

## **APPENDIX 2**

# **Bath & North East Somerset Council Planning Obligations Review Supplementary Planning Document (SPD)**

**Consultation Statement  
December 2022**

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**Bath & North East  
Somerset Council**

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**Improving People's Lives**

# **1 Introduction**

- 1.1 This statement sets out the stakeholder engagement and consultation carried out during the review of Bath and North East Somerset Council Planning Obligations Supplementary Planning Document (SPD), and the Council's response to issues raised during the consultation.
- 1.2 This statement has been prepared in accordance with Regulation 12 of the Town and Country Planning (Local Planning) (England) Regulations 2012, which requires that the Council prepares a statement setting out the persons the local planning authority consulted when preparing the SPD, a summary of the main issues raised by those persons, and how those issues have been addressed.
- 1.3 This statement explains how the consultation was undertaken and who has been consulted, a summary of the issues raised, and how the main issues have been addressed in preparing the SPD.

# **2 Background to the Planning Obligations SPD Review**

- 2.1 The Planning Obligations SPD has been updated to include (in summary) amendments reflecting the Community Infrastructure Levy Regulations (amendments 2019); updates based on Planning Policy Guidance on viability and monitoring S106 agreements, provision of additional guidance to support policy updates within the Local Plan Partial Update (including Biodiversity Net Gain, Carbon Offsetting and Transport and Development SPD measures); updates to the affordable housing chapter to reflect changes in national policy and implementation issues; changes to the education facilities chapter to include secondary school contributions and reflect more up to date information; and other minor update changes relating to the implementation of policies, while not changing policy.

# **3 Formal consultation on Draft Planning Obligations SPD**

- 3.1 Formal consultation on the Draft SPD was carried out for 6 weeks between 6 May to 17 June 2022. On the run up to, and during this period, the following was undertaken:

- **Notification mailout** – Information about the consultation was issued prior to the start of the consultation period by email to all those on the Council's mailing list, including statutory consultees and a range of other stakeholders.
- **Press releases** – A Press Release was issued. Refer to Annex 1 for a link to a Midsomer Norton Nub News article.
- **Social media** – Posts were posted on the Council's social media pages to remind residents and others of the opportunity to comment on the Draft Planning Obligations Review SPD.
- **Dedicated webpage** – A webpage relating to the consultation could be accessed via links from the Council's Website Home Page. Links were on the Homepage banner and "**Have Your Say**", together with the **Planning Policy home page – "Respond to or view a Current Planning Consultation"**. (Refer to the Annex 1 for screenshot of homepage). The webpage set out the policy background, a document overview of the SPD, explanatory text as to how the review of the SPD might impact different users, consultation details, including a web comment form and email address/ contact details to send responses, and SPD adoption timeline.
- **Direct contact information** - An email address was provided on mailouts and press releases for those who wanted to ask direct questions and seek further information.
- **Posters** were put up in the Council's main offices and all Libraries directing people to the Consultation. The offices and libraries had computers available and assistance to access the documents.

## 4 **Summary of responses to the consultation and Council response to key issues raised**

- 4.1 A total of 24 responses were received in relation to the Draft Planning Obligations Review Supplementary Planning Document (SPD) consultation.
- 13 filled out the webform
  - 11 sent responses via by email
- 4.2 Town and Parish Councils included the SPD Consultation as Council meeting agenda items.

- 4.3 A summary of consultation responses and key issues raised, along with a proposed Council response to each of these is set out in Annex 2..

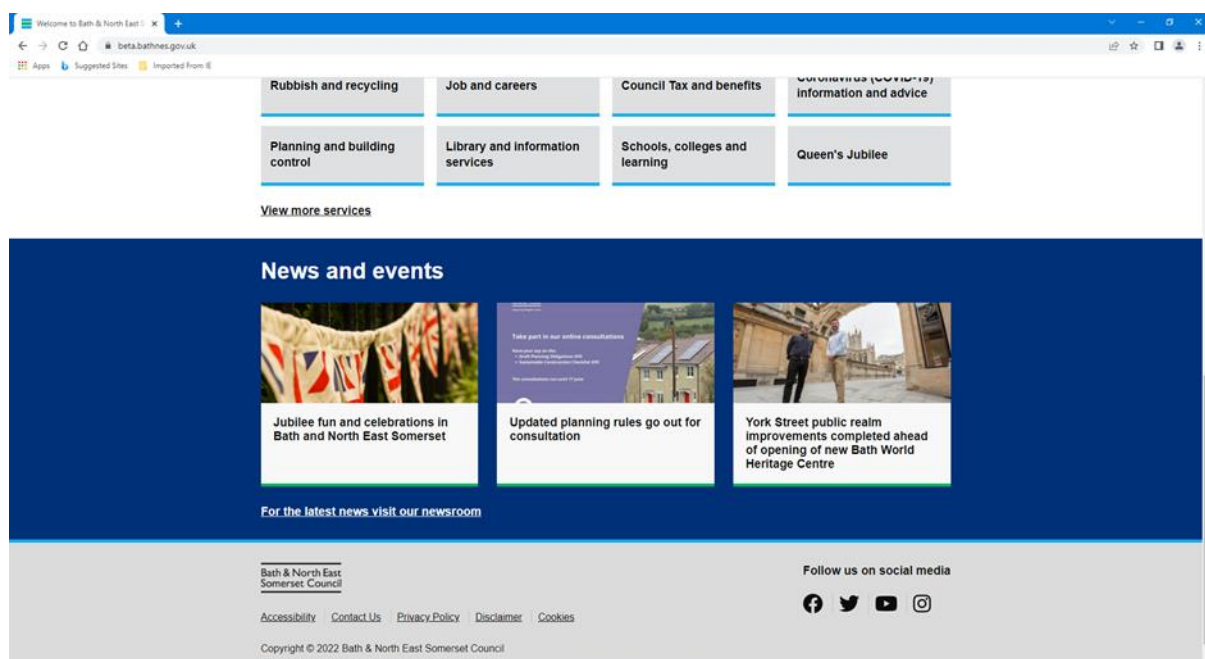
#### **Strategic Environmental Assessment Screening.**

- 4.4 The Environment Agency, Heritage England and Natural England were consulted on the Council's Strategic Environmental Assessment screening. Both Heritage England and Natural England agreed that, based on likely environmental effects, the Planning Obligations SPD did not require a formal Strategic Environmental Assessment.
- 4.5 Natural England stated "*Natural England agrees with your conclusion that the SPD is unlikely to give rise to significant environmental effects and that a Strategic Environmental Assessment is not required*"
- 4.6 Historic England stated:  
"*Dear Sirs,*  
*regarding the SEA Screening consultations, I can confirm that Historic England do not wish to challenge the conclusions you have come to that both SPD will not give rise to significant environmental effects.*"

## ANNEX 1- Examples of publicity on the Draft Planning Obligations SPD Review

Articles were in local journals – see links below and screenshot of Council's homepage.

Midsomer Norton Nub News [LINK to article](#)



## ANNEX 2 - SCHEDULE OF ISSUES RAISED DURING THE CONSULTATION AND THE COUNCIL'S RESPONSES

Issue	Summary of Key Issues Raised in the Consultation	Council's Response
General	<p>General Support</p> <p>agree that providing clear guidance on the Council's approach to S106 obligations is helpful</p> <p>notes that Section 3 of the Draft Planning Obligations Supplementary Planning Document Review is the only document that refers specifically to Parish Councils</p>	Noted
General - timing	<p>The draft SPD is in part based upon policies which will be introduced by the Local Plan Partial Update (LPPU). Any elements of the draft SPD which are based upon the LPPU should only be given limited weight until such point as the LPPU has sufficient weight.</p> <p>The SPD should be revisited once the LPPU process has concluded so as to be compliant with the policies within the Development Plan once these have been adopted.</p> <p>The LPPU process needs to conclude, and as part of this process the Inspectors need to determine that the requirements within the plan are sound. This includes the need to make sure that sites allocated for development can come forward and that the detail of the policies (and any future guidance such as that in the SPD) will result in development actually delivering.</p>	<p>Noted.</p> <p>The majority of the SPD relates to updates which are independent from the LPPU policy changes. The planning obligations relating to policies which are being introduced or updated in the LPPU will only come into force and apply to applications that are determined following adoption of the LPPU. The LPPU is at an advanced stage as the Council has recently received the Inspector's Final Report for the LPPU and the policies (subject to Main Modifications) have been found sound. Adoption of the LPPU is due to be considered at a meeting of full Council in January 2023.</p> <p>Planning obligations will be considered at the planning application stage. SPDs are a material consideration in determining planning applications.</p>
General S106 Monitoring	<p>Section 2.9.3 Fees &amp; Costs proposes that B&amp;NES can charge a s.106 Monitoring Fee. This is welcomed provided that it is made explicit that this is used by B&amp;NES to resource Officers to pro-actively monitor compliance with s106 agreements. It is not appropriate to solely rely on reactions from local parish councils to identify non-compliance.</p>	Noted.
General - approach	<p>Concern that the obligations sought in this SPD may lead to contributions being required that are not necessary to make an application acceptable,</p>	<p>The SPD makes clear at section 2.1 that planning obligations will only be required where they meet the three legal tests in accordance with the CIL</p>

	<p>that may not directly result to the development and that are not of a scale and kind that reasonably relate to the proposal.</p> <p>There are elements of the SPD that should be included within the development plan, not as a separate SPD.</p> <p>The SPD needs to recognise that obligations need to be tailored to the site specific context. Requirements shouldn't be prescriptive and should allow scope for innovative solutions to be proposed for schemes.</p> <p>Once the SPD has come forward, we suggest that further details are provided to support the level of contributions sought, and to caveat that each application will be determined on its own merits, and that obligations should not be sought where they do not meet the tests set out in PPG.</p>	<p>Regulations 2010 reg 122. Specific mitigation measures and obligations will be assessed as part of the determination of planning applications.</p> <p>The SPD builds on policies within the Local Plan and the LPPU and does not create new policy. The planning obligations relating to policies which are being introduced or updated in the LPPU will only come into force and apply to applications that are determined following adoption of the LPPU. The LPPU is at an advanced stage as the Council has recently received the Inspector's Final Report for the LPPU and the policies (subject to Main Modifications) have been found sound. Adoption of the LPPU is due to be considered at a meeting of full Council in January 2023.</p> <p>The planning obligation requirements are assessed as part of the planning application and allow negotiation relating to site specific issues and innovative solutions to be proposed to address mitigation of impacts.</p> <p>The planning obligations are justified and meet the 3 legal tests. The new areas of contributions – Biodiversity Net Gain and Carbon Offsetting, together with updated housing accessibility standards, have been viability tested as part of the LPPU submission (refer to Viability – General row below).</p>
Viability - General	<p>Concern that the requirements of the SPD may put undue burden on applications that renders development unviable.</p> <p>As part of the LPPU the policies of the Development Plan are being reviewed both individually but also cumulatively and there appears duplication between the SPD and the LPPU. The viability of each policy needs to be reviewed on an individual basis but also in the context of the other obligations and policy requirements being sought.</p> <p>There is limited viability evidence underpinning the obligations sought, and minimal detail provided to justify the specific wording of obligations.</p>	<p>The LPPU Viability Assessment 2021 assessed the viability of a number of typologies, cumulatively taking into account existing policy costs and the LPPU policy costs, including CIL and an allowance for S106. The Inspector in examining the LPPU has not raised concerns regarding the assumptions and conclusions of the Viability Assessment which demonstrates that the allocations and typologies are viable taking into account the development type and location.</p> <p>It is important to note that many of the items in the SPD approved 2015 have been carried forward to this SPD and therefore the principle has been previously accepted. The most significant changes relate to the new policy areas – sustainable construction and biodiversity net gain.</p>
Viability – Implementation	<p>Re para 2.5.1, states developers will need to provide the Site or Building acquisition costs and existing use value. The PPG viability guidance states that actual Site Costs should not be relied upon for the purposes of the viability assessments (although they can be asked for), and for the purposes of greenfield/strategic scheme viability assessments, Benchmark Land Values are generally applied as a multiple of agricultural use value. On this basis, it might be appropriate for this point to instead read "Details of the development site's existing use value, the landowner</p>	<p>The SPD has been updated to refer to the Planning Practice Guidance relating to Viability Assessments. The list of information required will be replaced with wording "<i>Any viability assessment should reflect the Government's recommended approach to defining key inputs as set out in Planning Practice Guidance.</i>"</p>

	<p>premium and the calculation of the Benchmark Land Value to be adopted within the viability assessment”.</p> <p>Section 2.5 of the Draft SPD clarifies what the Council would require in terms of viability evidence if the level of proposed planning obligations would render a proposal unviable. In line with accepted practices elsewhere, flexibility should be applied in relation to the information submitted. An open book exercise can, in some instances, be more beneficial and efficient to both the developer and Council. As such we would encourage the Council to accept open book viability exercises rather than requiring full, commissioned reports and subsequent interrogation, in every instance.</p> <p>Assessing development viability is now an integral part of planning and should become part of normal planning practice. We would encourage the Council to seek in-house expertise in respect to assessing development viability, noting the delay and cost associated with independent assessments</p>	<p>Noted. Reference to Viability Review Mechanisms has been added to the SPD, in line with the Planning Practice Guidance.</p> <p>Independence in the review of Viability Assessments is considered important, and in any event, there is not currently Council funding available for an internal appointment to provide expertise. Reviews are funded by the developer.</p>
Affordable Housing Threshold	<p>Section 3.1.39 refers to ... 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....</p> <p>Request that it is made explicit that when officers use “density” assumptions to assess whether land is being used efficiently in rural areas then those density assumptions should be consistent with any Parish Character Assessment in a made Neighbourhood Plan. East Harptree Parish Council have experience of officers using more urban based density assumptions to force a higher density of housing on a small rural site, at odds with the local parish character assessment and even in excess of what the developer itself wanted to build. This is considered simply not appropriate, even if it might result in a few extra affordable houses.</p>	<p>Noted. Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Site densities will be judged on planning merits as part of the consideration of the planning application and densities would not be required above what is appropriate in planning terms.</p>
Affordable Housing Phasing on Large Sites	<p>para 3.1.41- the requirements seem quite onerous. It is requested that there is increased flexibility to provide a greater amount of market dwellings before the affordable units are required to be completed. There would be no particular risk to the Council if this was pushed to 50% - particularly in-light of the requirements under para 3.1.42.</p> <p>Para 3.1.43 - to allow flexibility for the design and deliver of developments, it is suggested that a small amendment is made, to read</p>	<p>This is a long established position that has not changed since the 2015 SPD.</p>



	as follows “Each phase will be expected to deliver a <u>broadly</u> proportional level of affordable housing to ensure even distribution across the development”.	
Affordable Housing	Para 3.1.19 of the draft SPD sets out the Homeseach policy that no one living in an affordable home should pay any more than 35% of gross household income to meet their housing costs. The SWHAPC would like to raise that this can only ever be an aspiration because rents are not tailored to the incomes of individuals. Paras 3.1.21 & 3.1.22 seem to sensibly dilute this requirement to a more administrable ultimate cap of LHA for rents, however paragraph 3.1.23 in respect of low cost homeownership discusses benchmarking affordability against the lower quartile for market rents but then it reintroduces the overarching 35% income test for affordability. This is not administrable because individual incomes (as defined) will vary, unless it's the Council's intention that those who would fail the income test, following assessment, would not qualify for the shared ownership homes in question?	The principle of a limit is well established (it is also referred to as an affordability test). The level increased from 25% to 35% to ensure that the Council is in line with the Council's West of England partner authorities.
Affordable Housing tenure	<p>It is very difficult to understand how the Council is justifying its approach to omit the Affordable Rent tenure and for all rented properties to be provided as social rent. Paragraph 3.1.32 implies that the preference for Social Rent is as a result of the SHMA 2013 however it appears that the SHMA makes no recommendation to this effect. Appears the SHMA 2013 does not distinguish between social and affordable rent tenures, providing a single combined need for rented properties.</p> <p>..in order for the Plan to be compliant with the NPPF (July 2021), the Plan should embrace all types of affordable housing products, including housing for affordable rent. Additionally, the Council should be aware that as affordable homes for social rent are more costly for Housing Associations to provide, a dominance of social rented delivery could lead to a reduction in the number of rented affordable tenure homes across B&amp;NES as a whole.</p> <p>Advise further text that allows for some flexibility in terms of tenure, with the Council willing to take into account the identified local need for affordable housing and site specifics (including funding and the economics of provision). We encourage this approach of negotiating the tenure mix of affordable housing where needed on individual sites as this will enable the Council to respond flexibly to schemes that come forward to meet local needs which do not comply with the indicative split. This ensures that deliverable development may still come forward to meet</p>	<p>No change. The Councils expected tenure mix is 75% homes for social rent and 25% intermediate housing. Updated evidence on housing need will be prepared for the new Local Plan (launched September 2022).</p> <p>Notwithstanding this, Table 3.1.A of the SPD sets out the types of affordable housing that are likely to be considered in the District, based on the NPPF, including “Intermediate Rent”, which is defined as “Rented housing at a level above that of Social Rent but up to 80% of local market rent (including service charges).”</p> <p>A Viability Assessment was undertaken for the Local Plan Partial Update which showed that affordable housing based on the above tenure split and other development plan policy requirements were viable. The assessment notes “It is critical that developers do not over-pay for sites such that all of the value generated by developments is paid to the landowner, rather than being used in part to provide affordable housing and to meet other planning policy requirements.”</p>

	<p>locally-specific needs.</p> <p>Concern that the SHMA 2013 is considerably out of date. The NPPF 2018 introduced an updated national definition for affordable housing (See Annex 2 of the NPPF). The new definition of affordable housing includes a wider array of tenures...Strongly recommends that the Council prepares a new SHMA as a result of these altered definitions. It is important that all needs are properly considered</p>	
Affordable Housing Build to Rent	<p>There is no recognition within the affordable housing chapter of Build to Rent (BTR) as a form of housing being delivered within the city, nor is there any recognition of discount market rent (DMR) as the type of affordable housing which is delivered within BTR developments. Reference existing BTR developments and BTR Demand Study submitted as part of Bath Junction planning application (ref. 20/03071/EFUL).</p> <p>PPG chapter on BTR can be used as a basis upon which to base the Council's approach to affordable housing within BTR developments (i.e. affordable housing provided in the form of DMR, managed by the same operator as the open market housing, generally at 80% of market rent).</p>	Build to rent in general is not considered as affordable housing therefore, affordable housing policies will be applied. Refer to above point regarding Table 3.1.A of the SPD and reference to different types of affordable housing.
Affordable Housing Service Charges	<p>Para 3.1.25 sets a maximum service charge for occupants of any affordable housing unit at £650 per annum. This is a £150 increase on the current ceiling service charge value of £500 (set out in the existing Planning Obligations SPD), equal to a 30% increase.</p> <p>The SWHAPC advises that the cap should carve out sinking funds and contributions towards major repairs, replacements and cyclical works, paid by those in low cost homeownership, particularly where such costs will result in the enhancement of the value of their legal interest in the home. In addition, there should also be provision for the RP to be able to negotiate with the Council in instances where the service charge is likely to exceed the cap from day one because of design and layout requirements which are themselves sometimes imposed by planning policy. For example, requirements for lifts in apartment blocks. The SWHAPC has experienced service charges that exceed £650 in other areas. Any unrecoverable service cost deficits arising, because RPs can't charge for any actual costs incurred in excess of the cap, will simply serve to frustrate the viability of affordable housing.</p>	Incorrect the increase is £50. The 2015 SPD stated at para 3.1.21 " <i>The Service Charge payable by the occupants of any Affordable Housing Unit shall be limited to no more than £600 per annum from 1st April 2015 and Index Linked annually from the date of occupation thereafter</i> ". The service charge has not been indexed. If the figure had been indexed, it would have been much higher.
Affordable Housing Accessible	paragraph 3.1.33 should cross references Policy H7 of the Local Plan Partial Update and/or paragraph 3.1.50 so that readers are clear on when M4(3)(2)(a) or M4(3)(2)(b) should be applied and in what proportions.	Agreed. Para will read "3.1.33 A proportion affordable homes delivered through policy CP9 will be adaptable and accessible (Building Regulations M4(2)) and in addition will deliver a proportion of wheelchair user

Housing	<p>Support LPPU Policy H7 requirement where the policy is backed by up to date evidence and viability testing in line with the NPPF and PPG requirements.</p> <p>Supports paragraph 3.1.56 that the Council will allow flexibility in the application of accessible housing standards M4(2) and M4(3) at the planning stage on a site by site basis.</p>	<p>accommodation (Building Regulations M4(3)). <u>Reference policy H7 of the Local Plan Partial Update</u></p> <p>The accessibility standards have been viability tested as part of the LPPU evidence base subject to examination.</p> <p>Noted.</p>
Affordable Housing Clustering of Affordable Housing Units	<p>Under para 3.1.47, 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. The Council should consider that Registered Providers (RPs) have an appetite for larger clusters, for management and maintenance reasons. It should be tested with the market whether a cluster of 8 is considered too small.</p> <p>Reference paragraphs 3.1.47 &amp; 3.1.48, members of the SWHAPC have raised that they would not be willing to provide mixed tenure apartment blocks or taking individual affordable apartments as part of a larger open market block, which would not provide them with total ownership and management of the entire building.</p> <p>Reassured that there is provision for discussion with the Council's Enabling &amp; Planning Officers on such matters.</p>	<p>There is no change to these paragraphs from the 2015 adopted SPD – this has been a long established position by the Council.</p> <p>Noted.</p>
Affordable Housing Communal Space	<p>Reference paragraph 3.1.29 – <i>“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.”</i></p> <p>Could the Council please clarify/define what is meant by ‘appropriate communal space’?</p>	<p>No change proposed. This approach has not changed since the SPD was adopted 2015. Each case will be determined on its merits.</p>
Affordable Housing Design and Standards	<p>paragraph 3.1.58 re gardens and outdoor space for affordable properties, it would be helpful if the Council could provide some set basic requirements (as to what is included in the developer's baseline build specification) for affordable housing to include. This may include items such as 1.8m close board fencing, turfed gardens &amp; sheds which are frequently not included and have to be paid for as extras.</p> <p>Additionally, the SWHAPC recommends that the SPD sets out a maximum gradient for gardens and requires that balconies are provided as balconies with decks, rather than Juliette style, so that households</p>	<p>Noted. The Council can look to incorporate these standards in future, based on evidence. The SPD will be updated alongside the preparation of the new Local Plan (launched September 2022).</p> <p>The section “Secured by Design” has been reintroduced referring to Secured by Design: Homes 2019 Version 2, March 2019 requirements, or as a minimum Part Q of the Building Regulations – Security – Dwellings.</p>

	have useable outdoor spaces.	
Affordable Housing Private Gardens	Section 3.1.58 Gardens & outdoor space – East Harptree Parish Council – require it is specified that a secure, private garden should be of a sufficient size to be consistent with any local Parish Character Assessment. There is a tendency for developers to cram in more houses on a site at the expense of garden size, going against the local character and often resulting in an inappropriate urbanisation look within rural villages.	Not applicable to the SPD scope. Layout and Design of development will be considered as part of the consideration of the planning application. Planning applications are determined in accordance with the Development Plan, including the Chew Valley Neighbourhood Plan. In addition, Parish Character Assessments have been published as evidence and are a material consideration in the determination of planning applications.
Affordable Housing tenure blindness	Paras 3.1.30/ 3.1.46 /3.1.47 - there needs to a clause to ensure that facilities that may be provided by the developer, such as children's playgrounds, bin stores, etc. are available to all residents regardless of tenure, so that the situation which arose in Baylis Old School, Kennington, could not occur.	Noted. The Council's approach is for tenure blindness across developments.
Affordable Housing Perpetuity Arrangements	<p>Paragraph 3.1.63 seeks to secure affordable housing in perpetuity. While NPPF requires provisions for affordable rented properties to remain at an affordable price for future eligible households, it does not remove the right for housing associations to sell their affordable housing on non-rural exception sites.</p> <p>The NPPF's sole reference to retaining affordable housing in perpetuity is in Annex 2 where this is sought for affordable housing delivered on rural exception sites only. The council should therefore remove any references to securing affordable housing in perpetuity unless referring to rural exception sites.</p>	There is no change to these paragraphs to securing affordable housing in perpetuity from the 2015 adopted SPD – this has been a long established position by the Council.
Affordable Housing B&NES Housing Partnership	<p>Paragraph 3.1.64 – Support for the Council's intentions of securing proactive and ongoing relations with the Registered Providers (RP) that function within the District.</p> <p>Paragraph 3.1.65 - Support that the Council has indicated that it is willing to engage with RPs outside of the Housing Partnership and developers without a RP partner, acknowledging that the number and range of operators seeking to provide affordable housing within the area should be enhanced and encouraged.</p> <p>However, we note that an RP outside the Housing Partnership would have to demonstrate conformity with authority-set housing management standards. Whilst the Council may encourage RPs who are not part of the Housing Partnership to seek to meet the management standards, there should be no requirement as Homes England and the Regulator of Social Housing should provide a sufficient indication of a RP's capacity.</p>	<p>This issue is superseded by the NPPF Glossary, which requires all affordable rented tenure to be managed by a Registered Provider, unless a Build to Rent scheme.</p> <p>...Affordable housing for rent: meets all of the following conditions:</p> <p>(a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable)</p> <p>(b) <u>the landlord is a registered provider, except where it is included as part of a Build to Rent scheme</u> (in which case the landlord need not be a registered provider); and</p> <p>(c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision.</p> <p>The SPD has been changed to reflect the above point.</p>

Intermediate housing	Para 3.1.75, the Council looks to replace the ability for RPs to include staircasing provisions. However, by removing such provisions, there is a risk that this would reduce achievable affordable values, because the RPs will make an allowance for staircasing uplifts in their affordable housing bids and this may then have an impact on scheme viability in the future.	This is a long established position by the Council and has not changed since the 2015 SPD.
Affordable Housing Affordable Housing Led Development	Support for the Council's acknowledgement that departure from the adopted Core Strategy Policy CP9 would be appropriate when an affordable housing led scheme is being proposed.	Noted.
Affordable Housing First Homes	The SWHAPC notes that the SPD recognises the First Homes affordable tenure after its introduction in 2021. At paragraph 3.1.77, the Council states it will be publishing a First Homes Position Statement which is welcomed.	Noted. A Draft First Homes Interim Position Statement has been published for consultation.
Affordable Housing Rural Exception Sites (RES)	<p>At paragraph 3.1.94 the consultation document specifies that the Council will require <i>"robust evidence of local housing need"</i>. It is good to see that the Council will take a more flexible approach to demonstrating local affordable housing need. Producing a parish housing need survey is not always achievable and their production can delay applications significantly. It is therefore positive that the Council would accept other forms of evidence such as that of the housing register and government data returns.</p> <p>The SWHAPC raises concern about the recommendation to undertake a sequential approach to identify RES as identified at paragraph 3.1.95. To suggest that a sequential approach to RES planning applications is a standard approach is not correct. The paragraph correctly identifies that availability of land is a key factor. Therefore, sequential testing should not preclude the delivery of affordable housing on sites which are suitable and available at an earlier time against sites which may be considered more 'preferable' but are constrained. The Draft SPD states: <i>"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."</i> Given our thoughts above, this approach is reassuring.</p> <p>We are pleased that the Council has reiterated at paragraph 3.1.96 that it will support cross subsidy on RES where it can be demonstrated it is required to fund the affordable housing units. Cross subsidy often facilitates the delivery of much needed affordable housing in locations</p>	<p>Noted</p> <p>Noted.</p> <p>There is no change to this approach from the 2015 SPD.</p>

	<p>where it may not be possible otherwise. The meaning of the reference in paragraph 3.1.98 to <i>“meeting the entirety of the need”</i> is not clear. We recommend the Council expands this point and explains why it would not support such an approach. Meeting the entirety of a demonstrated need would seemingly be a good thing?</p>	
Affordable Housing	<p>Paragraph 3.1.102 states that <i>“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.”</i> 80% restricted staircasing leases are problematic for a variety of reasons, most notably that capping affordable rents prevents Housing Associations from increasing their affordable rents in line with Government policy.</p> <p>This can become highly unsustainable and uncompetitive for Housing Associations and can severely threaten the delivery of affordable housing. If the 80% cap is mandatory then it may be likely that shared ownership delivery by RPs will be limited to exception sites, and whilst the fallback position would be the delivery of just affordable housing for rent elsewhere, this would deviate from the Council’s tenure split policy.</p>	There is no change to this approach from the 2015 SPD.
Affordable Housing	<p>There is concern at paragraph 3.1.103 that “an appropriately worded” Mortgagee in Possession (MiP) clause seems a bit vague and doesn’t specify who stipulates what’s appropriate. The SWHAPC suggests that paragraph 3.1.103 should refer to the current National Housing Federation model MiP wording or equivalent wording which meets the requirement of lenders at the time.</p>	The clause National Housing Federation clause has been added within the document as the preferred clause.
Affordable Housing Vacant Building Credit	<p>In relation to vacant building credit, the proposed approach whereby the whole building is required to be vacant for any vacant building credit to apply would negatively impact the NHS. It will be common for occupation levels to vary widely within healthcare estates, due to assets being of different existing condition, and the nature of mixed clinical/ office workspace uses means areas of the same building remain operational whilst other parts will be vacant. NHSPS respectfully request that flexibility be accorded to NHS owned sites regarding vacant building credit, thereby allowing the NHS to maximise re-investment into the health infrastructure.</p>	The Vacant Building Credit relates to the “building”, not a part of a building. The SPD seeks to ensure that a consistent approach to site requirements for planning obligations is taken.
Green Infrastructure	<p>Support that Green infrastructure is recognised as suitable for funding from both S106 and CIL, depending on its scale and nature.</p> <p>Clarity needed on how draft Planning Obligations SPD will meet aspirations for green infrastructure set out in the Local Plan Partial</p>	<p>The Local Plan requires that Green Infrastructure (GI) is designed as part of development proposals of all scales.</p> <p>Strategic Green Infrastructure projects for example the Chew Valley Lake trail are predominantly funded by CIL, however development may link to</p>

	<p>Update, which seeks to secure enhanced requirements for green infrastructure able to deliver a range of social, economic, and environmental plan objectives, at a range of scales, and in the Joint Green Infrastructure Strategy (JGIS) and forthcoming update to the B&amp;NES GI Strategy.</p> <p>Clarity needed on how SPD might be used in relation to implementing strategic GI corridors identified in the LPPU, and how development contributes to the strategic GI projects identified through the JGIS.</p> <p>As with the Policy itself concern that there is a focus on providing new GI rather than assessing the impact of a development on existing GI facilities and ensuring that mitigation or improvements measures can be put in place. Linkages between a development site and other new or existing GI facilities such as public open space or playing fields can often result in degradation as a result of increased use. The improvement or provision of one facility may therefore have an adverse impact on another. We ask that the document recognises and addresses this concern.</p>	<p>projects through for example Biodiversity Net Gain contributions, and where there are projects related to strategic green infrastructure that meet the legal tests for planning obligations.</p> <p>Concerns regarding the impact of the improvement or provision of one facility on another facility are noted.</p> <p>Table 27 of the Green Space Strategy (2015) lists the requirements for open space. The proposed standards for open space are summarised within the Green Space Strategy. Where these cannot be delivered on-site, financial contributions are requested to make developments acceptable in planning terms and compliant with Placemaking Policy LCR6. <b>Please refer to Sport and Recreation below.</b></p>
Sport and Recreation	All new dwellings should provide for new or enhanced existing sport and recreation facilities.	Placemaking Plan Policy LCR6 New and Replacement Sports and Recreational Facilities states Where new development generates a need for additional recreational open 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
Greenspace Standards	<p>Planning obligations linked to GI policy would be strengthened by the inclusion of suitable standards for GI provision that will be expected from development. References emerging National GI Standards.</p> <p>Green infrastructure, green space, and recreational facilities - It is important that any obligations sought should be reasonably related to the use proposed and that the cost of the obligations are appropriate. For example, student accommodation developments generate no requirement for allotments and should not therefore be required to provide or contribute towards them.</p>	<p>The development of National GI Standards is noted.</p> <p>Green space standards are set out in the Green Space Strategy, and the Planning Obligations SPD. The Green Space Strategy will be updated as part of and to inform the new Local Plan (launched September 2022).</p> <p>Policy LCR9 in the adopted Placemaking Plan provides that all residential development (including purpose built student accommodation and care homes) will be expected to incorporate opportunities for informal food growing, wherever possible.</p>
Green	Section 3.5.5 states 'The developer must pay to the Council a commuted	The issue of maintenance costs will be reviewed by the Council in the

Infrastructure Maintenance	sum to cover the cost of maintaining the provision for a 20 year period.' The SPD states that the rates will be increased annually in line with inflation. The rates which have been stated are aligned with the Green Space Strategy which was produced in 2015. The figures presented do not account for inflation.	Green Space Strategy alongside the new Local Plan.
Tree Replacement	<p>Para 3.6.7 states that any tree planting on public land is to be undertaken by the Council for consistency. Please make it explicit to require council officers to liaise with local Parish Councils to help decide where any replacement trees are to be located. Please also explicitly acknowledge that in some cases where local landowners have consented to rebuild green corridors then such replanting could be directed to private land suitably identified in a local green infrastructure plan. (East Harptree Parish Council)</p> <p>Para 3.6.1 – 'The Council requires trees of value to be retained and protected through the planning process and to be given due consideration on all developments.' What is meant by 'trees of value'? Does this concern trees in a Conservation Area and those that are protected by TPOs? It could be argued that all trees are valuable for one reason or another e.g. carbon sequestration and supporting wildlife.</p>	<p>Noted.</p> <p>Trees of value encompasses trees which have attained categories A B and C as defined within the cascade chart for tree quality assessment BS 5837:2012. The subcategories which are included within the chart encompass trees of landscape, conservation, historical, commemorative or other value (e.g. veteran or ancient)</p> <p>Proposed amendment Original para 3.6.5 bullet 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 where replacement planting is required on public land Proposed para 3.6.5 bullet Where trees <b>of value</b>; covered by categories A, B and C of BS 5837 (Trees in relation to <b>design, demolition and</b> construction - <b>Recommendations</b>); are removed as part of a development, and where replacement planting is required on public land</p>
Biodiversity Net Gain	<p>General Support for section.</p> <p>Support that <i>all qualifying planning applications will be required to submit and have approved a Local Biodiversity Gain Plan</i> (paragraph 3.7.11) – we support this and suggest such a plan should include a record of how the Defra Metric principles and rules have been applied in the BNG assessment and how these influenced the development.</p> <p>Reference 3.7.23 - '<i>Using these figures, It is estimated that for a standard housing development of 9 units on a 5,000sqm site subject to similar baseline conditions as above, and where half the site is developed to built form with half site retained as low distinctiveness habitats in poor condition (new gardens, verges, public open space), these illustrative costings equate to a required BNG off-set contribution in range of £18,000 and £21,000. (This includes 6 monitoring visits).</i>' How much will each</p>	<p>Noted.</p> <p>The illustrations have been deleted from the SPD. A Biodiversity Net Gain Practice Note and subsequent SPD is being prepared.</p> <p>The text of the SPD is amended slightly in relation to minor developments to take into account policy NE3A which does not require a minimum 10% Biodiversity Net Gain for minor developments.</p>



	monitoring visit cost and are the number of visits determined by the scale of the proposal?	
Carbon offsetting support	<p>The aspiration behind obligations that achieve carbon offsetting (and the overall aims of the associated policies; SCR6 and SCR7) are supported.</p> <p>Fully support the concept of carbon offsetting, and support the price that has been set, which uses the same methodology as the London Plan but using updating carbon factors. My one reservation is that the price should be higher, as it is essential to give developers the maximum possible motivation to minimise carbon emissions of the development itself onsite.</p> <p>We welcome the recognition that for some major developments, the use of onsite renewables to match total energy consumption may not technically be feasible, and support the inclusion of an option to make an offsite financial contribution.</p>	<p>Support noted.</p> <p>The price set was seen as reasonable and realistic at this stage for the LPPU. Further work will be commissioned for the new Local Plan, which will provide a locally specific price to achieve net zero offsetting.</p>
Carbon offsetting	<p><i>Carbon price</i> The price per unit of CO2 is stated as £373/tCO2, which is circa 3 times higher than the rate in the adopted London Plan (2021). Both the London Plan, and the drafts106 SPD suggest that the rate is derived from the nationally recognised non-traded carbon price, however it is not clear how the BANES figure has come out at triple the monetary value.</p> <p><i>Viability</i> We have concerns that this will place a disproportionate obligation on developers to the extent that meeting the requisite level of financial contribution in lieu of on site provision would render schemes unviable.</p> <p>query whether the levels of contribution sought have been sufficiently viability tested.</p> <p>The Council explain that the figure is “viewed as a sufficient cost to promote on-site action, whilst also ensuring that development costs do not exceed what is considered viable”, however there appears to be no supporting information to explain how this judgement has been made. Further evidence based information should be provided to substantiate this assertion.</p> <p>Further clarity and explanation is required on this point to justify this level</p>	<p>In March 2019 the Council declared a Climate Emergency, resolving to provide the leadership to enable the Bath and North East Somerset area to be carbon neutral by 2030. The Inspector examining the LPPU has found the sustainable construction policies including carbon offsetting, subject to main modifications, sound.</p> <p>Evidence” Adapting London Plan Offsetting Rates for 2022 Building Regulation Updates Evidence for Bath &amp; North East Somerset Council by Energy Hub” sets out the background. It states “Following Building Regulation updates in June 2022, the London Plan carbon price of £95/t should no longer be considered relevant. To adapt, B&amp;NES should update its offsetting price to either BEIS Green Book carbon values (373£/tCO2(2022) /378£/tCO2(2023), a higher price sufficient to install local renewables (£650 or greater)... “.</p> <p>Reference: <a href="https://beta.bathnes.gov.uk/sites/default/files/CD-RCC028%20SWEH%20BNES%20Offsetting%20Evidence.pdf">https://beta.bathnes.gov.uk/sites/default/files/CD-RCC028%20SWEH%20BNES%20Offsetting%20Evidence.pdf</a></p> <p><i>Viability</i> The aim of the policies on sustainable construction is for on-site renewable energy generation to match the total energy use for dwellings, with a preference for roof mounted solar PV. It should also be noted that the costs</p>

	<p>of obligation and to allow caveats and flexibility to be introduced so the requirement does not prohibit sustainable development. It also needs to reflect the recent Building Regulations amendments with increased sustainability requirements, and efforts made to provide site specific sustainability enhancements as part of individual projects.</p> <p><i>Payment mechanism</i> Additional details are needed to explain this payment mechanism and whilst the draft obligations SPD provides some further details on the level of contribution sought we consider the guidance insufficient as currently drafted</p> <p>further clarification is required on the methodology proposed for calculating the contribution,</p>	<p>of achieving the policy requirements is very likely to decrease over time, as improvements in technology emerge as a result of research and development by the housebuilding industry. Carbon offsetting is considered the exception as the policy objective is for on site provision and all offsetting will only be acceptable where on site renewables cannot technically or feasibly match total energy consumption and measures have been maximised on site. The cost of meeting the sustainable construction measures was taken into account in the Viability Assessment.</p> <p>Payment Mechanism The calculation is considered clear.</p>
Transport	<p>Emphasise that where mitigation is required to ensure the transport impact of development on the strategic road network can be safely accommodated, this must be delivered in step with the development it is required to support.</p> <p>Where there is an adverse impact on the operation of the railway, Network Rail will require appropriate mitigation measures to be delivered as part of the planning application process.</p> <p>As Network Rail is a publicly funded organisation with a regulated remit it would not be reasonable to require Network Rail to fund rail improvements necessitated by commercial development. It is therefore appropriate to require developer contributions to fund such improvements.</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted. The SPD states at 3.12 Other Site Specific Measures 3.12.1 <i>"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.."</i></p>
Heritage	<p>The SPD could make a more explicit case for development contributions within historic places such as the City of Bath WHS, to contribute to their upkeep.</p> <p>Consider new development, and its future occupants, can derive real benefit from the quality, interest and character of historic places and spaces and therefore consider it reasonable to seek contributions from those developments to support their maintenance, repair and or improvement</p> <p>The District has a number of Conservation Areas with published appraisals and management plans that show the potential opportunities</p>	<p>Planning obligations can only be used to mitigate impact arising from development and where they meet the 3 legal tests -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</p> <p>It therefore would not be appropriate for development to contribute to say the World Heritage Enhancement Fund unless there are specific projects that the directly related to the development and where it meets the 3 tests above.</p> <p>Local Plan policy HE1 Historic Environment Safeguarding Heritage Assets</p>

	<p>for positive measures. Might new development within such places support their delivery?</p> <p>City of Bath WHS has a Management Plan with a series of ambitions and actions. Might new development within the WHS contribute to the upkeep of the WHS?</p>	<p>addresses safeguarding heritage assets. There are also Character and appraisals and Supplementary Planning Documents</p> <p>HE1 (3) states “Applications affecting the significance of any heritage asset will be required to provide sufficient information to demonstrate how the proposals would contribute to the asset’s conservation.”</p> <p>HE1 6a states “Development within the City of Bath World Heritage Site will be expected to ...and help support the delivery of the World Heritage Site Management Plan.”</p> <p>6c states “The Council will look for opportunities from new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance.”</p> <p>We do not consider that a standard obligation is required to preserve the historic environment in the district. Heritage obligations are negotiated on a case-by-case basis where necessary to make a development acceptable in planning terms.</p> <p>The “Other Site Specific measures” chapter 3.12 states “Other site specific measures may be necessary and planning obligations including the following areas may also be sought” The list includes “Improvements to and the mitigation of adverse impacts on the historic environment”</p> <p>In addition, it should be noted that CIL allocations have been made to public realm improvements including Keynsham and Midsomer Town Centre Public Realm projects which are covered by Conservation Area designations.</p>
Health	<p>Support for the Council’s requirement to secure mitigation measure for health infrastructure as outlined in the other site specific measures section.</p> <p>Given their strategic importance, health infrastructure should be put on a level footing with the council’s other key planning priorities such as affordable housing requirements. NHSPS’ experience has shown that developments which bring forward important health infrastructure are cost intensive, and when delivered as part of enabling mixed-use developments will likely be further impacted by viability constraints when affordable housing is also required. NHSPS respectfully requests that flexibility be accorded to NHS owned sites, or that of key infrastructure</p>	<p>Support noted for “Other Site Specific measures” chapter 3.12 including in the list healthcare facilities.</p> <p>Noted.</p> <p>The SPD is a general guidance document and does not consider detailed site specific issues and infrastructure priorities. Consideration of any specific issues will be on a case by case basis.</p>

	<p>providers, in relation to the provision of affordable housing. This will ensure that mixed used enabling developments and capital receipts from disposal sites can be allocated towards healthcare infrastructure as a priority, and only in the event when the delivery of the relevant healthcare infrastructure is viably secured that affordable housing be sought. This will ensure the delivery of crucial healthcare infrastructure is given precedence to and focused on, whilst also balancing the need for important affordable housing in the borough whenever possible</p>	
Other issues not within scope of SPD	<p>I am concerned that front gardens may be dug out, paved over (destroying habitat and biodiversity) in order to justify electric car charge spaces. This must not happen. We cannot "rob Peter to pay Paul" and habitat protection should be a climate emergency priority. Carbon off-setting is secondary to carbon reducing habitat. I see ample opportunity to "dodge" planning to pave over nature in the name of greenwashing.</p>	<p>This is not within the scope of this Planning Obligations SPD, however, will be considered as part of the planning application process.</p>
Other issues not within scope of SPD	<p>Would like to see a policy that includes adequate parking provision. Inappropriate not to have an obligation to provide adequate parking in a rural area where residents may have to travel beyond the locality for employment, leisure and retail purposes which are not accessible by public transport.</p>	<p>This is not within the scope of this Planning Obligations SPD, however, will be considered as part of the planning application process.</p>
Other issues not within scope of SPD	<p>Traffic in Bath and Banbury as a whole has never been worse, and especially the city is due to multiple bridge closures is moments away of total standstill. I cannot for the life of me understand how densifying the zoning and allowing high density and multiple occupancy dwellings as suggested in this plan would do anything but add fuel to the fire of this ongoing disaster.</p> <p>The traffic caused by additional development as well as the impact this has on pollution and liveability in the city. Without being overly dramatic, any more major residential developments, bringing in more people and cars and we might just all die in traffic or suffocate in fumes.</p>	<p>Not applicable to the scope of the Planning Obligations SPD.</p>
Other issues not within scope of SPD	<p>On page 13, the SPD states "A higher proportion of affordable housing may be sought where supported by the assessment of viability of the proposed development." To ensure clarity that if the site can viably support a higher proportion of affordable housing than policy, it is not required to do so, it is suggested the point should read "A higher proportion of affordable housing up to the policy target amounts may be sought where supported by the assessment of viability of the proposed development."</p>	<p>This is part of policy CP9 and not SPD text. Local Plan policy cannot be changed by the SPD</p>

