructure such as new schools; primary healthcare; and strategic highway and transportation improvements if they are needed as part of the development.

2.1.4 In addition to planning obligations that meet the above tests, the provision of affordable housing will remain within the remit of Section 106 obligations.

### **2.2 Local Policy Context**

2.2.1 The Bath and North East Somerset Public Service Board agreed the vision below.

‘Bath and North East Somerset will be internationally renowned as a beautifully inventive and entrepreneurial 21st century place with a strong social purpose and a spirit of wellbeing, where everyone is invited to think big

– a ‘connected’ area ready to create an extraordinary legacy for future generations.’

2.2.2 This vision is based on three work streams ‘living’, ‘working’ and ‘getting around’ and details are provided by the strategies below.

‘Living’ – Health and Wellbeing Strategy

‘Working – Economic Strategy

‘Getting around’ – Transport Strategy

2.2.3 The Core Strategy is the spatial expression of those and is a key policy document for Bath & North East Somerset that puts in place a strategic planning framework to guide change and development in the District over the next 20 years and beyond.

2.2.4 Delivery of the growth set out in the Council’s Core Strategy will need to be supported by the provision of necessary infrastructure. Policy CP13 of the Core Strategy sets out the Council’s broad requirements in this regard. The key District wide infrastructure requirements are identified in the Council’s Infrastructure Delivery Programme.

2.2.5 The Council’s long-term economic and regeneration aspirations for the main urban centres within the District are set out in the Economic Strategy.

2.2.6 This SPD provides the detail to Policy CP13 of the Core Strategy and is therefore in conformity with the Council’s statutory development plan.

**POLICY CP13 Infrastructure provision**

New developments must be supported by the timely delivery of the required infrastructure to provide balanced and more self-contained communities.

The Council will work in partnership with adjoining authorities, local communities and relevant agencies and providers to ensure that social, physical and green infrastructure is retained and improved for communities.

Developer contributions will be based on the Planning Obligations SPD and its successors.

Infrastructure proposals should not cause harm to the integrity of European wildlife sites which cannot be mitigated.

## **2.3 Priorities for planning obligations**

- 2.3.1 It is essential that developers enter into early discussion with the Council's planning officers at an early stage about planning obligations that may be required for their development, by the Council. It is not possible to provide a priority list of planning obligations that may be sought, by reason that the relative importance of an obligation will be dependent on the development proposal being considered. This will be a judgment to be made by the Development Management Planning Officer who is considering the planning application.
- 2.3.2 In making this judgment, Planning Officers will have regard to the Development Plan; adopted Neighbourhood Plans; advice from statutory consultees, the financial viability of the proposals if necessary; and individual site characteristics.
- 2.3.3 The use of planning obligations has to be appropriate so knowing when to use them is important. The Planning Officer will have regard to the CIL Regulation 122 tests to determine if a particular obligation sought satisfies the legal tests

## **2.4 Planning Conditions process**

- 2.4.1 The National Planning Policy Framework states that planning obligations should only be used where it is not possible to address unacceptable impacts of development proposals through a planning condition. Where a planning obligation is required it must be secured by legal agreement. Where the nature of the obligations required is relatively simple and it is not necessary for the Council to be a signatory to the legal agreement, applicants are encouraged to submit a Unilateral Undertaking for consideration by the Council. Where a Unilateral Undertaking is not appropriate a Section 106 agreement will be required, which will be drafted by the Council's Legal & Democratic Services Team. The applicant will be required to pay the legal costs reasonably incurred in respect of preparing a Section 106 agreement or reviewing a Unilateral Undertaking.
- 2.4.2 Applicants should agree with the Development Management Planning Officer the most appropriate mechanism to secure planning obligations at an early stage in the planning process.

## **2.5 Viability**

2.5.1 If an applicant considers that the level of planning obligations required would render their proposal unviable, then the applicant will be expected to provide the full financial details of the proposal to the Council, in a financial appraisal submitted and signed by an appropriately qualified and independent financial professional. For the Council to consider a viability argument, it will be essential that the developer shares information substantiating this on an open book basis. The following information will be required:

- Site or building acquisition cost and existing use value
- Construction costs and programme
- Fees and other on costs
- Projected sale prices of dwellings
- Gross and net margin
- Other costs and receipts
- Other relevant information dependent on the nature of the obligation(s)

2.5.2 In assessing the viability of a development in terms of the delivery of subsidy free affordable housing, the Council will have regard to the average supportable deficit figures in Appendix 1 to determine the likely income deriving from the transfer of the affordable housing units to a registered provider.

2.5.3 The Council will commission an independent chartered surveyor (or suitably qualified and independent financial professional) to interrogate any economic viability assessment provided by a developer. The costs of this work are to be met by the developer. The information will be kept confidential.

2.5.4 If there is any disagreement on the financial appraisal, the Council will expect the developer to agree to adjudication by an independent person, usually a Fellow or Member of the Royal Institution of Chartered Surveyors. The costs of the adjudication will be met by the developer.

## **2.6 Preventing duplication with the CIL**

2.6.1 From April 2015 (or the date that the Council introduces CIL, if this is earlier) the CIL Regulations restrict the use of pooled contributions towards items that may be funded by CIL. At that point, no more may be agreed in respect of a specific infrastructure project or a type of infrastructure through a Section 106 agreement, if five or more

obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy.

2.6.2 In respect of planning obligations secured prior to 6 April 2010; these can continue to be used to fund Infrastructure items.

2.6.3 In respect of affordable housing, which cannot be funded by CIL, there is no restriction in terms of the numbers of obligations that may be pooled, but due regard must be given to the wider policies and guidance on planning obligations set out in the NPPF and NPPG.

2.6.4 To ensure developers do not pay twice for the same items, the Council will publish a Regulation 123 list of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL. These types of infrastructure cannot therefore be funded through new Section 106 planning obligations.

2.6.5 In order to increase transparency and certainty as to what infrastructure may be funded from CIL (and thus what may still be secured through planning obligations), the Council's Regulation 123 list will be reviewed and amended going forward to ensure that it represents an up to date list of Infrastructure to be funded by CIL.

## **2.7 Index Linking**

2.7.1 All financial contributions calculated from formulae contained in this SPD are to be index linked from the date of adoption of the SPD. Most other financial contributions are to be index linked to the date that Committee or Delegated approval is given for the relevant planning application. The exception is where commuted maintenance payments are required and in these instances the payment will be index linked from the point at which the maintenance costs are agreed.

## **2.8 Late Payments**

2.8.1 Where payment of a financial contribution is made after the date upon which it was due for payment, interest will be charged at a rate of 4% above the base lending rate. The interest due will be calculated after the indexed sum has been calculated.

## **PART 2**

### **3.1 Affordable Housing including Extracare housing**

#### **Introduction**

3.1.1 The delivery of affordable homes for those in housing need in Bath & North East Somerset is a key strategic priority, and the Council is committed to maximising delivery through planning obligations as well as encouraging our developer and housing association partners to deliver schemes for 100% affordable housing. The Core Strategy 'Strategic Objective 5' is all about meeting the housing needs of the District and states:

#### ***Strategic Objective 5: Meet housing needs***

- enabling the delivery of new homes needed to respond to expected demographic and social changes and as far as possible to support the labour supply to meet our economic development objectives
- ensuring that the new homes provided are of high quality design and reflect and cater for a range of incomes and types of household, including those in need of affordable housing

3.1.2 The Council is committed to securing the delivery of homes for local people that are affordable, adaptable, safe and sustainable. These homes will be integrated into the wider development and shall be part of places where people want to live.

3.1.3 The need for affordable housing in the District is high and the Core Strategy makes provision for 3,290 new affordable homes over the plan period up to 2029.

3.1.4 This housing chapter of the SPD should be read in conjunction with up to date supporting informing from the Council including the relevant Strategies and Delivery plans for housing sitting beneath the Corporate Health & Wellbeing Strategy and the Economic Strategy.

#### **National Policy**

3.1.5 Local Authorities have a statutory duty to provide housing for households in local housing need and to prevent homelessness.

3.1.6 The National Planning Policy Framework (NPPF) provides the overarching national requirements for planning policy and provides for a definition of affordable housing and associated products and tenures.

### **Bath & North East Somerset Core Strategy**

3.1.7 The adopted Core Strategy contains two specific policy areas on affordable housing delivery, which have been independently tested in viability terms. There is a presumption of full compliance with Core Strategy and SPD requirements on all housing development sites that meet the criteria in CP9:

#### ***POLICY CP9 Affordable housing***

##### ***Large sites***

*Affordable housing will be required as on-site provision in developments of 10 dwellings or 0.5 hectare (whichever is the lower threshold applies) and above. The following percentage targets will be sought:*

*40% in Prime Bath, Bath North and East, Bath Rural Hinterland;*

*30% in Bath North and West, Bath South, Keynsham and Saltford, Midsomer Norton, Westfield, Radstock, Peasedown St John, Paulton and Chew Valley.*

*This is on a grant free basis with the presumption that on site provision is expected.*

##### ***Small sites***

*Residential developments on small sites from 5 to 9 dwellings or from 0.25 up to 0.49 hectare (whichever is the lower threshold applies) should provide either on site provision or an appropriate financial contribution towards the provision of affordable housing with commuted sum calculations. The target level of affordable housing for these small sites will be 20% for AH area 1 and 15% for AH area 2 %, half that of large sites, in order to encourage delivery.*

*In terms of the affordable housing on small sites, the Council will first consider if on site provision is appropriate. In some instances, the Council will accept a commuted sum in lieu of on-site provision. This should be agreed with housing and planning officers at an early stage.*

### **Viability**

*For both large and small sites the viability of the proposed development should be taken into account, including:*

- Whether grant or other public subsidy is available*
- Whether there are exceptional build or other development costs*
- The achievement of other planning objectives*
- The tenure and size mix of the affordable housing to be provided*

*A higher proportion of affordable housing may be sought where supported by the assessment of viability of the proposed development.*

### **Sub-division and phasing**

*Where it is proposed to phase development or sub-divide sites, or where only part of a site is subject to a planning application, the Council will take account of the whole of the site when determining whether it falls above or below the thresholds set out above.*

### **Property Size and Mix**

*Residential developments delivering on-site affordable housing should provide a mix of affordable housing units and contribute to the creation of mixed, balanced and inclusive communities. The size and type of affordable units will be determined by the Council to reflect the identified housing needs and site suitability.*

*The type and size profile of the affordable housing will be guided by the Strategic Housing Market Assessment and other local housing requirements but the Council will aim for at least 60% of the affordable housing to be family houses including some large 4/5 bed dwellings.*

### **Other**

*All affordable housing delivered through this policy should remain at an affordable price for future eligible households, in the event of any sales or staircasing affecting affordable housing unit(s) delivered through CP9 then an arrangement will be made to recycle the receipts/subsidy for the provision of new alternative affordable housing located elsewhere within Bath and North East Somerset. Affordable Housing should be integrated within a development and should not be distinguishable from market housing.*

<b>Affordable Housing</b>	<b>Sub-Market Areas</b>	<b>Postcode</b>
<b>Area 1: 40%</b>	Prime Bath	BA1 2, BA1 1, BA2 4
	Bath North and East	BA1 5, BA1 6, BA2 6, BA1 7, SN14 8, and SN13 8
	Bath Rural	BA1 9, BA1 8, BA2 7, BA2 9 and BA2 0,
<b>Area 2: 30%</b>	Bath North and West	BA1 4 and BA1 3
	Bath South	BA2 1, BA2 2, BA2 3 and BA2 5
	Keynsham and Saltford	BS31 1, BS31 2, BS31 3,
	Midsomer Norton, Radstock, Westfield, Peasedown St John and Paulton	BS39 7, BA3 2, BA3 3 and BA2
	Chew Valley	BS40 6, BS40 8, BS39 4, BS39 5, BS39 6 and BS14 0

### **What will developers have to provide?**

3.1.8 It is important that developers make early contact with the Housing Enabling & Development Team through Development Management in order to discuss the affordable housing requirements for any proposed development.

3.1.9 The Council will require the developer to provide the following information prior to agreeing the planning contribution in terms of affordable housing to ensure that the proposals comply with current Affordable Housing Policies, SPD requirements and supporting information / earlier guidance provided by the Council:

- Details of the mix of housing, number of units, type of units (e.g. social rented/intermediate), size of units
- Details of design layout and construction standards (e.g location of affordable units, phasing of development, compliance with design standards).
- Independently audited evidence of compliance with SPD requirements using HCA HQIs, Habinteg Lifetime Homes, Habinteg Wheelchair user standards and Secure by Design (or any successor equivalents).
- For outline planning applications, the S.106 agreement will establish the broad requirements for affordable housing delivery and will make the detailed submissions a requirement of the Reserved Matters application/s.

- Details on affordability of the affordable housing units.
- How the affordable housing provision complies with Policy CP9.

### Delivering Affordable Housing in Bath & North East Somerset

3.1.10 Affordable housing tenure types that are likely to be considered in the District are detailed in Table 3.1.A below:

**Table 3.1.A**

Tenure	Description
Social Rent	<p>Rented housing to be let at a figure no more than 100% of the rent level as determined by the National Rent Regime for target rents.</p> <p>THIS IS THE COUNCIL'S PREFERRED RENTED TENURE</p>
Affordable Rent Tenure	<p>Rented housing to be let at up to 80% of local market rents (including service charges). Affordable Rent Tenure rents are generally higher than social rents</p> <p><b>AFFORDABLE RENT TENURE (ART)</b> is a specific tenure that can only be used where homes are being delivered with Homes and Communities Agency (HCA) funding or as part of a RP contract with the HCA</p>
Intermediate Rent	<p>Rented housing at a level above that of Social Rent but up to 80% of local market rent (including service charges).</p>
Shared Ownership	<p>The purchaser buys an initial share from a Housing Association RP who retains and charges rent on the remaining equity. The purchaser may acquire further equity shares until the whole home is owned (unless this is restricted, e.g. some rural schemes)</p>
Discounted Market / Shared Equity	<p>Homes that are sold, usually on a freehold basis with a permanent % discount from open market value that is secured through land registry covenants. The level of discount will not be less than 25% and will be determined with regard to local incomes and house prices to ensure affordability.</p>

3.1.11 Homes that do not meet the NPPF definition of affordable housing, (e.g. some forms of “low cost market housing”) will not be considered as affordable housing for planning purposes. Low cost market housing is housing at the cheaper end of the market, which may help to meet the needs of first time buyers, single employed people or key workers. Low-cost market housing can play a useful role in meeting the District’s wider housing demand and achieving an appropriate housing mix. Developers are encouraged to supply a proportion of such homes to meet the wider needs of the housing market.

3.1.12 The Council’s definition of affordable housing encompasses both *general needs housing* provision and *supported housing* of different affordable tenures to meet the needs of the elderly and other vulnerable groups.

3.1.13 Extra Care housing (use class C3) is NOT specifically considered as an affordable housing tenure, although Extracare Housing can be brought forward as social rent, ART or as low cost home ownership. Developments for Extracare Housing will be subject to Core Strategy Policy CP9.

#### **Ensuring affordability of homes delivered in Bath & NE Somerset**

3.1.14 In line with National Government limits, B&NES Homesearch policy has set the maximum ceiling on gross total income for households requiring an affordable home as £60,000.

3.1.15 This is a blunt tool, and the Council expects the cost of different affordable housing products to reflect different types of need in the District. All affordable housing products should be delivered within set affordability limits. The Council expects an overarching affordability test where no one living in an affordable home in the District has to pay more than **25%** of their total gross household income in meeting their total housing costs where:

**Gross Income** = all monies coming into the household from earned income before tax, return on investments & savings, Universal Credit / welfare benefits including housing benefit but excluding Constant Attendance Allowance and Exceptionally Severe Disablement Allowance (or any successor equivalent)

**Total Housing Cost** = all mortgage related, rent and service charge costs associated with the property but excluding utility bills and council tax.

A secondary test of affordability will be required to demonstrate equality in housing costs across the district.

3.1.16 Bath & North East Somerset exhibits a wide range of property values and housing costs. In higher value areas, delivering homes that are truly affordable is a challenge and a simple expression of housing costs as a proportion of the housing market is inappropriate if we are to deliver an equitable affordable housing supply across the District.

3.1.17 Both Social Rent and Affordable Rent Tenures have their basis in local property values and in high value areas even affordable housing costs can be excessive. For all affordable rented tenures, the total housing cost (including service charges) for the tenant should not exceed the appropriate Local Housing Allowance (LHA) set by the National Valuations Office. (<http://www.voa.gov.uk/corporate/RentOfficers/LHADirect.html> )

3.1.18 Whilst LHA levels are considered the absolute ceiling for affordable housing costs, the LHA for larger properties are disproportionately higher than target rent levels than they are for smaller units. Affordable housing delivery for all rented units will be scrutinised to ensure that a pragmatic assessment of affordability is taken that ensures residents of affordable housing in higher value areas are not unduly disadvantaged through the location of their home. Developers are encouraged to seek guidance from a HARP and discuss provisional out turn rent levels on a development with the Housing Enabling & Development Team at an early stage.

3.1.19 Access to Low Cost Home Ownership should be equitable with the cost of accessing the local private rented market. For shared ownership products, the Council will not seek to impose strict parameters on % equity sales and % rent charged. Instead, proposals for the total housing cost for the shared ownership should reflect the total housing cost of accessing the lower quartile private rented market locally taking into consideration the overarching 25% income test for affordability.

3.1.20 The total housing cost of other low cost home ownership products will be assessed in direct relation to the cost of accessing the private rental market and the agreed target audience for the development. Discounted Market or shared equity homes will be sold at no more than 75% of the open market value.

3.1.21 The Service Charge payable by the occupants of any Affordable Housing Unit shall be limited to no more than £600 per annum from 1<sup>st</sup> April 2015 and Index Linked annually from the date of occupation thereafter (This does not include RP management charges for Social Rented Units). On developments with significant communal space, lifts or other exceptional services requiring high, on-going charges, Developers and RPs are encouraged to consider capitalising the service charge element to ensure annual service charges can be capped at the above rates. Service charge levels shall be set in accordance with HCA guidelines, up to the £600 cap, and must represent value for money. The £600 cap will be uplifted by RPI annually from 1 April 2015.

3.1.22 In all instances, the affordability caps on these homes will be sought in perpetuity and appropriate clauses will be used in Planning Agreements to secure this.

### **Housing & Tenure mix**

3.1.23 Bath & North East Somerset Core Strategy: The Core Strategy CP 10 sets out the policy for housing mix

**Policy CP10** New housing development, both market and affordable must provide for a variety of housing types and size to accommodate a range of different households, including families, single people and low income households as evidenced by local needs assessments (e.g. B&NES Residential Review, 2007) and the Strategic Housing Market Assessments or future evidence.

The mix of housing should contribute to providing choice in tenure and housing type, having regard to the existing mix of dwellings in the locality and the character and accessibility of the location.

Housing developments will also need to contribute to the provision of homes that are suitable for the needs of older people, disabled people and those with other special needs (including supported housing projects), in a way that integrates all households into the community.

The specific accommodation needs of older people will be addressed through the Placemaking Plan, including considering the allocation of appropriate sites.

3.1.24 In accordance with the aims of CP10, the range of affordable housing units will reflect the pattern of open market homes proposed. The Council will expect to see proportions of open market and affordable homes provided for all unit types proposed on the development. Where larger open market homes are proposed, the Council will consider local needs evidence to specifically determine if a 5 or more bedroom dwelling is required. If a specific need is not identified affordable housing provision will focus on 1,2,3 and 4 bed units as appropriate.

3.1.25 Unless specifically agreed otherwise:

- all 2 bed houses will be provided as 2 bedroom 4 person family houses
- On wholly or primarily flatted developments there will be the delivery of both 2 bed 4 person and 2 bed 3 person homes. Appropriate communal space or private gardens will be provided to meet the play needs of families living in flatted developments.
- 1 bed properties will be for 2 people
- 3 bed homes will be for 5 people
- 4 bed homes will be for 6 people

(See Table 3.1B below for expectations on minimum unit size and occupancy levels)

3.1.26 Where affordable flats are proposed on a development dominated by houses, the Council's preference is for house type flats to promote tenure blindness and reduce the communal elements of the scheme.

3.1.27 Policy CP9 aims for at least 60% of the affordable housing to be family houses including some 4 and 5 bed dwellings where need is evidenced. Where strategic evidence supports a higher proportion of family homes, this proportion will be increased.

3.1.28 Evidence from the SHMA 2013 suggests an affordable housing mix of 95% rented and 5% shared ownership homes. In order to promote diverse and sustainable communities, the Council will generally expect an affordable housing requirement for 75% homes for social rent and 25% intermediate housing.

### **Delivering Specialist and Supported Housing**

- 3.1.29 A proportion affordable homes delivered through policy CP9 will be adaptable and in addition will deliver a proportion of wheelchair user accommodation.
- 3.1.30 Where a strategic demand for other forms of specialist or supported housing is identified for the development area, the Council will seek to negotiate appropriate provision and will take into account the additional costs that may be associated in specialist delivery when determining the level of affordable homes delivered or the availability of subsidy.
- 3.1.31 The Council does not support artificial use of age restrictions on general needs affordable housing. If a developer wishes to deliver homes for older people as an alternative to mainstream affordable housing, there will be an expectation that design and layout will be appropriate to the proposed client group and that a clear justification for the proposal can be made in terms of meeting the Council's strategic visions for housing for older people.
- 3.1.32 Such developments will be assessed against the 10 HAPPI principles which are considered critical to achieving excellence in housing for older people. See Appendix 2.
- 3.1.33 Proposals for Extracare Housing will also be assessed with regard to the Housing LIN standards for Extracare development to ensure that adequate consideration has been given to designing and developing a scheme appropriate for a frail elderly client group. See Appendix 3.

### **Implementing Policy CP9**

#### Thresholds

- 3.1.34 The Council will have regard to the gross number of dwellings being proposed when considering whether Policy CP9 is applicable to an application, regardless of the replacement or conversion of any existing residential dwellings on the site.
- 3.1.35 The Council will be mindful of applications that deliberately seek to circumvent the relevant threshold for affordable housing and will not permit any benefit to be gained from this. Proposals for residential development just below the relevant thresholds must be based on the assessed housing potential of a site and not an attempt to

avoid the provision of affordable housing. Sites presented just below threshold levels will be scrutinised in terms of site/ownership boundaries, density and unit mix to ensure that land is not used inefficiently or in a piecemeal fashion to produce a scheme that avoids affordable housing contributions.

#### Mixed Use Sites

- 3.1.36 Mixed-use planning applications, where the residential element meets the thresholds identified in CP9, will be expected to enter into a legal agreement to provide affordable housing in line with Policy. Mixed-use sites will be scrutinised to ensure the artificial reduction of residential land is not being used to avoid affordable housing contributions.

#### Phasing on Large Sites

- 3.1.37 On large sites where development will be phased, it is expected that the affordable housing will be developed at the same time as the market housing and a phasing plan submitted as part of the affordable housing master-plan. Generally, in respect of each phase, no more than 25% of open market dwellings should be occupied until 25% of the affordable housing units have been constructed and transferred to the affordable housing provider ready for immediate occupation.
- 3.1.38 No more than 85% of open market dwellings on each phase should be occupied until 100% of the affordable homes have been transferred to affordable housing provider, ready for immediate occupation.
- 3.1.39 Each phase will be expected to deliver a proportional level of affordable housing to ensure even distribution across the development.

#### **Conversions and Change of Use**

- 3.1.40 Core Strategy Policy CP9 applies to the conversion of any building for residential purposes that requires planning permission, whether or not it is already in residential use unless superseded by national policy exemptions.

#### **Specialist Residential Development**

- 3.1.41 The requirement for affordable housing extends to Extra Care, sheltered/ retirement dwellings and any other forms of housing with care and support that has a C3 Planning Use Class. For the avoidance of doubt this requirement does not apply to

accommodation at residential institutions, with a C2 planning use class, for people in need of care such as care homes or nursing homes. Please see **Appendix 3** for standards.

### **Design, Layout and Construction Standards**

- 3.1.42 Affordable housing should not be distinguishable from market housing in terms of location, appearance, build quality and materials. Reductions in size, use of substandard materials, or poor finishing and detailing should not be perceived as an acceptable shortcut to achieving scheme viability. Delivering affordable housing as flats on a largely housing-focussed development will not be acceptable.

### **Clustering of affordable housing units**

- 3.1.43 On sites larger than 30 units the Council wishes to see at most a cluster of 8 affordable houses or 8 affordable flats in a block. On smaller sites, housing layouts should consist of clusters of no more than 4 affordable units. Clusters of affordable housing will not share boundaries, within or across separate phases of development. Any deviation from this will be determined in discussion with the Council's Housing Enabling and Planning Officers.
- 3.1.44 On primarily flatted developments a scheme by scheme consideration will be taken on clustering of units to address housing management and service charge concerns.
- 3.1.45 Planning layouts submitted as part of an application must clearly show the location of affordable housing units and identify their tenure and size and the location of wheelchair user units. For outline applications, this affordable housing layout plan will be part of reserved matters applications.

### **Design and Standards**

- 3.1.46 There is a requirement for layout plans to be independently audited to demonstrate compliance with the standards below, and that this will be submitted as part of the Affordable Housing Statement either as part of the Planning or Reserved Matters Application.
- 3.1.47 An independent post completion audit will also be required to ensure construction has taken place to meet the details of the following standards. If non-compliance is identified, financial compensation will be sought to reflect the reasonable cost of rectifying the failure to comply.

3.1.48 The Council expects the affordable units secured through policy CP9 to meet the following standards:

Internal space standards:

3.1.49 All affordable homes will comply with the Council's minimum internal space standards, as follows:

**Table 3.1.B**

<b>Dwelling Type</b>	<b>Minimum internal size m<sup>2</sup></b>	<b>Emerging Minimum, internal size* m<sup>2</sup></b>	<b>Minimum built in storage</b>
1 bed 2 person flat	46	58	1.5
2bed 3 person flat	61	61	2
2bed 4 person flat	67	70	2
2 bed 4 person house	75	79	2
3bed 5 person house – 2 storey	85	93	2.5
3bed 5 person house – 3 storey	95	99	2.5
4bed 6 person house – 2 storey	105	106	3
4 bed 6 person house – 3 storey	105	112	3
Anything larger ( *	105+10m <sup>2</sup>	+ 10m <sup>2</sup>	0.5 + per bedroom.

(\*based on emerging National Housing Standard September 2014 and implementation subject to adopted as Placemaking Plan Policy.)

Accessible Housing

3.1.50 All ground floor flats, bungalows, house-type flats served by a private staircase, flats served by lifts and age restricted affordable units should meet the Lifetime Homes standard as defined by Habinteg (<http://www.lifetimehomes.org.uk>) Requirement to meet LTH will be superseded by the National Housing Standard accessibility level 2 when this is introduced into Part M of the Building Regulations.

3.1.51 Compliance with Lifetime Homes requirements (or NHS level 2) will not be delivered at the detriment of living space in the dwelling and the Council expects the *minimum*

HCA HQI standards to be met for all rooms in order to provide for a range of furniture layouts and to ensure appropriate storage space. Delivery of an appropriately designed Lifetime Home layout, may result in the dwelling footprint exceeding the minimum internal standards.

- 3.1.52 A minimum of 10% of affordable units should be built to full wheelchair user standards as defined by Habinteg (<http://www.habinteg.org.uk/main.cfm?type=WCHDG>).

The Habinteg standard will be superseded by the National Housing Standard accessibility level 3 when this is introduced into Part M of the Building Regulations. The Council will use up to date evidence from its Homesearch Register and Sirona to determine the nature and tenure of the wheelchair units to be provided. On outline applications with a delivery on a phased approach to reserved matters, the need for wheelchair units will be considered as part of each individual RM application.

#### Secured by Design

- 3.1.53 Ideally developers will demonstrate that scheme layout, design and specification will achieve Secured by Design: New Homes 2014 requirements (<http://www.securedbydesign.com>). As a minimum, developers will be expected to deliver the affordable homes to meet the requirements of Section 2: Security of dwelling.).

#### Gardens and outdoor space

- 3.1.54 There is an expectation that all affordable homes of 2 or more bedrooms will have access to a secure, private garden. In flatted developments, appropriate communal outdoor space will be provided.

#### Flexibility in design

- 3.1.55 The Council welcomes the development of homes that are flexible in design and can adapt to changing household patterns. This may include house-type flats which could convert to a family home and double bedrooms with potential to be split to deliver HQI compliant single rooms.

#### **Occupation of Affordable Homes**

- 3.1.56 Affordable housing delivered through Core Strategy policies may only be occupied by persons eligible for, and in need of affordable housing, who are unable to afford to

buy or rent an appropriate property locally on the open market and who fulfil the criteria for affordable housing as laid out in the Council's Allocations Policy.

(<http://www.homesearchbathnes.org.uk/NovaWeb/Infrastructure/ViewLibraryDocument.aspx?ObjectID=497> )

#### Bath & North East Somerset 'Homesearch'

3.1.57 The Council operates a Choice Based Lettings (CBL) system called Homesearch for the allocation of rented affordable housing. Intermediate housing products for sale, such as shared ownership, are currently allocated through the Help to Buy agent covering the West of England. 100% of initial lettings of rented affordable homes will be allocated through Homesearch and a minimum of 75% of all relets.

3.1.58 All initial and all resales of shared ownership or other low cost home ownership will be through the Help to Buy agent, Radian ( [www.helptobuysouth.co.uk](http://www.helptobuysouth.co.uk) ) or any successor arrangements, to households who fulfil the occupancy criteria laid down in the Homesearch policy.

#### Sustainable Lettings Plans

3.1.59 Also known as Local Letting Plans, these are allocations plans specific to a development that address the complex lettings or sales issues that can affect a new development. Sitting under the broad requirements of the Homesearch Policy, these plans allow time limited restrictions or requirements on allocations that ensure the affordable homes on new developments are allocated to promote the creation of mixed communities. Developers will be required to work with the RP and the Council to consider if a sustainable lettings plan is an appropriate tool for allocating affordable homes on a new site.

#### **Management Standards and Perpetuity Arrangements**

3.1.60 The Council will require a mechanism to be in place to ensure that affordable housing remains affordable and available to those in housing need in perpetuity. The involvement of a Housing Association Registered Provider registered with the Homes and Communities Agency is the most effective way of developing a successful, well managed scheme that will ensure that the benefits of affordable housing are secured in perpetuity.

#### **Working with a Registered Provider**

#### HomesWest - B&NES Housing Partnership

- 3.1.61 The Council operates a partnership arrangement with RPs seeking to develop new affordable homes. This partnership is made up of approved Registered Providers who are committed to delivering good quality, well designed, sustainable, adaptable affordable homes in the District which meet strategic housing aims and fulfil excellent housing management standards. It is expected that Developers will engage with one of these partner RPs to deliver the affordable housing secured on a development. An up to date list of preferred RP partners can be provided on request from the Housing Enabling and Development Team

#### Delivering Homes outside of the B&NES Housing Partnership

- 3.1.62 If the developer has specific reasons to work with a different affordable housing provider, the Council acknowledges it cannot seek to prevent this. However, the chosen provider will first be invited to apply for a place on the HomesWest –B&NES partnership or must demonstrate that they can adhere to the Council’s minimum housing management standards relating to; housing income management; estate management; tenancy management; housing or specialist support, void property management and lettings; resident involvement; and maintenance. These are available on request.

#### Delivering affordable homes without an RP partner

- 3.1.63 Where a developer proposes to develop and manage the affordable homes without the involvement of a RP, planning obligations and a legal agreement must be signed to ensure nomination rights, occupancy controls other arrangements are in place to guarantee initial and subsequent affordability and compliance with housing management standards. Alternative providers will be expected to sign up to a non-partner housing agreement that stipulates the expected delivery standards for housing development and management. Allocation of rented affordable homes will be through Homesearch and the developer will be expected to sign up to the adopted Homesearch Nomination agreement.[available on request]
- 3.1.64 There will be safeguarding clauses inserted into the S.106 and housing agreement which ensure alternative ownership / management arrangements will be secured in the event that the initial arrangements fail to meet expected standards or provider cannot continue to own or manage the affordable homes. Reversion to open market housing will not be considered as an acceptable alternative in the first instance and

any agreement to allow this will be accompanied by payment of a commuted sum in accordance with the requirements of **Appendix 1**

3.1.65 The Council will reject *any* proposed alternative provider if it cannot be robustly demonstrated that they can meet the Council's required management and delivery standards.

### **Enabling Fees**

3.1.66 An Enabling Fee (subject to annual review) will be incurred on each affordable housing unit delivered in Bath & North East Somerset and the wider West of England sub region. These fees are designed to help with the provision of an affordable housing enabling service, assisting with the financial, legal, social, economic and environmental objectives required to secure and maximise affordable housing delivery and additional services. Where it is agreed in the legal planning agreement that a Partner RP will deliver the affordable homes, the enabling fee will not form part of the S.106 agreement as this is already secured through partnership arrangements.

3.1.67 Enabling fees will become part of the Planning Agreement if a non-partner RP or developer / third party will deliver the affordable homes. They will be payable under the following terms:

- The fee is paid to the council on entering a building contract or at start on site by the developer, re-chargeable directly or indirectly by the organisation retaining ownership of the affordable housing unit.
- The fee is a non-qualifying cost in respect of any bid for public subsidy.
- The fee applies to all affordable housing units (i.e. including both rented and intermediate units, re-provision/ remodelling, extra care housing, rural housing, 100% affordable housing sites, mixed tenure sites and those procured through S.106 negotiations and delivered either with or without public subsidy).
- The fees cannot be paid from HARP reserves which have been accumulated via Social Housing Grant (SHG) funded schemes such as Recycled Capital Grant Fund (RCGF).

3.1.68 The Council's Housing Enabling and Development Team will advise on the level of Enabling Fee payable at the time of development. Please also see the Council's Housing Services Charging Policy.

[http://www.bathnes.gov.uk/sites/default/files/siteimages/Housing/Strategyandperformance/charging\\_policy\\_2014.docx](http://www.bathnes.gov.uk/sites/default/files/siteimages/Housing/Strategyandperformance/charging_policy_2014.docx)

### **Securing affordable homes in perpetuity**

- 3.1.69 The Council's intention is to provide affordable housing which is available for first and subsequent occupiers, in perpetuity, and will use appropriate clauses in the S.106 planning agreement to secure this.

#### Rented affordable housing

- 3.1.70 Rented affordable housing that is delivered without public subsidy is exempt from the requirements of the Right to Acquire. However, tenants in grant funded rented housing may exercise their legal Right to Acquire. In this case the Council will require that any net capital receipt is recycled towards the provision of additional affordable housing in Bath and North East Somerset.

#### Social Rented housing

- 3.1.71 RPs are under pressure from the Homes and Communities Agency to convert existing social rented homes to the Affordable Rented Tenure in order to generate a higher rental return and improve borrowing capacity to fund new affordable homes. The Council wishes to maintain the affordability of rented stock in the district and will seek to prevent rent conversion of new homes delivered through the planning system.

#### Intermediate housing

- 3.1.72 Intermediate housing may be lost as affordable housing through stair casing to full ownership. In order to be able to replace it, the Council will require net capital receipts to be recycled for the provision of additional affordable housing in the district. There may be exceptional circumstances where the Council allows the stair casing receipts to be recycled into the existing scheme if it can be demonstrated that it will significantly improve affordability levels for purchasers in need of intermediate housing.

#### Mortgagee Protection

- 3.1.73 Whilst the council wishes to see the retention of affordable homes in the sector and will restrict opportunities for these homes to be lost to the market, it recognises that these restrictions make it difficult for the RP to bring private finance into the scheme

through borrowing and prevent shared owners from mortgaging their property. An appropriately worded Mortgagee Protection clause will be allowed on all affordable housing schemes to ensure it will achieve the criteria required by banks and other lenders and is agreed by the Council.

### **Affordable Housing Led Development**

3.1.74 Where a development is being brought forward for 100% affordable housing, or is affordable housing led with an element of open market housing proposed to cross-subsidise affordable housing delivery, it is acknowledged that strict adherence to the requirements of policy CP9 might be counter-productive to development.

3.1.75 This will be determined in discussion with the Housing Enabling & Development Team and Planning Officers and decisions to allow deviation from Policy CP9 will be made with regard to meeting strategic housing requirements.

3.1.76 Clauses in the S.106 agreement will be used to ensure that any waiver from CP9 requirements results in the delivery of the agreed housing outcomes. Fall-back clauses will be used to ensure developments will deliver, as a minimum, the requirements of this SPD should the proposed affordable housing scheme not proceed.

### **When On Site Provision cannot be achieved**

3.1.77 There is a presumption towards the on-site provision of affordable housing. However, in exceptional situations where on-site provision is not proposed, the developer will need to provide the following:

- sound and detailed reasons why affordable housing cannot be provided on-site and/or
- sound and detailed reasons why affordable housing cannot be provided off-site in the vicinity of the proposal, and
- show how off-site provision or a commuted sum contribute to the creation of mixed communities in the local authority area
- It is recognised that delivering of affordable housing units arising from CP9 on small sites can be problematic and the use of commuted sums may be a pragmatic solution to ensuring policy compliance.

3.1.78 If the Council agrees that an off-site contribution is the appropriate delivery mechanisms to meet the affordable housing requirement, there are two options for consideration:

- 1) Development of affordable homes on an alternative site, delivery to be secured through planning conditions / s106 agreement.
- 2) Payment of a commuted sum calculated in accordance with the formula found in Appendix 1. This sum will be paid to the Council at commencement of development, ring-fenced to support the delivery of affordable housing across the District and will not be time limited.

### **Delivering Affordable Homes in Rural Areas**

3.1.79 The Core Strategy states:

Strategic Issues: Although rural Bath & North East Somerset is made up of a wide variety of settlements with locally distinctive character, there are a number of strategic issues (both challenges and opportunities) that are common across most of the rural area:

- Lack of affordable housing to meet local needs may impact on the social sustainability of the rural areas and exacerbate difficulties for an ageing population.

3.1.80 Supporting housing development that promotes both community and economic sustainability in rural areas is a key priority for the Council. Rural affordable homes can be delivered in Bath & North East Somerset through two routes:

- Rural Placemaking
- Exception site development

### Rural Growth

3.1.81 The Core Strategy has established support for a limited amount of housing growth in the rural areas of Bath & North East Somerset which will be delivered through the Placemaking Plan.

3.1.82 Sites that come forward for development under the Placemaking Plan will be subject to all of the requirements of policy CP9.

3.1.83 Affordable Homes delivered under CP9 are NOT subject to the same, strict occupancy controls as homes delivered on rural exception sites, but the Council's

Homeseach allocations policy does provide for a local connections approach to allocating the homes.

3.1.84 Particular scrutiny will be given to sites being brought forward under the Placemaking Plan to ensure that affordable housing thresholds are not being artificially avoided.

#### Delivery of rural affordable homes on Exception Sites

3.1.85 For villages that are not expecting growth through the Placemaking agenda, or where Placemaking does not deliver sufficient affordable homes to meet local need, the Council's exceptions policy can be used to deliver affordable homes. The rural exceptions policy allows the release of land that would not normally be used for housing for development of 100% affordable housing, on small sites and where there is a demonstrated local need:

#### **POLICY RA4: Rural Exceptions Sites**

As an exception to other policies of the Development Plan, residential development of 100% affordable housing will be permitted provided that:

- a: it meets a demonstrated local need for affordable housing
- b: the housing remains affordable in perpetuity
- c: occupancy of the affordable housing would remain, as a first priority, for those with demonstrated local connections
- d: the development is in scale and keeping with the form and character of its location
- e: the development is well related to community services and facilities

A small proportion of market housing will be appropriate only where it can be demonstrated that the market housing is essential to cross-subsidise the affordable housing and that the site would be unviable without this cross-subsidy.

#### Role of the local community in exception site delivery

3.1.86 The Parish Council should be a key stakeholder in developing homes under policy RA4. There is a presumption that they will work very closely with the Council and housing provider on all aspects of delivery. The parish council may use a

Neighbourhood Planning forum or other community group to be the key liaison point on affordable housing delivery.

#### Affordable Housing Provider

3.1.87 The Council's partner Registered Providers are considered the most appropriate developers of rural affordable housing. Other business and organisations may be able to provide the Council's expected housing development, management and allocations standards and will be considered for the development of rural affordable homes if this is supported by the Community.

3.1.88 The Council welcomes the creation of Community Land Trusts for the delivery of rural affordable homes ( <http://www.communitylandtrusts.org.uk/home> )

#### Identifying Local Housing Need

3.1.89 Development of an exception site will only be supported where there is robust evidence of local housing need. The Council has developed its preferred approach to local housing surveys but other evidence may be considered to support exception site development including Neighbourhood Plans and information from the Council's Homesearch register. Tenure mix, unit sizes and scale of development will be dictated by the robust and timely evidence of local need.

#### Site identification

3.1.90 In accordance with national best practice, sites should be identified through a sequential approach which includes assessment of the economic, social and environmental impacts of development. The availability of land is a key consideration in prioritising potential exception sites. Where a sequential assessment of sites has been carried out as part of Placemaking, this will advise but not automatically replace site search process for affordable housing.

#### Cross subsidy

3.1.91 It is acknowledged that the levels of public subsidy available to deliver affordable housing are unlikely to allow the delivery of 100% affordable housing on exception sites. In order to ensure delivery, the council will support a small proportion of market housing where it can be *demonstrated* cross subsidy is required to fund the affordable housing units. There are no prescribed ratios for the number of cross-subsidy units but it is imperative that the majority of the scheme is affordable. Market units are *only* justifiable if they facilitate the delivery of the affordable units.

3.1.92 Developers are expected to consider the wider housing needs of the community when determining the nature of cross-subsidy units provided.

#### Scale of development

3.1.93 Exception site development should be appropriate in scale and character to its surroundings. The number of homes proposed will be determined in discussion with Planning and Housing Enabling taking firstly into account the level of housing need identified and then the need for any open market units to cross-subsidise delivery. The nature of the site, the size and sustainability of the settlement, as well as the views of the community, will all help influence the scale of exception site development. Developers should note that the council is unlikely to support an approach where housing numbers are based on the entirety of identified local need.

#### Local Occupancy Criteria

3.1.94 Exception sites are developed to meet the affordable housing needs of people with local connections to the parish. This includes residents of the parish or group of parishes, individuals with strong local links such as those having family in the parish or parishes, or who have lived there for a significant period or are employed in the area. Prioritisation of local connections will be agreed within individual S.106 agreements. The Council's Homesearch Register will be used for the allocation of all rented homes.

3.1.95 Shared ownership homes may be sold through the Help to Buy Agent for the region or directly by the housing provider.

3.1.96 Cross-subsidy units WILL NOT be subject to local occupancy conditions and will be available for sale or rent on the open market without restriction.

#### Perpetuity arrangements

3.1.97 Exception site development will only be permitted where the homes are made available as affordable homes for local people in perpetuity. Perpetuity arrangements will be secured in the S.106 agreement. There will be a requirement for a maximum shared ownership sale of 80% and the use of restrictive clauses in the S.106 agreement that prevent any disposal of the affordable housing units on the open market.

3.1.98 An appropriately worded Mortgagee in Possession clause will be allowed in order for both the affordable housing provider and any subsequent shared owners to secure housing finance from lenders.

Meeting wider affordable housing expectations

3.1.99 The developer is expected to meet the requirements on housing standards that apply to the delivery of affordable homes through policy CP9, with the exception of an automatic requirement for wheelchair units. This provision will be determined by local evidence of need.

3.1.100 Further detailed, guidance on the provision of affordable homes in rural areas is available from Bath & North East Somerset Council through:

- Neighbourhood Planning advice
- Placemaking Plan
- Housing Services Enabling & Development Team
- Other links / sign posting

## **3.2 Transport Infrastructure Works**

### **Introduction and Policy Background**

- 3.2.1 New transport infrastructure, or improvements to existing infrastructure, is often required to ensure that developments can be accessed in a safe and appropriate manner. In addition, appropriate transport infrastructure can play a vital role in delivering the Council's sustainability aims and reducing reliance on the private motor car.
- 3.2.2 The need for transport infrastructure works is recognised at paragraph 32 of the National Planning Policy Framework (NPPF) and throughout the Council's adopted Core Strategy. In addition, Manual for Streets 2 and the Design Manual for Road and Bridge works are relevant.

### **CIL vs S106**

- 3.2.3 Where transport infrastructure works are of a strategic nature they will be included in the Council's Infrastructure Delivery Programme and Infrastructure /Regulation 123 list and will be delivered through other mechanisms including CIL. For works that are directly related to a particular development and are required on-site or close to the site, the developer will be required to enter into a Section 106 legal agreement to secure the works required.

### **Trigger for the Obligation**

- 3.2.4 There is no trigger in relation to the need for transport infrastructure works, as it will be dependent on the development that is proposed. As such, requirements will be assessed on a case by case basis.

### **Level of Contribution**

- 3.2.5 The level of the contribution will be dependent on the measures that are required to make the development acceptable in planning terms. As such, it is not possible to set a standard contribution. Developers are encouraged to engage with the Council's Highway Officers at an early stage in the development process to establish and agree any measures that are required. The Council will ordinarily require the developer to make a financial contribution in order that the required works can be delivered, however some works, such as new/revised junctions may be agreed to be carried out by the developer.

3.2.6 Two categories of required transport infrastructure have been identified;

- Access and local works
- On-site works, services or incentives

3.2.7 Each of these is considered in detail below.

#### **Access and Local Works**

3.2.8 All development, irrespective of size, must be capable of being accessed safely by vehicles, including public transport, pedestrians, cyclists and people with disabilities. To achieve this, the developer may need to carry out and/or fund on and off site works that are directly related to the development. The type of works secured under this heading may include:

- new junction/site access works for all modes;
- works for cycle, pedestrian and disabled facilities close to the site that provide a route for cyclists, pedestrians and the disabled into the site;
- traffic calming close to the site if there is a risk of the development generating unsuitable traffic on residential roads close by;
- parking controls in nearby streets where there is a risk of overspill parking from the development;
- individualised marketing projects to promote sustainable travel;
- commuted sums for maintenance of structures, drainage systems, traffic signals and enhanced paving materials;
- environmental improvements for the benefit of pedestrians

#### **On-site works, services or incentives**

3.2.9 On-site works, services and incentives required to encourage occupants of residential development to use more sustainable modes of travel to access local services may also be sought by planning condition and/or as part of a Section 106 Agreement. Measures to encourage visitors, employees and customers of non-residential development to travel by a means other than private car may also be sought as part of Section 106.

3.2.10 The type of works secured under this heading may include, on site cycle, pedestrian, disabled and public transport facilities travel plans (for employment/retail/educational developments, which may include matters such as car sharing, free bus passes,

interest free loans for cycle/bus pass purchase. Lockers, showers, provision of travel information, car park charging amongst other things) provision of travel information, cycles and free bus passes (in residential development).

### **Bond**

3.2.11 Where the developer is required to carry out works on the public highway, the works will need to be supported by a Bond to cover the cost of the works.

### **Traffic Regulation Orders**

3.2.12 A Traffic Regulation Order (TRO) will often be required where there is a requirement for highway infrastructure works as part of a development. The developer is expected to pay the cost of the TRO, which will be calculated on a case by case basis.

### **Further Information**

3.2.13 For further information please contact the Council's Highways Department.

### **3.3 Public Transport**

#### **Introduction and Policy Background**

- 3.3.1 Public transport is a key element of sustainable development and is recognised as such in the NPPF; West of England Joint Local Transport Plan 3 2011–2026 (JLTP3); emerging Bath Transport Strategy; and throughout the Council’s Core Strategy. The Council is committed to delivering and improving a comprehensive, district wide public transport network to reduce dependency on private motor car based travel which is acknowledged as being a key component in reducing carbon emissions and delivering sustainable development.

#### **CIL vs S106**

- 3.3.2 It is anticipated that the majority of public transport measures will be delivered through other mechanisms including CIL as they are strategic infrastructure projects. These projects will be included in the Council’s Infrastructure Delivery Plan and Regulation 123 list. However, there will be instances where public transport facilities are required to make a development acceptable in planning terms and are directly related to a particular development. Examples of this include the provision of a new bus service, bus stop or bus lane to serve a development. In these cases the developer will be required to enter into a Section 106 agreement to secure the provision of the required measures.

#### **Trigger for the Obligation**

- 3.3.3 There is no trigger in relation to the need for public transport measures, as it will be dependent on the development that is proposed. Public transport requirements will be assessed on a case by case basis. Where there is a requirement for public transport measures, the developer will be required to enter into a Section 106 agreement to secure the provision of the required measures.

#### **Level of Contribution**

- 3.3.4 The level of the contribution sought will be dependent on the measures that are required to make the development acceptable in planning terms. As such, it is not possible to set a standard contribution. Developers are encouraged to engage with the Council’s Highway Officers at an early stage in the development process to establish and agree any measures that are required. The Council will ordinarily require the developer to make a financial contribution in order that the required works can be delivered.

**Further Information**

3.3.5 For further information please contact the Council's Highways Department.

### **3.4 Green Infrastructure**

#### **Introduction and Policy Background**

- 3.4.1 The Council's Green Infrastructure Strategy adopted March 2013 and the Green Space Strategy 2015 sets out the vision and requirements in respect of Green Infrastructure within the District and provides the detail to Placemaking Plan Policy CP7 "Green Infrastructure" and Policy LCR6 "Sports and Recreational Facilities". Policy CP7 states that existing and new Green Infrastructure must be planned, delivered and managed as an integral part of creating sustainable communities. Policy LCR6 provides for contributions to off site accessible sport and recreational open space to meet the need arising from the development, where on site provision is not practicable.
- 3.4.2 The National Planning Policy Framework (NPPF) 2018 (paragraph 170) states that the planning system should contribute to and enhance the natural and local environment by "minimising impacts on biodiversity and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"; and Paragraph 96 states that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities.
- 3.4.3 The Council and its partners will work with the community to achieve a well-used, managed, connected and expanding network of green infrastructure which provides a wealth of benefits for people, place and nature. The Council recognises that Green Infrastructure is a key element in delivering the following benefits and sustainable development within Bath and North East Somerset:
- Supporting healthy lifestyles and thriving communities
  - Providing active access to the outdoors
  - Enhancing landscape character and built heritage
  - Enhancing biodiversity
  - Supporting healthy ecosystems
  - Providing climate change solutions
  - Invigorating the local economy and natural tourism

- Enhancing sense of place

### Triggers for the Obligation

- 3.4.4 Placemaking Plan (adopted 2017) Policy LCR6 indicates that where new development generates a need for additional recreational open space (“green space”) and facilities which cannot be met on-site or by existing provision, the developer will be required to either provide for, or to contribute to the provision of accessible sport and recreational open space and/or facilities to meet the need arising from the new development in accordance with the standards set out in the Green Space Strategy, and Planning Obligations SPD or successor documents.
- 3.4.5 The Green Space Strategy 2015 sets out the thresholds, typologies, quantity and access standards for recreational open space and costs (see Table 24).
- 3.4.6 The Green Space Strategy standards have three aspects: Quantity, Access and Quality. The following typologies are those where standards have been developed:

### Green Space Strategy 2015 (*Table 19*)

Typology	Quantity standards (ha/1000 population)	Access standard
Allotments	0.3	960 metres or 20 minutes’ walk time
Amenity Green Space	0.3	600 metres or 12-13 minutes’ walk time
Parks and Recreation Grounds	1.3	600 metres or 12-13 minutes’ walk time
Play Space (Children)	0.05	480 metres or 10 minutes’ walk time
Play Space (Youth)	0.03	600 metres or 12-13 minutes’ walk time

Natural Green Space	1.30 to include natural and amenity green space for new provision	ANGSt and Woodland Trust for analysing existing provision
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3.4.7 Developers should engage with the Council at an early stage in the planning process to establish requirements in respect of their specific proposals.

3.4.8 In accordance with the Community Infrastructure Regulations 2010, and subject to the Written Ministerial Statement of 28<sup>th</sup> November 2014, planning obligations will only be secured where they are a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. Planning obligations sought for off-site green space provision, enhancements and maintenance will be established at the planning application stage and relate to particular identified projects to mitigate the impact of the development.

3.4.9 Strategic green infrastructure will be delivered through a number of mechanisms including CIL. Developers are also required to have due regard to the Green Infrastructure Strategy, or any amended or replacement Strategy, when formulating development proposals to ensure that the aims of the Strategy are delivered at the local level. Green infrastructure should be central to the design of new developments. Proposals should respect and enhance green infrastructure within the site and demonstrate strong links to the wider network. Development proposals that do not address green infrastructure adequately are likely to be considered unacceptable. The impact of new development on green infrastructure will be assessed through the Development Management process. Specific development management policies are included in the Placemaking Plan.

**Further Information**

3.4.10 For further information please contact the Council's Planning Policy Team.

### **3.5 Tree Replacement**

#### **Introduction**

- 3.5.1 The Council requires trees of value to be retained and protected through the planning process and to be given due consideration on all developments. This should encourage developers to plant suitable numbers of replacement trees on site and in appropriate locations, but where this is not possible this policy provides a mechanism where replacement trees can be planted in a near-by location. Developers will be expected to demonstrate why on-site replacement is not possible or appropriate before off-site replacement is accepted. In this way the green infrastructure of the district can be maintained and enhanced hand in hand with development.
- 3.5.2 The advantages of this fixed number replacement system include the following:
1. It encourages trees to be protected on development sites.
  2. It ensures that trees lost as a result of development are adequately replaced on site or near the development site in all situations.
  3. Every development that impacts trees is likely to produce the information required to reach a value for compensation as a matter of routine (a measurement of the trunk diameter for the trees affected).
  4. It is quick and doesn't require the costs of employing experts.
  5. No specific training is necessary to use this system beyond the ability to identify if a tree has less than 10 years useful life expectancy.
  6. It is a system that is understood by most arboriculturists, developers, and planning officers which is a great strength in the context of planning application negotiations.
  7. It conforms to the Community Infrastructure Levy Regulations (2010) and developers can clearly understand how many trees will be planted for the money that they pay.
  8. The system has been developed and adopted by Bristol City Council and the adoption of this approach by B&NES Council provides some consistency for developers.
- 3.5.3 It is expected that developers will adopt a reasonable approach to the issue of tree replacement; however in the event that trees are felled prior to the submission of a planning application it will be possible for stumps to be measured and these measurements used to work out how many new trees need to be planted.

### **Policy Background**

- 3.5.4 The justification for requiring obligations in respect of new or compensatory tree planting is set out in Policies CP6, CP7 and CP13 of the Council's Core Strategy. In addition, paragraphs 109 and 114 of the National Planning Policy Framework (NPPF); and the Council's Green Infrastructure Strategy and Green Space Strategy are relevant.

### **Trigger for Obligation**

- 3.5.5 Obligations in respect of trees will be required:

- Where trees covered by categories A, B and C of BS 5837 (Trees in relation to construction) are removed as part of a development, and replacement planting is required on public land

- 3.5.6 Tree planting will either take place on open ground or in areas of hard standing such as pavements. Where planting can take place directly into open ground the contribution will be lower than where the planting is in areas of hard standing. This is due to the need to plant trees located in areas of hard standing in an engineered tree pit.

- 3.5.7 All tree planting on public land is to be undertaken by the Council to ensure a consistent approach and level of quality, and to reduce the likelihood of new tree stock failing to survive.

### **Level of Contribution**

- 3.5.8 The contribution covers the cost of providing the tree pit (where appropriate), purchasing, planting, protecting, establishing and initially maintaining the new tree. The level of contribution is as follows:

Tree in open ground (no tree pit required) **£839.20**

Tree in hard standing (tree pit required) **£2,183.48**

Indexation is to be applied from the second quarter, 2019, based on the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors.

- 3.5.9 The "open ground" figure will apply in the following circumstances:

- Where development results in the loss of Council owned trees in open ground
- Where development results in the loss of trees on the development site, and is unable to provide replacement tree planting on site.

3.5.10 In both these cases the Council will provide replacement tree planting in the nearest appropriate area of open space.

3.5.11 The “hard standing” figure will apply in the following circumstances:

- Where development results in the loss of Council owned trees in areas of hard standing.
- Where new tree planting in hard standing is required to mitigate the impact of development (for example street trees required as part of highway improvements).

3.5.12 In the first of these cases the Council will locate replacement tree planting in areas of hard standing as close as reasonably practical to the development site; and in the second of these cases the Council will implement tree planting in specific locations identified through the planning approval process.

#### **The fixed number replacement**

3.5.13 This fixed number replacement system is a non-expert system designed specifically for reaching an acceptable degree of compensation for the loss of trees as a result of new development. The number of replacement trees that it requires developers to plant is generated from a table based on the principle of more value being given to larger trees. When setting the criteria the aim was to develop a system that would replace canopy cover of the tree that is lost within 5-10 years whilst generating a level of compensation that is a fair and realistic outcome for tree replacements in a planning context. The system requires a maximum of eight trees to replace any tree lost as a result of development, which is considered to be the level of replacement provision to make development acceptable in planning terms.

3.5.14 The number of trees required to compensate for loss of existing trees depends upon the size of the trees to be lost. This is set out in the following table:

**Table 3.5.A**

<b>Trunk Diameter of Tree lost to development (cm measured at 1.5 metres above ground level)</b>	<b>Number of Replacement Trees</b>
Less than 15	0 - 1
15 - 19.9	1
20 - 29.9	2
30 - 39.9	3
40 - 49.9	4
50 - 59.9	5
60 - 69.9	6
70 - 79.9	7
80 +	8

3.5.15 The developer has the option to undertake on-site replacement planting themselves, in accordance with the Council's specification (this would involve opening up a tree pit and planting the tree to the specification). In these instances the developer would be required to pay a maintenance contribution to the Council to cover 15 years maintenance.

**Further Information**

3.5.16 Developers are expected to engage with the Council at an early stage of the planning process in relation to tree replacement and are therefore encouraged to contact the Council's Planning and Conservation Team.

### **3.6 Adoption of Green Space, Allotments and Landscaping Schemes**

#### **Introduction and Policy Background**

- 3.6.1 In cases where provision of green space and landscaping schemes comes forward as part of a development, such facilities may be offered to the Council or its nominee (usually a Town or Parish Council) by a developer for adoption as Council owned and maintained provision. The Council will consider adopting these facilities subject to a number of conditions, which are set out below.
- 3.6.2 In cases where provision of allotments comes forward as part of a development the allotment site will be offered to the Council or its nominee (usually a Town or Parish Council) by a developer for adoption as Council owned and maintained provision.
- 3.6.3 There is no obligation on the Council to accept an offer to adopt Green Space, Allotments and Landscaping Schemes
- 3.6.4 The adoption of green space provision, allotment facilities and landscaping schemes is supported by Placemaking Plan Policy CP7 and Core Strategy Policy CP13, the Council's Green Infrastructure Strategy adopted March 2013 and the Council's adopted Green Space Strategy 2015 or successor documents.

#### **Trigger for the Obligation**

- 3.6.5 There is no trigger in relation to the adoption of the aforementioned facilities, as it will be dependent on the developer offering the particular facility to the Council for adoption.

#### **Conditions to be met for adoption to be considered acceptable**

1. The provision offered to the Council for adoption must, in the case of parks & recreation ground; amenity and natural green space; and allotment provision, be useable, and, in the case of landscaping schemes, be of high quality. There are no specific standards against which the Council will undertake this assessment, as it will be dependent on the individual site characteristics. As such, an assessment will be made on a case by case basis.

2. The provision offered to the Council for adoption must be maintained by the developer to the satisfaction of the Council for a period of not less than 12 months after being provided on site. In some cases this period may be extended (e.g. if remedial works required prior to transfer are not completed within an agreed timescale).
3. The developer must pay to the Council a commuted sum to cover the cost of maintaining the provision for a 20 year period. The commuted sum payable will be dependent on the type of provision to be adopted and will be calculated in accordance with the following formulas:
  - **Parks and Recreation Grounds** = Amount of provision to be adopted in m<sup>2</sup> x £84.58
  - **Amenity and Natural green space** = Amount of provision to be adopted in m<sup>2</sup> x £23.90
  - **Allotments** = Amount of provision to be adopted in m<sup>2</sup> x £19.96

The above rates will be increased annually in line with inflation.

- 3.6.6 The commuted sums set out above will be secured by a Section 106 legal agreement, which will include provision for the commuted sums to be indexed from the date that the Section 106 is signed to the date of payment.

#### **Further Information**

- 3.6.7 For further information please contact the Council's Parks and Green Spaces Department or Planning Policy Team.

### **3.7 Site Specific Targeted Recruitment and Training in Construction**

#### **Introduction**

- 3.7.1 The B&NES labour market is relatively strong compared to the rest of the West of England, however there are issues with over 6,000 residents claiming out of work benefits and both average work place and resident wages below local, regional and national averages. There is also evidence which demonstrates a shortage of skilled construction workers both locally and nationally, which is putting pressure on the local labour market and could if not adequately addressed affect future development viability and delivery.
- 3.7.2 Construction can provide a stable and sustainable source of employment for B&NES residents and the potential to secure Targeted, Recruitment & Training opportunities in construction is essential to enable the labour market to remain buoyant and deliver a suitably trained work force to meet the sectors growing labour demand.

#### **Policy Justification**

##### **National**

- 3.7.3 NPPF states the LPA should .... “proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.”( Para 17) Further to this .... “Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing”. (Para 20)

##### **Local**

- 3.7.4 B&NES Core Strategy POLICY SD1: “Presumption in favour of sustainable development” also states that ... ‘When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework....It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.’

3.7.5 Core Strategy Objective 6 includes *promoting and delivering employment, training and regeneration opportunities that can contribute to a reduction in the health and social inequalities across the District*, and Core Strategy Objective 6e states that:

*'Delivery of economic development will also be facilitated by the B&NES Economic Strategy, the Regeneration Delivery Plans and the Development Management process. Working alongside local communities and partners will be essential to deliver the ambitions of the Economic Strategy and developers may be asked to support the objectives of the Strategy through a Targeted Recruitment, Training and Supply-chain Protocol.'*

3.7.6 Further to this the Council's Economic and Health & Wellbeing Strategies are also committed to tackling issues of worklessness, inequality and the effects that this can have on the health & wellbeing of residents, whilst also providing a sustainable supply of employment that is responsive to the area's needs.

3.7.7 These commitments are reflected in the Council's Planning Obligations SPD where Targeted Recruitment Opportunities in the construction phase of a development on-site are sought. A number of schemes across B&NES have already delivered planning obligations and with target outcomes for TR&T in construction, providing opportunities on site during the construction phase, example templates have been developed for both the heads of terms and on-site targets.

### **Trigger for Contribution**

3.7.8 The Council will require developers to agree to contribute towards a Targeted Recruitment and Training (TR&T) target and contribution which will be applied on site during the construction of the specific scheme, where the proposed development\* requires planning permission, and is above the following thresholds:

- Residential : 10 units of housing and above
- Non Residential /Commercial Premises over 1000sq m

3.7.9 Mixed use developments will also be included if either the residential or non-residential/ commercial elements exceed the thresholds above. \*Development is considered to be both new build and change of use.

## **Targets & contributions**

3.7.10 The TR&T outcomes and contribution are calculated using estimated costs of development with an aim of providing opportunities for at least 5% of the construction work force being a New Entrant Trainee (NET) These are adaptable to the scale, duration and nature of the development and are proportionate to the impact of the development.

3.7.11 The definition of a NET is a B&NES resident who is:

- a person leaving full-time education or training or the Council's Care Service, or a person who has left fulltime education / training / care and who the Council accepts as not having obtained permanent full-time employment in a job that is appropriate to their education and training; or
- a person who has been registered unemployed, or who is otherwise accepted by the Council as being non-employed, who is seeking a job with training and mentoring in order to re-access employment;
- a person that was a `new entrant trainee` prior to achieving their current or recent employment and who is accepted by the Council as requiring a further period of work and training in order to achieve accreditation and /or be able to operate in the labour market.
- a person undertaking a training or education course.

3.7.12 There are three distinct TR&T in construction outcomes defined for NETs as follows  
Work Experience placements on site of no less than 16 hours per opportunity

- Apprenticeship starts on site
- New jobs created on site advertised through the Department of Work & Pensions (DWP) and filled by DWP clients.

3.7.13 The contribution is intended to support NETs entering into TR&T in construction providing training, travel and equipment costs. These figures have been identified by B&NES together with the B&NES Learning Partnership. The breakdown of maximum anticipated costs are as follows:

- Work Experience - £150 per opportunity. This is provide any necessary training (CSCS card), work safety ware or travel expenses.

- Apprenticeship starts - £2000 per opportunity. This is to provide funds to support training and necessary work safety ware.
- New Jobs Advertised and filled with DWP - £150 per opportunity. This is to provide any necessary training (CSCS card), work safety ware or travel expenses, for those entering into employment.
- There are also set up and management costs, which are an additional 10% of the total contribution.
- Details of the site specific costs will be identified as part of the s106 heads of terms.

**Contractors, sub-contractors and occupiers.**

3.7.14 It is the developer's responsibility to take the steps to ensure that they obtain the cooperation of contractors and sub-contractors and the occupiers of buildings so as to enable the TR&T in construction outcomes to be met.

**TR&T Method Statement & Management Board**

3.7.15 It is a requirement of the developer to provide a method statement following a template and guidance produced in partnership with the B&NES Learning Partnership that will outline the delivery of the TR&T target outcomes. The developer will also be required to participate and contribute to a TR&T Management Board supported by the B&NES Learning Partnership that will have the overall responsibility of delivering the outcomes.

**Further Information**

3.7.16 Developers are expected to engage with the Council at an early stage of the planning process in relation to Targeted Recruitment and Training in construction and are therefore encouraged to contact the Council's Community Regeneration team.

## **3.8 Fire Hydrants**

### **Background**

- 3.8.1 Building regulations require major new development to be within 100m of a fire hydrant. The vast majority of development in Bath and North East Somerset is already within 100m of a fire hydrant, and therefore this obligation will only be occasionally required. However, there are areas, primarily around the fringes of the city and on undeveloped land, that are not within 100m of a fire hydrant. In these circumstances, Avon Fire and Rescue Service require the provision of a new fire hydrant in an accessible location within 100m of the development.
- 3.8.2 Avon Fire and Rescue Service are consulted on all major planning applications and they will notify the Council when a fire hydrant obligation is required.

### **Policy Background**

- 3.8.3 The relevant section of the Building Regulations that require the provision of fire hydrants is Approved Document B – Fire Safety Volume 2 Part B5 (Access and facilities for the fire service), Section 15 (Fire mains and hydrants). The justification for requiring obligations in respect of the provision of fire hydrants is set out in Policy CP13 of the Council's Core Strategy.

### **Trigger for Obligation**

- 3.8.4 Obligations in respect of Fire Hydrants will be required where both the following criteria apply:
- Where the development is for 10 or more dwellings or in excess of 1,000 m<sup>2</sup> of commercial floor space; and
  - Where the development will be erected more than 100m from the nearest existing fire hydrant.

### **Level of Contribution**

- 3.8.5 The Avon Fire and Rescue Service have calculated the cost of installation and five years maintenance of a fire hydrant to be £1,500 per hydrant.

### **Trigger for Payment**

- 3.8.6 The provision of a fire hydrant is essential for safety reasons, and therefore where a new hydrant is required it must be operational prior to the occupation of the relevant development. In order to enable Avon Fire and Rescue Service to arrange installation of the new hydrant prior to occupation, the contribution will be required upon commencement of the development.

### **3.9 Education Facilities**

#### **Policy Background**

3.9.1 The policy justification for requesting planning contributions for Children’s Services flows down from ‘The Schools White Paper: Higher Standards, Better Schools For All’, the ‘14-19 Education and Skills White Paper’ at national/regional level and the Bath & North East Somerset Core Strategy Policy CP13, and the National Planning Policy Framework.

#### **Trigger for Obligation**

3.9.2 The Core Strategy facilitates five urban extension sites as follows:

Policy B3A	Land adjoining Odd Down	300 homes
Policy B3C	Extension to MoD Ensleigh	120 homes
Policy KE3A	Keynsham East	220 – 250 homes
Policy KE3B	Keynsham South West	180 – 200 homes
Policy RA5	Whitchurch	200 homes

3.9.3 The urban extension developments result in the capacity of local primary schools being exceeded, therefore contributions are required to make either on-site provision or financial contributions towards primary school places.

3.9.4 The type of provision required:

- Primary School Provision

Where additional school capacity is required in the area of the development. The determination of whether or not there is sufficient school capacity available in the school or schools that serve the area of the development will be made with reference to the current school capacity figures and Planned Admission Numbers, and to a projection of future pupil numbers based on current numbers on roll, births and resident population data as outlined in the published School Organisation Plan. Projections will also be adjusted to include pupils calculated to be generated from previously approved developments.

#### **What Developers Will Have to Provide**

3.9.5 Where an existing off-site primary school is to be extended or upgraded, the cost per place multiplier including Location Factor will be used to calculate a contribution.

Where the development creates a requirement for a new on-site school, the developer will be expected to pay the full cost of construction, including design fees and charges, furniture and equipment and provide the site free of charge, as the cost per place multiplier is based only on the average of new build costs and extension costs and not the full cost of building new whole schools. In certain instances the combined effects of up to 5 development proposals create a requirement for a new school to serve developments, developers will be expected to contribute to the land and the full cost of building new whole school as proportionate to each development.

The space and accommodation requirements will be calculated by reference to the maximum areas as outlined in the latest DfE school area guidelines. The specification will also need to comply with current Council design, build and space requirements, meet best practice for the type of school and Government advice on design and environmental issues. This would also apply if it was agreed that the developer could provide the additional accommodation in kind rather than make a financial contribution.

- 3.9.6 A formula is set out for the calculation and the following paragraphs and tables provide a breakdown of the expected planning obligations costs the developer will in most cases have to meet. The elements in the formulae below will be subject to annual review in line with government guidance and where new or updated information becomes available from relevant government or Council departments that update current use values or cost indicators, the Council will make amendments to levels of contribution on this basis.
- 3.9.7 The cost per place multiplier is based on the assessment made by the Government of the cost of building a primary school place in 2008-09, updated by applying the latest Royal Institute of Chartered Surveyors (RICS) Building Cost Information Service (BCIS) All-in Tender Price Index. Also the DfE issue a Location Factor for each Local Authority which is derived from the Building Cost Information Service (BCIS) run by the Royal Institute of Chartered Surveyors (RICS). This Location Factor is applied to the cost per place multiplier to arrive at the cost of providing a place in Bath and North East Somerset. This multiplier will be reviewed annually and may be updated every financial year.
- 3.9.8 The current cost per place multiplier that will be used when calculating contributions is as follows:

**Table 3.9.A**

<b>Primary School per place</b>	£11,810.00
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3.9.9 The current DfE Location Factor for Bath and North East Somerset is as follows:

**Table 3.9.B**

<b>Location Factor</b>	1.08
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3.9.10 Therefore the current cost per place multiplier (including Location Factor) that will be used when calculating contributions is as follows:

**Table 3.9.C**

<b>Primary School per place</b>	£ 12,754.80
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3.9.11 The Council will be notified of the proposed mix of dwellings in the development and the following pupil yield figures based on type of dwelling and number of bedrooms will be used to calculate the contribution:

**Table 3.9.D**

	<b>No. of bedrooms</b>					
	<b>Flats</b>		<b>Houses</b>			
	<b>2</b>	<b>3+</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5+</b>
<b>Primary pupils per 100 dwellings</b>	4	30	9	30	46	65

3.9.12 Where the precise housing mix is not known the following will apply:

31 primary school pupils per 100 dwellings

3.9.13 Bed sits, temporary housing and any dwellings designated for restricted use such as student accommodation, sheltered housing for the elderly or adults with learning difficulties etc. would not normally be expected to contribute as the number of children generated would be marginal or nil. All other new dwellings of 2 bedrooms or more will be included in the calculations.

3.9.14 The following table shows the contribution per dwelling:

**Table 3.9.E**

	<b>No. of bedrooms</b>					
	<b>Flats</b>		<b>Houses</b>			
	<b>2</b>	<b>3+</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5+</b>
<b>Primary per dwellings</b>	£510.19	£3,826.44	£1,147.93	£3,826.44	£5,867.20	£8,290.62

3.9.15 All capital sums will be indexed from signature of the Section 106 agreement or Unilateral Undertaking up to the payment date using the RICS BCIS All-In Tender Price Index.

3.9.16 Developer contributions are required to be made in full prior to or on commencement of development.

**Substantial Residential Development (generally in excess of 300 units)**

3.9.17 Apart from primary school provision required for urban extensions, improvements and expansions to schools will be funded through CIL rather than planning obligations. However development proposals of in the region of 300 or more residential units may come forward that may generate a need for a new education facility due to the increase in the resident population resulting from the development.

3.9.18 In such cases, the provision of a new education facility will be required through planning obligations, as the infrastructure is required to specifically mitigate the impact of the development. The assessment of whether these facilities are required will be based on the following:

- A new education facility will be required if the development will generate sufficient children to necessitate its provision and if the Council can demonstrate that the children generated by the development cannot be provided for within existing educational accommodation in the local area.

**Further Information**

3.9.19 For further information please contact the Council's Schools Capital and Organisation Team.

### **3.10 Other Site Specific Measures**

3.10.1 Other site specific measures may be necessary and planning obligations including the following areas may also be sought. Requirements will be assessed on a case by case basis. It is recommended that applicants and developers engage with the Council at an early stage to determine if their specific proposal will result in a requirement for obligations such as;

- Sustainability
- Waste and Recycling
- Public Realm including funding of Legible Signage
- Drainage and flood risk mitigation measures
- Ecological measures where a development has an adverse impact on local habitats and ecology, or the provision of alternative habitats to compensate for any loss
- Improvements to and the mitigation of adverse impacts on the historic environment

#### **Policy Background**

3.10.2 The justification for requiring obligations in respect of site-specific measures is set out in Policy CP 13 of the Council's Core Strategy.

#### **Trigger for Obligation**

3.10.3 Site Specific obligations could be required from any development type, irrespective of size, and consequently there is no threshold below which an obligation will not be required. The determining factor is whether the development creates an impact that requires mitigation.

## **APPENDICES**

### **Appendix 1 (Affordable Housing): Options in lieu of on-site delivery of affordable homes**

See Separate Document - Appendix 1 - on website at  
<https://www.bathnes.gov.uk/planning-policy>

## Appendix 2 (Affordable Housing) Housing our Ageing Population

### Housing our Ageing Population: Plan for Implementation

*'Housing for older people should become an exemplar for mainstream housing, and meet higher design standards for space and quality. Local Planning Authorities should play a key role to ensure delivery of desirable housing in great places, tuned to local need and demand.'* (HAPPI12)

The All Party Parliamentary Group on Housing and Care for Older People published *Housing our Ageing Population: Plan for Implementation* (also known as HAPPI2) in November 2012. In addition to some of the elements highlighted above, the HAPPI2 guide also identified ten elements that were critical to achieving “age-inclusive” housing. These were:

- Generous internal space standards:
- Plenty of natural light in the home and circulation spaces:
- Balconies and outdoor space, avoiding internal corridors and single-aspect flats:
- Adaptability and “care aware” design which is ready for emerging assistive technologies:
- Circulation spaces that encourage interaction and avoid an “institutional feel”:
- Shared facilities and community hubs where these are lacking in the neighbourhood:
- Plants, trees and the natural environment:
- High levels of energy efficiency, with good ventilation to avoid overheating:
- Extra storage for belongings and bicycles:
- Shared external areas such as “home zones” that give priority to pedestrians.

The full HAPPI report can be found here:

[http://www.homesandcommunities.co.uk/sites/default/files/happi\\_final\\_report\\_-\\_031209.pdf](http://www.homesandcommunities.co.uk/sites/default/files/happi_final_report_-_031209.pdf)

### Appendix 3 Necessary Elements for future Extra Care developments

The Council wishes to see Extracare development that reflects national best practice, ensuring that the housing provision will also be appropriate to meet the social, mobility and care needs of the growing number of vulnerable older people in the District.

**Table 3A - Extracare Standards**

1. Dwellings	Essential	Desirable	Commentary
Minimum size of dwellings:			The desirable dwelling size standard is based on <i>Design principles for extra care</i> (Housing LIN factsheet 6). The minimums reflect current standards in some private sector retirement schemes.
One bed for 2 persons	50m <sup>2</sup>	54+m <sup>2</sup>	
Two bed for 3 persons	60m <sup>2</sup>	68+m <sup>2</sup>	
Mix of one and two bed properties	x		
Some three bed properties		x	
Minimum scale 45-50 dwellings		x	
Must be self-contained	x		
Including an adaptable kitchen appropriate for the client group	x		
2. Standards	Essential	Desirable	Commentary
Registered Provider follows HCA standards	x		Care Standards Act 2000 does not apply to extra care despite the care element of extra care schemes having to register with the CQC.
Lifetime home standards	x		
Design Principles for extra care (Housing LIN factsheet 6)		x	
Compliance with the 10 HAPPI principals			See below*
3. Facilities			
Communal lounges	x		The range of facilities will be more extensive the larger the development and should also complement what else is available in the near community. This is not an exhaustive list but reflects what has been developed/provided in other schemes
Restaurant/dining room	x		
Tea/coffee making area	x		
Activity/hobby rooms		x	
Communal WCs	x		
Assisted bathroom	x		
Hairdressing/beauty therapy	x		
Informal seating space		x	
Scooter store	x		
Car Parking	x		
Manager's office	x		
Care staff office	x		
Staff rest room including changing/lockers		x	
Guest room with en-suite		x	
Laundry (if no washing machines in flats)	x		
Catering kitchen		x	
Cleaners storage	x		
General storage		x	

Lift/motor room	x	x	A lift is essential if housing complex is spread over more than one floor.
Refuse store/bin room	x		
Shop, gym, library, IT room, cinema		x	
Treatment/therapy room		x	
<b>4. Care and Support</b>	<b>Essential</b>	<b>Desirable</b>	<b>Commentary</b>
24 hour on site care	x		Due to the unpredictable nature of need in extra care settings, it is more viable for one care provider to operate within a “scheme” although this may not be practicable if a resident is insistent on retaining an established care arrangement.
Emergency alarm	x		
Door opening and CCTV	x		
Assistive Technology personalised		x	
Environmental sensor	x		
Meals provision	x		
Catering standard kitchen		x	
Culture that promotes independent living but discourages social isolation	x		Although meals need to be provided, it is not essential that these are produced on site.

\*The All Party Parliamentary Group on Housing and Care for Older People published *Housing our Ageing Population: Plan for Implementation* (also known as HAPPI2) in November 2012. In addition to some of the elements highlighted above, the HAPPI2 guide also identified ten elements that were critical to achieving “age-inclusive” housing. These were:

- Generous internal space standards:
- Plenty of natural light in the home and circulation spaces:
- Balconies and outdoor space, avoiding internal corridors and single-aspect flats:
- Adaptability and “care aware” design which is ready for emerging assistive technologies:
- Circulation spaces that encourage interaction and avoid an “institutional feel”:
- Shared facilities and community hubs where these are lacking in the neighbourhood:
- Plants, trees and the natural environment:
- High levels of energy efficiency, with good ventilation to avoid overheating:
- Extra storage for belongings and bicycles:
- Shared external areas such as “home zones” that give priority to pedestrians.

A proportion of units within extra care schemes must be suitable for wheelchair use. The *Wheelchair Housing Design Guide – 2<sup>nd</sup> Edition* (2006) written by Stephen Thorpe and the Habinteg Housing Association highlighted the following standards in relation to the design of lifetime properties for wheelchair users. These standards include:

**Table 3B**

	<b>Minimum standard</b>
<b>Landing/Entering property</b>	
Gradient inside buildings	No more than 1:20
Landings outside front door	1500mm by 1500mm
Door widths	At least 800mm*
Door handle height	Between 900 and 1000mm from the floor
Door lock	Between 800 and 900mm from the floor
<b>Inside flat - hallway</b>	
Entry phone	1000mm from the floor
Front door "swing"	1200mm*
Postbox	Letter cage fitted as standard
Passageway width	At least 900mm*
<b>Kitchen</b>	
Storage units - height	Between 300 and 1500mm
Storage units - depth	No more than 300mm
Worktops and sinks - height	Between 750 and 910mm
Worktops and sinks - depth	No more than 650mm
<b>Turning spaces</b>	<b>1100mm throughout the flat Therefore, this space needs to be allowed within all areas to enable turning capacity for wheelchairs</b>

\*Consistent throughout housing unit