

Focused amendments to the Planning Obligations Supplementary Planning Document (SPD) with particular reference to Green Infrastructure,

Amendment to the Community Infrastructure Levy (CIL) Infrastructure List (CIL Regulation 123 list)

Consultation Report

May 2019

Contents

1. Statement of Compliance with the Neighbourhood Planning Protocol
2. Earlier consultation
3. Public Consultation
4. Summary of responses to the consultation and Council response to key issues raised
5. Next steps

Annex 1 - Representations to the Developer Contributions Consultation March 2019 and Council Response

1.0 Statement of Compliance of overall consultation with the Neighbourhood Planning Protocol

- 1.1 In line with the “My Neighbourhood” document (incorporating Statement of Community Involvement), a formal six week consultation was undertaken for the focused amendments to the Planning Obligations SPD, and a full schedule of comments together with a consultation report and statement of compliance is included here.
- 1.2 In addition the related proposed amendment to the Community Infrastructure Levy Regulation 123 list was consulted on at the same time. (The Regulation 123 list sets out the types of infrastructure that the Council may apply Strategic CIL revenues to). In this case the amendment is to clarify that green space mitigation works on, or directly related to, a development site are to be secured via planning obligations. The My Neighbourhood document does not specifically refer to the CIL Regulation 123 list consultation, however this is complementary to the Planning Obligations SPD.

2.0 Earlier Consultation

2.1 The amendments were prepared in conjunction with the Parks and Green Spaces Department and the Cabinet Member for Development and Neighbourhoods was consulted.

3.0 Public Consultation

3.1 The consultation documents were approved for publication, by the Cabinet Member for Development and Neighbourhoods, on 4th March 2019.

3.2 The Planning Obligations Supplementary Planning Document (SPD) focused amendments and the related Community Infrastructure Levy Regulation 123 List amendment relating to new development green space requirements was published for consultation for a 6 week period between 14 March 2019 to 25th April 2019.

The Consultation documents and links to the supporting material and other information were made publicly available at the usual 'Deposit Stations' across the District (see below). The Council's website was the main means by which the consultation documents could be accessed. A shortcut website address was created for ease of reference www.bathnes.gov.uk/developercontributions Whilst consultees were encouraged to view documents and submit comments electronically, and a specific email account was set up:

developercontributions_consultation@bathnes.gov.uk; paper copies were also made available if requested to ensure inclusivity. A bespoke form was made available for lodging responses.

3.2 The consultation documents were deposited at the following locations:

- Council offices:
 - The One Stop Shop, Lewis House, Manvers Street, Bath, BA1 1JG
 - Midsomer Norton Library & Information Service, The Hollies, Midsomer Norton, BA3 2DP
 - Keynsham Library & Information Service, Civic Centre, Temple Street, Keynsham, BS31 1LA
- All public and community libraries in the District, including the mobile library

3.3 Notification of the consultation was sent to all those on Planning Policy mailing list (who had requested to be kept informed of planning policy consultations) including statutory consultees and a range of other stakeholders on 13th March 2019. This was sent by email or post according to the mailing list database which records chosen methods of communication.

4. Summary of feedback to the consultation and Council response to key issues raised

4.1 A schedule of the full representations and responses is attached at Appendix 1. Eleven respondents made comments on either one or both of the documents.

4.2 Key Issues relating to the Focused Amendments to the Planning Obligations SPD were as follows:

- There was broad support for the proposed amendments from Dunkerton & Tunley Parish Council, Saltford Parish Council, Freshford Parish Council and Widcombe Association
- Westfield Parish Council referred to the need for enforcement of planning obligations.
- One stressed the benefits of green space, and its particular importance for schools. It requested that the Council's planning policies be strengthened, to make it clear that the loss of green infrastructure in the vicinity of schools is to be particularly carefully considered, and that compensating for such loss by securing off-site provision under section 106 will only in the rarest of circumstances be acceptable. There was also comment on the allocation of local CIL in the unparished Bath area.
- One queried the open space standards and asked whether a historic national standard for open space in urban areas was being met. Other specific points were made on text changes.
- Sport England supports the use of planning obligations (s106)/community infrastructure levy (CIL) as a way of securing the provision of new or enhanced sports facilities and a contribution towards their future maintenance, to meet the needs arising from new development. This includes indoor sports facilities (swimming pools, sports halls, etc) as well as playing fields and multi-use games courts. Sport England indicates off site mitigation/ planning obligations will be necessary where new development is built on existing sports provision in line with paragraph 97 of the NPPF.
- The Canal and River Trust are concerned that it is not clear if all types of green infrastructure can be funded by s106 where appropriate in this policy or whether it relates only to recreational open space. The Trust indicates that works to towpaths may be necessary to address the extra traffic resulting from a nearby development, or upgrades to or replacement of bridges, which constrain the development potential of an area may be required. It notes that waterway infrastructure provides a public resource for walking and cycling and is recognised as Green infrastructure.
- B&NES Allotment Association welcomes the principle of securing new green spaces, in particular allotments, on development sites through Section 106 obligations, rather than through Strategic CIL, however had some detailed

objections regarding the delivery /design of allotments and to the text relating to the adoption of allotments.

- Persimmon Homes Severn Valley (PHSV) and Persimmon Homes Wessex (PHW) support the amendments to the Planning Obligations SPD but advise that the Council should revise the Green Space Strategy as a priority and on a regular basis to ensure that a full, robust and up to date audit of the capacities of the open spaces and recreation facilities across the Council area is available to enable an assessment of the impacts of new development on green space.

Key issues relating to the CIL Regulation 123 List Amendment

- Dunkerton & Tunley Parish Council and Saltford Parish Council support the amendment.
- Sport England highlight that the inclusion of 'sport' including playing fields as a generic term on the Reg 123 of CIL could preclude the use of s106 to secure mitigation when say a sports facility or playing field is affected by a planning application and under para 97 of the NPPF the mitigation is needed to make the development acceptable. It also requires flexibility to allow for mitigation of new development by way of S106.

4.3 Having regard to the issues raised and the response within Appendix 1, the following recommendations are made:

Planning Obligations SPD Focused Amendments:

4.4 The following text changes are recommended (double underline) to take into account issues relating to the adoption of allotments as distinct to the adoption of public open space and recreational facilities.

Proposed Amendments recommended to amended text (bold and double underline)

Proposed Amendments recommended

In cases where provision **of green space and landscaping schemes** comes forward as part of a development, ~~S~~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. ~~In principle the~~The Council will consider adopting these facilities subject to a number of conditions, which are set out below.

New paragraphs

- **"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.**

- **There is no obligation on the Council to accept an offer to adopt Green Space, Allotments and Landscaping Schemes”**

Also minor text updates are proposed in relation to the contacts section.

3.6.65 *For further information please contact the Council’s Parks and ~~Estates~~
~~Team~~ **Parks and Green Spaces department** or ~~Environment Planning Policy~~
~~Team~~*

CIL Regulation 123 List amendment

For consistency it is recommended that social infrastructure category of the Regulation 123 list (which includes sports and play areas) should follow the same approach as green infrastructure. The text change is as follows:

- *Social Infrastructure, including social and community facilities, sports, recreational, play infrastructure and youth provision, and cultural facilities ~~(excluding on-site provisions)~~ **(excluding development specific mitigation works on, or directly related to, a development site)***

6. What Happens Next?

The above changes will be recommended for incorporation within the final amended documents. Subject to approval by the relevant Council’s Cabinet Member, final documents incorporating the amendments will be issued for adoption.

ANNEX 1: Representations to the Developer Contributions Consultation March 2019 and Council Response

Representations to the Amendments to Planning Obligations SPD

Respondents	Points raised	Response
Steve Osgood	<p>In 1970 the then MHLG required “gross open space” to be no less than 13% of "gross urban area".</p> <p>Is this being achieved within the urban zone delineated by the adopted World Heritage Site management plan to accord with its scheduled Attributes and Objectives ?</p> <p>Para 3.4.1 Objection to strike out</p> <p>Para 3.4.2 Objection to strike out “by 2026”</p> <p>Para 3.6.5 Objection to inclusion of Estates Team.</p>	<p>This document relates to securing Planning Obligations from new development. Under Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 Planning obligations must only be sought where they meet all of the following tests:</p> <ul style="list-style-type: none"> 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 <p>The Green Space Strategy provides data on green spaces within Bath and indicates where there are deficiencies in specific typologies – such as allotments, play space, Parks and Recreation Grounds and Amenity and Natural green space.</p> <p>3.4.1 – the strikeout text relates to National Planning Policy Framework (NPPF) 2012 text that has been superseded by the updated NPPF 2019. The development plan and supporting Green Infrastructure Strategy includes policies on green infrastructure and recreational open space.</p> <p>3.4.2 Engagement is an ongoing process, as projects come forward.</p> <p>3.6.5 Agreed delete Estates team and amend to <u>“Parks and Green Spaces department”</u>.</p>
Dunkerton &	The parish council supports the amendments to both documents	Support noted.

Tunley Parish Council's		
Saltford Parish Council	Saltford Parish Council is broadly content with proposals.	Support noted.
Westfield Parish Council	The Parish Council would like to comment that when developers are granted planning permission on the basis that there will be green spaces in the development, then those grounds should be enforced.	Noted.
Jan Shepley Widcombe Association	The Widcombe Association supports the proposed amendments to this SPD to bring it in line with the policies of the 2017 Placemaking Plan and welcomes the approach to require all new developments to contribute to the provision of green space either on or off site.	Support noted.
Mark O'Sullivan Planning Policy Officer, Greenway Lane Area Residents' Forum	<p>Thank you for the opportunity to comment on the proposed amendments to the documents setting out policies on CIL and other planning obligations in relation to green infrastructure and green space. Our comments are contained in this email.</p> <p>We note that 15% of CIL is currently passed to Parish Councils to spend on local schemes, rising to 25% in areas with an adopted Neighbourhood Plan; and that in unparished areas the Bath and North East Somerset Council stands in place of the parish council for this purpose, advised by the Bath City Forum. There is an anomaly of local representation here. Bath is a city of 100, 000 people, and although many interests are presented in the Bath City Forum there is not direct representation of all communities within the city. We would request that it be policy, in addition to consultation with the Forum, to consult directly with all residents' associations and similar bodies which are known to the Council as having membership in the relevant area.</p> <p>The beneficial effects of green space on physical and mental health are well known and stand behind the Council's policies on green infrastructure, and reviews such as Urban green spaces and health (Copenhagen: WHO Regional Office for Europe, 2016) have found "There is accumulating evidence for the beneficial</p>	<p>The issue of CIL spend in local areas is not relevant in the context of these Focused Amendments to the Planning Obligations SPD and the Reg 123 List which relates to Strategic CIL.</p> <p>Noted.</p>

	<p>effects of green space on mental health and cognitive development in children". We infer therefore that green infrastructure is especially important in the vicinity of schools, and it has to be a matter of regret that opportunities to safeguard such green space have often in the past been missed when schools have responded to demographic change by expanding their buildings. We see examples of this in Oldfield Park, where the buildings of Hayesfield Girls' School have come to cover so much of the original park, and more recently at Beechen Cliff Academy where the new Humanities Building now intrudes well into the green space and playing fields.</p> <p>We know that Beechen Cliff is under growing pressures from various directions, most recently from the extension of residents' parking into the vicinity, which will prevent staff and students from parking in the local streets; there is no up to date travel plan at the school, and we are aware that there have in consequence been discussions about urbanising significant parts of the school's green infrastructure by turning it into parking provision. With academy schools now being private charities, it is not possible to ensure that their administrative decisions are always made in ways that safeguard the wider public interest. We therefore suggest that it is necessary for the Council's planning policies to be strengthened in this area, and to make it clear that the loss of green infrastructure in the vicinity of schools is to be particularly carefully considered, and that compensating for such loss by securing off-site provision under section 106 will only in the rarest of circumstances be acceptable.</p>	
Sport England (Gary Parsons)	<p>Thank you for consulting Sport England on the above Local Plan document consultation.</p> <p>Sport England is the Government agency responsible for delivering the Government's sporting objectives. Maximising the investment into sport and recreation through the land use planning system is one of our priorities. You will also be aware that Sport England is a statutory consultee on planning applications affecting</p>	<p>Noted.</p> <p>Placemaking Plan Policy LCR5 relates to Safeguarding Existing Sport & Recreational Facilities and reflects NPPF para 97, on the need to provide replacement facilities where facilities are lost due to new development.</p> <p>See below for section on the Community Infrastructure Levy Reg 123 list amendment which is related.</p>

playing fields.

The new Sport England Strategy 'Towards An Active Nation' (2016-21) identifies key changes in the delivery of the strategy:

- Tackle inactivity: more money and resources
- Invest in children and young people to build positive attitudes to sport and activity
- Help those currently active to carry on, but at a lower cost to the public purse
- Put customers at the heart of what we do/be welcoming and inclusive
- Help sport to keep pace with the digital expectations of customers
- Encourage stronger local collaboration to deliver a joined up experience for customers
- Working with a wide range of partners, using our expertise and investment to align
- Applying behaviour change principles to encourage innovation to share best practice

Sport England has assessed this consultation in the light of Sport England's Planning for Sport: Forward Planning guidance
<http://www.sportengland.org/facilities-planning/planning-for-sport/>

The overall thrust of the statement is that a planned approach to the provision of facilities and opportunities for sport is necessary, new sports facilities should be fit for purpose, and they should be available for community sport. To achieve this, our objectives are to:

PROTECT sports facilities from loss as a result of redevelopment
ENHANCE existing facilities through improving their quality, accessibility and management
PROVIDE new facilities that are fit for purpose to meet demands for participation now and in the future.

Sport England believes that sport has an important role in modern society and in creating sustainable and healthy communities. Sport

	<p>and physical activity is high on the Government's national agenda as it cuts across a number of current topics that include health, social inclusion, regeneration and anti social behaviour. The importance of sport should be recognised as a key component of development plans, and not considered in isolation.</p> <p>The following comments are provided within the context of:</p> <ul style="list-style-type: none"> • The National Planning Policy Framework (DCLG, 2019). • Sport England's Planning for Sport webpages (2019). <p>1. Planning Obligations SPD amendment</p> <p>Sport England notes the evidence base now adopted by Council in support of para 96 of the NPPF – (i) a playing pitch strategy and (ii) a built sports facility strategy.</p> <p>Sport England supports use of planning obligations (s106)/community infrastructure levy (CIL) as a way of securing the provision of new or enhanced places for sport and a contribution towards their future maintenance, to meet the needs arising from new development. This does need to be based on a robust NPPF evidence base. This includes indoor sports facilities (swimming pools, sports halls, etc) as well as playing fields and multi use games courts.</p> <p>All new dwellings in BaNES in the plan period should provide for new or enhance existing sport and recreation facilities to help create opportunities for physical activity whilst having a major positive impact on health and mental wellbeing.</p> <p>The evidence base as mentioned above should inform the Infrastructure Delivery Plan (IDP) and / or CIL Reg 123 list. We all need to be mindful of s106 regulations that restrict up to 5 schemes contributing to a single project. There may be changes to those regulations in the future.</p>	
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Sport England promotes the deliverability of projects as identified in a playing pitch strategy and a built sports facility strategy OVER the use of generic standards.

Limitations with using standards of provision

Standards are sometimes used to help quantify the need that may be generated from a development. However, as set out below there are some risks and weaknesses with their use that should be highlighted:

The NPPF does not advocate the use of local standards for assessing the needs or providing for sporting provision. In terms of planning for sport and recreation it advises that specific evidence of the need for provision should be provided along with clarity of what provision is required NPPF para 96.

The existence of a local standard in a Local Plan, or other development plan document, does not necessarily in itself justify the requirement to seek provision for a specific facility type from an individual development. It would need to be underpinned by a robust assessment of need and developed further to provide a specific local requirement (e.g. an identified project or contribution to an identified project) informed by appropriate feasibility studies, costings etc.

If the underlying evidence base, and how the standard has been developed, is not robust and up to date then it may be difficult to justify their use.

Standards propose a certain amount of new provision for a given population. This level of new provision may not be necessary and may not relate to identified needs and actions as set out in a supporting evidence base document. For example, improving the quality or accessibility of existing provision to increase its capacity may be a more appropriate way to meet the need generated by a

	<p>development.</p> <p>Standards do not provide details of the needs that may be generated for the actual use of a facility. Standards therefore have limitations when seeking to improve existing provision to increase its capacity.</p> <p>Standards can be too generic with a single standard covering a number of facility or pitch types (e.g. x hectares for outdoor sport as opposed to a local assessment that may identify a shortfall of cricket and youth football pitches but adequate provision of adult football pitches). Such standards do not reflect the range of needs for different facility types that fall under a generic heading, or provide any certainty as to what specific needs will be generated from a development and therefore what provision is necessary.</p> <p>Applying a standard without robust evidence that existing provision, within a reasonable catchment of the individual development and in its current condition, is unable to meet the additional need will fail to demonstrate that the provision sought is necessary.</p> <p>We have now developed a Playing Pitch Calculator that can be used with data collected from a current Playing Pitch Strategy. The calculator can be used to inform:</p> <ol style="list-style-type: none"> 1. The development and/or update of a PPS by helping to estimate the demand from: <ol style="list-style-type: none"> a. overall population growth in an area to feed into the assessment of future demand; b. the population of individual development proposals (e.g. an urban extension) to feed into any scenario testing at the strategy development stage. 2. The implementation of a PPS by informing discussion, alongside the PPS itself, on the demand that may be generated by a proposed residential development (at the pre-application and planning application stages) 	
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2. Draft Amendment to the CIL Reg 123 List

The Reg 123 list set outs what infrastructure will be funded by new development under CIL and is to avoid duplicate payments by development for the same items of infrastructure, once through S106 and once through CIL. This is referred to as 'double dipping' on the planning portal.

Reg 123 of CIL can prevent planning permission being granted if site specific sports facility mitigation can only be secured through a planning obligation (direct provision or financial contribution).

The inclusion of 'sport' including playing fields as a generic term on the Reg 123 of CIL could preclude the use of s106 to secure mitigation when a sports facility or playing field is affected by a planning application and under para 97 of the NPPF the mitigation is needed to make the development acceptable.

A number of authorities have looked at a work around including:

- Westminster City Council lists "sports and leisure facilities" but says that "This Regulation 123 list explicitly excludes the provision of infrastructure that is required to make a development acceptable in planning terms and which meets the legal tests of Regulation 122 of the CIL Regulations. Through the publication of this list the council therefore retains its discretion to negotiate necessary planning conditions and S106 obligations to secure such infrastructure", and have produced a SPD about this.
- LB Croydon tables a comparison of the "infrastructure projects or types that Croydon intend will, or maybe, wholly or partly funded by CIL and those projects or types that will be funded by S106". "Provision, improvement, replacement operation or maintenance of public sports and leisure" is on CIL, whereas on the S106 list it includes "S106 for standard site/design mitigation".

	<p>I hope that this response is helpful to the Council in determining how to take the SPD/Community Infrastructure Levy (CIL) forward. If you would like to discuss any of the above comments or if we can be of any further assistance in the development of future local plan documents, please do not hesitate to contact me via planning.south@sportengland.org .</p>	
<p>The Canal & River Trust Jane Hennell</p>	<p>Successful planning policies and decisions can help to improve people's access to and enjoyment of our waterways. Our waterways provide vital access to green and blue spaces, as well as providing significant social, economic and environmental wellbeing benefits for local communities.</p> <p>CP7Paragraph 3.4.9 states that 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 and the Trust agree with this paragraph, However It does not mention that the impact of the development on the wider GI network will be assessed and that where necessary mitigation in the form of off-site enhancement will be sought.</p> <p>The obligation to make a contribution to either on or off-site provision seems to relate to additional recreational open space ("green space") and facilities which cannot be met on-site or by existing provision. It is not clear if all types of GI can be funded where appropriate in this policy or whether it relates only to recreational open space The Reg 12 list mentions that Green infrastructure to deliver the requirements set out in the Green Infrastructure Strategy, including specific green space requirements identified in the Green Space strategy (excluding on site provisions) (excluding development specific mitigation works on, or directly related to, a development site).</p>	<p>Para 3.4.1 refers to policy CP7 which states that existing and new green infrastructure must be planned, delivered and managed as an integral part of creating sustainable communities.</p> <p>Para 3.4.3 proposed 3.4.9 states that strategic infrastructure will be delivered through a number of mechanisms including CIL, and green infrastructure should be central to new developments. Developments that do not address green infrastructure adequately are likely to be considered unacceptable. CIL has been applied to green infrastructure.</p> <p>If the Canal and River Trust has a specific project then this would need to be incorporated into the B&NES Green Infrastructure Action Plan.</p>

	<p>The Planning obligations document only seems to mention the need for a contribution towards greenspace not GI and so the two documents may be in conflict.</p> <p>Does recreational open space only relate to more formal open space such parks and pitches? It is noted that the canal is shown as natural open space within the 2015 strategy, but it is not clear if these amendments are using Green space and Green infrastructure as interchangeable terms meaning the same thing or whether only land Green space can be funded and not green infrastructure.</p> <p>Perhaps the council need to consider what they are recognising as GI but not Green space, and whether it is their intention that the provision or improvement of other types of GI can be funded as a planning obligation and not just the green space typologies listed at table 19?</p> <p>Our waterway infrastructure provides a public resource for walking and cycling and is recognised as Green infrastructure and of benefit the wellbeing of communities. It is unclear whether the Kennet & Avon canal and its towpath are considered as recreational open space, or green space, even if they are considered to be green infrastructure.</p> <p>Development can often place additional liabilities and burdens onto the waterway infrastructure. Works to towpaths may be necessary to address the extra traffic resulting from a near-by development, or upgrades to or replacement of bridges, which constrain the development potential of an area may be required.</p> <p>If the towpath is GI but is not included in the recreational green space definition, then presumably S106 cannot be granted to help mitigate the impact of development. If this is the intention of the document then the Trust would ask the council for a full explanation of why they would not wish to support mitigation to offset damage caused by development to important Multi-</p>	
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	functional GI assets.	
Jacky Wilkinson B&NES Allotments Association	<p>The Association considers that food growing spaces and traditional allotments should be an integral part of the development brief for all new housing schemes, in accordance with the thresholds set out in the Green Spaces Strategy. This reflects a growing understanding of the importance of this type of urban/suburban green space to genuine sustainable development, not only in terms of local food miles, but also in terms of mental and physical health and biodiversity (allotments are great places for urban wildlife and pollinators).</p> <p>The Association welcomes the principal of securing new green spaces, in particular allotments, on the development sites through Section 106 obligations, rather than through Strategic CIL. If this is made clear from the start, the site value paid by developers should reflect this requirement, so it should not affect viability.</p> <p>In this respect the Association urges the Council to be clearer and stronger in its requirements for allotments, which unlike other forms of green spaces, are largely run by the plot-holders themselves and which have a statutory definition. Bringing all new allotments into Council management would give them stronger long term security through statutory protection and would give the users a consistent quality of management. Developers/management companies usually don't have experience in running allotments. There is at least one site (Meadow View in Twerton) where private (Curo) management has been unsuccessful.</p> <p>Para 3.6.1 Line 2 – allotments should be required to be offered for adoption by the Council, and Line 4 - the Council should say that it will adopt them. This gives certainty which developers can factor into their project.</p> <p>Para 3.6.3</p>	<p>In principle support noted.</p> <p>The new Local Plan will include allocations, and where applicable the requirements for allotments will be made clear as a placemaking principle. In this case the developer will be clear that the land value must reflect the policy requirements.</p> <p><u>Amendments recommended</u> <u>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. In principle the Council will consider adopting these facilities subject to a number of conditions, which are set out below.</u></p> <p><u>New paragraphs</u> <u>"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.</u></p>

	<p>There should be a trigger for allotments. All new allotments should offered for adoption.</p> <p>Conditions</p> <p>1. In the case of allotments saying that they should be “useable” is far too vague. The Council should either provide a Design Guide (which could be fairly basic and added to the GP Strategy) or refer to any National guidance. The NSALG web-site does have some useful general advice, which could be referred to.</p> <p>2 – a one-year period doesn’t work for allotments, which are rented out to plot-holders from the start. There are good practical reasons why all new allotment sites should be handed over to the Council for management from the start. Developers won’t want to get involved with waiting lists, tenancy agreements etc just for one year.</p> <p>3 – There should be evidence as to how the commuted sum of £19.96 per m sq was developed. Is this actually enough? Given that the rents set by the Council are supposed to reflect the actual costs of the service, will the Allotments budget show these commuted sums separately to ensure that the plot-holders will be able to understand how their rents are calculated?</p>	<p><u>“There is no obligation on the Council to accept an offer to adopt Green Space, Allotments and Landscaping Schemes”</u></p> <p>The Green Space strategy includes thresholds for allotments, however the requirement to provide allotments will be part of the site allocation process as part of the preparation of the Local Plan.</p> <p>The design of allotments will be considered as part of the planning application and discharge of conditions.</p> <p>The reason for the one year period condition is that the Council must be satisfied that the hard and soft infrastructure is functional and is established properly. The management of the allotment tenancies can be subject to negotiation with the Council prior to adoption of the land.</p> <p>The figure of £19.96 has been carried forward from the previous Planning Obligations SPD 2009 and indexed linked. The comments are noted.</p>
<p>Persimmon Homes Severn Valley (PHSV) and Persimmon Homes Wessex (PHW) James Durrant Strategic Planning Manager</p>	<p>These representations are submitted on behalf of Persimmon Homes Severn Valley (PHSV) and Persimmon Homes Wessex (PHW), both of whom cover areas which fall within the Bath and North East Somerset Council administrative area.</p> <p>PHSV and PHW are supportive of Placemaking Plan Policy CP7 which states that existing and new Green Infrastructure must be planned, delivered and managed as an integral part of creating sustainable communities. We are also therefore supportive of Paragraph 96 of the NPPF which sets out 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. However, we share concerns over the age of the</p>	<p>The supply/deficits of green space is based on population. An update of the data is expected to follow the 2021 census. On-going changes to green space are recorded annually and planning applications affecting green space demand are considered on a case by case basis.</p>

2015 Green Space Strategy which underpins the consideration at application stage as to the impacts of developments and therefore the required mitigation.

It is important to consider Paragraph 96 of the NPPF in its entirety as set out below:

*“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. **Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities** (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. **Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed,** which plans should then seek to accommodate.”* (Our emphasis)

The Council should be reviewing the Green Space Strategy on a regular basis to ensure that a full, robust and up to date audit of the capacities of the open spaces and recreation facilities across the Bath and North East Somerset Council administrative area is available for both the Council and developers to assess the impacts of both potential future developments as well as developments proposed within formal planning applications.

Without robust and up to date evidence, it is not possible to assess the impact of developments and the need and scale of mitigation required. This would therefore mean that any required obligations in relation to open space and recreation would not meet the tests required by the Community Infrastructure Regulations 2010 and subject to the Written Ministerial Statement of 28th November 2014, as set out within proposed new paragraph 3.4.8 of the Planning Obligations SPD. Without up to date evidence, it is not

	<p>possible to assess whether obligations are “necessary to make the development acceptable in planning terms”. It is also of note that obligations which require contributions to off site works must now specify what specific project that money will be spent on and the need for this work should be justified.</p> <p>We therefore support the amendments to the Planning Obligations SPD but advise that the Council should revise the Green Space Strategy as a priority.</p> <p>These comments are intended to be constructive. I would appreciate being kept informed of any future consultations on amendments to the document as well as any other policy documents.</p>	
Mr Craig Underwood on behalf of Freshford Parish Council	<p>Item 3.4 Green Infrastructure</p> <p>Clause 3.4.2 A reference to quality open space and opportunity for sport and physical activity added Support</p> <p>Clause 3.4.3 (New clause) Emphasizing the policy to achieve green infrastructure and spaces for all the right reasons. Support</p> <p>Clause 3.4.4 (New Clause) The developer can provide cash or an off site facility to meet the need Support</p> <p>Clause 3.4.6 (New Clause) Confirming areas, types and distance from development Support, perhaps a typo? quality twice no typology.....</p> <p>Clause 3.4.7 (New) developers to engage early doors with the council. Support</p> <p>Clause 3.4.8 (new clause) Planning obligations only secured where they are necessary, directly related and fair. Off site enhancement and maintenance to be established at application stage. Support on the understanding that the enhancement and maintenance is site specific to the application.</p> <p>Clause 3.4.9 (Previously 3.4.3) Green infrastructure can be delivered via CIL . Support</p> <p>Clause 3.5.8 Costs uplifted for specific tree works that might be charged to developer Support</p> <p>Clause 3.6.1 (replaces above) Council adoption of facilities can be considered. Support</p>	<p>Support noted.</p> <p>Reference is made to quantity and quality. “Quality” is not stated twice.</p>

	<p>Clause 3.6.3 (formerly 3.6.4) Conditions to be met for adoption spaces etc; high quality, maintained by developer 12months, cash for maintenance 20 years. Support</p> <p>Clause 3.6.4 (formerly 3.6.5) Commuted sums secured by Section 106 agreement index linked Support</p>	
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Representations to the Amendment to the Reg 123 List

Respondents	Points raised	Response
Dunkerton & Tunley Parish Council's	The parish council supports the amendments to both documents	Support noted
Saltford Parish Council	Saltford Parish Council is broadly content with proposals.	Noted
Mark O'Sullivan Planning Policy Officer, Greenway Lane Area Residents' Forum (Duplicate from Planning Obligations SPD amendments section above)	<p>Thank you for the opportunity to comment on the proposed amendments to the documents setting out policies on CIL and other planning obligations in relation to green infrastructure and green space. Our comments are contained in this email.</p> <p>We note that 15% of CIL is currently passed to Parish Councils to spend on local schemes, rising to 25% in areas with an adopted Neighbourhood Plan; and that in unparished areas the Bath and North East Somerset Council stands in place of the parish council for this purpose, advised by the Bath City Forum. There is an anomaly of local representation here. Bath is a city of 100, 000 people, and although many interests are presented in the Bath City Forum there is not direct representation of all communities within the city. We would request that it be policy, in addition to consultation with the Forum, to consult directly with all residents' associations and similar bodies which are known to the Council as having membership in the relevant area.</p> <p>The beneficial effects of green space on physical and mental health are well known and stand behind the Council's policies on green infrastructure, and reviews such as Urban green spaces and health (Copenhagen: WHO Regional Office for Europe, 2016) have found "There is accumulating evidence for the beneficial effects of green space on mental health and</p>	Noted, however the issue of CIL spend in local areas is not relevant in the context of these Focused Amendments to the Planning Obligations SPD, and the Regulation 123 List relates to strategic CIL allocations (not local CIL).

	<p>cognitive development in children". We infer therefore that green infrastructure is especially important in the vicinity of schools, and it has to be a matter of regret that opportunities to safeguard such green space have often in the past been missed when schools have responded to demographic change by expanding their buildings. We see examples of this in Oldfield Park, where the buildings of Hayesfield Girls' School have come to cover so much of the original park, and more recently at Beechen Cliff Academy where the new Humanities Building now intrudes well into the green space and playing fields.</p> <p>We know that Beechen Cliff is under growing pressures from various directions, most recently from the extension of residents' parking into the vicinity, which will prevent staff and students from parking in the local streets; there is no up to date travel plan at the school, and we are aware that there have in consequence been discussions about urbanising significant parts of the school's green infrastructure by turning it into parking provision. With academy schools now being private charities, it is not possible to ensure that their administrative decisions are always made in ways that safeguard the wider public interest. We therefore suggest that it is necessary for the Council's planning policies to be strengthened in this area, and to make it clear that the loss of green infrastructure in the vicinity of schools is to be particularly carefully considered, and that compensating for such loss by securing off-site provision under section 106 will only in the rarest of circumstances be acceptable.</p>	
Sport England	<p>See above for general sections and Planning Obligations SPD section.</p> <p>2. Draft Amendment to the CIL Reg 123 List</p> <p>The Reg 123 list set outs what infrastructure will be funded by</p>	<p>Placemaking Plan Policy LCR5 relates to Safeguarding Existing Sport & Recreational Facilities and reflects NPPF para 97, on the need to provide replacement facilities where facilities are lost due to new development.</p>

	<p>new development under CIL and is to avoid duplicate payments by development for the same items of infrastructure, once through S106 and once through CIL. This is referred to as 'double dipping' on the planning portal.</p> <p>Reg 123 of CIL can prevent planning permission being granted if site specific sports facility mitigation can only be secured through a planning obligation (direct provision or financial contribution).</p> <p>The inclusion of 'sport' including playing fields as a generic term on the Reg 123 of CIL could preclude the use of s106 to secure mitigation when a sports facility or playing field is affected by a planning application and under para 97 of the NPPF the mitigation is needed to make the development acceptable.</p> <p>A number of authorities have looked at a work around including:</p> <ul style="list-style-type: none"> Westminster City Council lists "sports and leisure facilities" but says that "This Regulation 123 list explicitly excludes the provision of infrastructure that is required to make a development acceptable in planning terms and which meets the legal tests of Regulation 122 of the CIL Regulations. Through the publication of this list the council therefore retains its discretion to negotiate necessary planning conditions and S106 obligations to secure such infrastructure", and have produced a SPD about this. LB Croydon tables a comparison of the "infrastructure projects or types that Croydon intend will, or maybe, wholly or partly funded by CIL and those projects or types that will be funded by S106". "Provision, improvement, replacement operation or maintenance of public sports and leisure" is on CIL, whereas on the S106 list it includes "S106 for standard site/design mitigation". 	<p>For consistency purposes it is recommended that that social infrastructure including children's play and youth infrastructure provision should follow the same approach as green infrastructure.</p> <p>Social Infrastructure, including social and community facilities, sports, recreational, play infrastructure and youth provision, and cultural facilities (excluding on-site provisions) <u>(excluding development specific mitigation works on, or directly related to, a development site)</u></p>
Mr Craig Underwood	CIL Infrastructure list; Extending the exclusion to mitigation works beyond the on site	Noted.

on behalf of
Freshford
Parish
Council

provision. No Comment