

# APPENDIX 1

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**Bath & North East  
Somerset Council**

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**Improving People's Lives**

## **Bath & North East Somerset Council**

### **Planning Obligations Supplementary Planning Document Interim Update**

**2026**

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## **EXECUTIVE SUMMARY**

The aim of this Supplementary Planning Document (SPD) is to provide clear guidance in respect of Bath & North East Somerset Council's approach to Section 106 Planning Obligations. The planning policy basis for this SPD is set out within the National Planning Policy Framework (NPPF) (2024), Planning Practice Guidance (PPG) and the Council's adopted Local Plan (Core Strategy, Placemaking Plan and Local Plan Partial Update). This SPD supersedes previous versions of the Planning Obligations SPD.

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

- Affordable Housing
- Transport Infrastructure Works
- Public Transport
- Green Infrastructure and Open Space
- Tree Replacement
- Biodiversity Net Gain
- Carbon Offsetting
- Site Specific Targeted Recruitment and Training in Construction
- Fire Hydrants
- Education Provision
- Health Facilities
- Other Site-Specific Measures

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

The SPD also sets out the way that the Council will consider the impact of planning obligations on the viability of development proposals; and the Council's approach to the monitoring of the delivery of planning obligations, including the Monitoring Fee that will be required.

The SPD then addresses each of the 11 topic areas detailed above in turn, providing background information to each obligation type, the planning policy context for the obligation, the relevant trigger for an obligation to be sought, the level of contribution that will be required and contact details to obtain further information in respect of each obligation. It also sets out some examples of other Site-Specific measures.

Lastly, the Appendices to the SPD set out additional relevant supporting information, including working examples of the calculation of obligations for affordable housing for use by developers.

For more information on *the Planning Obligations Supplementary Planning Document* please contact the Planning Policy team at:  
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This document can also be viewed on our website:  
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## **1.0 INTRODUCTION**

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

- 1.1.1 This SPD sets out Bath & North East Somerset Council's ('The Council') requirements in respect of planning obligations to be secured from development. The SPD supersedes previous versions of the Planning Obligations SPD.
- 1.1.2 The SPD provides further detail to the Council's Core Strategy, which provides the strategic planning policy framework for the development of the Bath and North East Somerset administrative area up to 2029, and will assist the Council in its aim of delivering sustainable development throughout the plan period.
- 1.1.3 The SPD provides the detail to Core Strategy Policy CP13 "Infrastructure Provision", which is the Council's policy that establishes that new development must be supported by the timely delivery of the required infrastructure to provide balanced and more self-contained communities. The policy also confirms that the planning obligations sought by the Council will be based on this SPD and its successors.
- 1.1.4 It is anticipated that this SPD will provide useful guidance for developers, planning officers, elected Councillors and members of the public in respect of the type and level of obligations that developments of different type and size will be expected to deliver. While this SPD does not form part of the statutory development plan, it is a Material Consideration in the determination of planning applications.

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

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

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

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

- Affordable Housing
- Transport Infrastructure Works
- Public Transport
- Green Infrastructure and Open Space
- Tree Replacement
- Biodiversity Net Gain
- Carbon Offsetting
- Site Specific Targeted Recruitment and Training in Construction
- Fire Hydrants
- Education provision
- Health Facilities
- Other Site-Specific Measures

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

## **PART 1**

### **2.1 National Policy Context**

2.1.1 Section 106 of the Town & Country Planning Act 1990, (as amended) sets out the legislative background against which planning obligations may be sought and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) restricts the use of planning obligations to certain circumstances. Paragraphs 56 to 59 of the National Planning Policy Framework (NPPF) (2024) sets out Government policy in relation to planning obligations.

2.1.2 CIL Regulation 122 and Paragraph 58 of the NPPF set out the tests that must be satisfied in order for obligations to be required in respect of development proposals. A planning obligation must be:

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

2.1.3 Planning obligations satisfying the above tests will be limited to site specific obligations required to mitigate the impact of a particular development, however in relation to large developments the use of Section 106 agreements could also extend to strategic infrastructure such as new build or upgrades / extensions to existing facilities for schools and primary healthcare where there is insufficient capacity; and strategic highway and transportation improvements if they are needed as part of the development.

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

### **2.2 Local Plan Policy Context**

2.2.1 The Core Strategy (adopted 2014) sets out the policy framework for the location and level of new housing and other development and includes four Strategic Site Allocations. It forms Part 1 of the Local Plan 2011 - 2029.

2.2.2 The Placemaking Plan (adopted 2017) complements the Council's Core Strategy and forms Part 2 of the Local Plan 2011 - 2029. It is a six volume document focussed on creating the conditions for better places, and on providing greater clarity to enable the right developments to be delivered. It allocates a range of sites for development for a variety of uses; facilitates the delivery of key sites with planning requirements; sets out development management policies which will be used to determine planning applications; and safeguards and enhances the quality and diversity of places in Bath & North East Somerset. Some policies in the Placemaking Plan superseded some policies in the Core Strategy under the Town & Country Planning Regulations 2012 8(5).

2.2.3 The Local Plan was partially updated through the preparation of the Local Plan Partial Update (LPPU) (adopted 2023). The Planning Obligations SPD supplements the Local Plan, including the policies updated (superseded and new) through the LPPU.

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

2.2.5 This SPD provides the detail to Policy CP13 of the Core Strategy and is therefore in conformity with the Council's statutory development plan. The overarching policy CP13 states the following:

### ***POLICY CP13 Infrastructure provision***

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

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

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

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

### **2.3 Priorities for planning obligations**

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

## **2.4 Planning Conditions process**

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

2.4.2 Applicants should agree with the Development Management Planning Officer the most appropriate mechanism to secure planning obligations at an early stage in the planning process.

## **2.5 Viability**

2.5.1 If an applicant considers that the level of planning obligations required would render their proposal unviable, then the applicant will be expected to provide the full financial details of the proposal to the Council, in a financial appraisal submitted and signed by an appropriately qualified and independent financial professional. For the Council to consider a viability argument, it will be essential that the developer shares information substantiating this on an open book basis. Any viability assessment should reflect the Government's recommended approach to defining key inputs as set out in the national Planning Practice Guidance.

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

- 2.5.3 The Council will commission an independent chartered surveyor (or suitably qualified and independent financial professional) to interrogate any economic viability assessment provided by a developer. The costs of this work are to be met by the developer.
- 2.5.4 If there is any disagreement on the financial appraisal, the Council will expect the developer to agree to adjudication by an independent person, usually a Fellow or Member of the Royal Institution of Chartered Surveyors. The costs of the adjudication will be met by the developer.
- 2.5.5 Suitable review mechanisms may be negotiated by B&NES Council when a non policy compliant lower percentage of Affordable Housing has been agreed, following a viability assessment. If the development is not completed within a certain timeframe, or assumptions made in the viability assessment change significantly, such as sales values, a proportion of any uplift in development value could be assessed as part of a review and paid to the council as a financial contribution. The mechanism for calculating any such deferred payments will be agreed and set out in the S106 legal agreement. This is in order to ensure consistency and optimise public benefit.
- 2.5.6 The timing of the review will be determined on a case by case basis between B&NES Council and the applicant. Any revised Affordable Housing / Planning Obligations offer will be determined via a two-step process and in line with Planning Practice Guidance.

## **2.6 Community Infrastructure Levy**

- 2.6.1 B&NES Council also collects a Community Infrastructure Levy (CIL) (in accordance with the B&NES CIL Charging Schedule approved and implemented 2015). CIL is a standard charge and is used to fund infrastructure needed to support the development of the district.
- 2.6.2 Planning Obligations mitigate site-specific impacts to make the development acceptable in planning terms. Section 106 obligations will be sought where the

impacts of a proposed development cannot be addressed through planning conditions and the planning obligations relate directly to that development.

2.6.3 Details of the CIL charging schedule and the procedural requirements for CIL can be found at this [LINK – CIL and your development](#)

## **2.7 Index Linking**

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

## **2.8 Late Payments**

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

## **2.9 Fees and Costs**

2.9.1 Once the planning obligations have been finalised and agreed by all parties, they are secured in a legal agreement or unilateral undertaking known as a Section 106 (S.106) agreement. The S.106 requirements, timing for delivery of certain works, payments or other non-financial obligations that have been identified in the committee or officers' reports will be specified in the agreement or undertaking.

2.9.2 Developers are required to pay reasonable legal and professional costs incurred by the Council in preparing an agreement or unilateral undertaking. These costs are payable upon completion of the legal agreement.

2.9.3 A monitoring fee to monitor the implementation of the agreement will be required to meet the cost of monitoring the implementation of the agreement or undertaking. The national Planning Practice Guidance (PPG) provides guidance on how monitoring fees are to be calculated and states that monitoring fees can be a fixed percentage of the total value of a section 106 agreement or individual obligation whilst requiring that in all cases the fees must be both proportionate and reasonable and reflect the Council's estimate of the cost of monitoring over the lifetime of the planning obligations.

2.9.4 The Council implemented a fixed fee for the monitoring of S.106 agreements in December 2020. The fee is currently £486 per obligation to be written into legal agreements. Fees will be capped at £10,000 per legal agreement. The fee is to be payable on commencement of development. A link to the document is here [LINK: S106 Monitoring Fees](#)

## **2.10 Self Build or Custom Build Homes**

2.10.1 The Self-build and Custom Housebuilding Act 2015 (as amended) provides a legal definition of self-build and custom housebuilding. Self-builders can claim for relief from the CIL where the relevant criteria are met, and the correct process is followed. In addition, Biodiversity Net Gain requirements are exempt for dwellings that are self-build or custom housebuilding as defined in [section 1\(A1\) of the Self-build and Custom Housebuilding Act 2015](#). In order to verify that a development qualifies for the exemption the council has set out requirements in the Local List of Application requirements. It states

*“Any application for a self or custom build home must be accompanied by a Section 106 agreement or Section 106 unilateral undertaking. This legal requirement ensures all proposed properties meet the definition set out in the Self Build and Custom Housing Act 2015 (as amended). The S106 agreement acts as a safeguard, confirming that each development genuinely qualifies as a self or custom build project”*

## **PART 2**

### **3.1 Affordable Housing**

#### **Introduction**

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

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

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

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

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

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

## **National Policy**

- 3.1.5 Local Authorities have a statutory duty to provide housing for households in local housing need and to prevent homelessness.
- 3.1.6 The National Planning Policy Framework (NPPF) provides the overarching national requirements for planning policy and provides for a definition of affordable housing. This definition was updated in the NPPF 2024.

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

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

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

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

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

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

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

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

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

*Residential developments on small sites from 5 to 9 dwellings or from 0.25 up to 0.49 hectare (whichever is the lower threshold applies) should provide either on site provision or an appropriate financial contribution towards the provision of affordable housing with commuted sum calculations. The target level of affordable*

*housing for these small sites will be 20% for AH area 1 and 15% for AH area 2 %, half that of large sites, in order to encourage delivery.*

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

### ***Viability***

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

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

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

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

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

### ***Property Size and Mix***

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

*The type and size profile of the affordable housing will be guided by the Strategic Housing Market Assessment and other local housing requirements but the Council*

*will aim for at least 60% of the affordable housing to be family houses including some large 4/5 bed dwellings.*

**Other**

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

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

3.1.8 Subsequent to the adoption of the Core Strategy and Placemaking Plan, national policy regarding residential developments that are not major developments has been updated. The NPPF 2024 sets out under paragraph 65 that the 'Provision of affordable housing should not be sought for residential

developments that are not major development, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).'

3.1.9 Policy CP9 is now being applied in accordance with the current version of the NPPF and amplified in Planning Practice Guidance (PPG), in that the Council seeks an affordable housing contribution on small sites in the AONBs (as a designated area), but a contribution is not sought in the rural areas outside the AONBs. This is because the remainder of the rural areas in B&NES were not designated under the 1985 Housing Act (Section 157). Rural areas in B&NES (outside the AONBs) were designated under 1997 legislation.

3.1.10 In addition, the NPPF states that where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount equivalent to the existing gross floorspace of the existing buildings. For example, where a building with a gross floorspace of 8,000 square metre building is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought (ie a fifth of 30% or 40%). This does not apply to vacant buildings which have been abandoned and the whole building must be vacant to apply for the Vacant Building Credit. The Council judges a Vacant Building is a building that has not been in continuous use for any six months period during the last three years up to the date the planning application is submitted. The onus will be on the applicant to demonstrate this.

3.1.11 In addition, evidence that any referenced building is not an 'Abandoned Building' or vacated solely for the purpose of redevelopment will be required. The onus will be on the applicant to demonstrate this. The factors the council will take into account include:

- i) the physical condition of the building;
- ii) the length of time that the building had not been used;
- iii) whether it had been used for any other purposes; and
- iv) the owner's intentions

3.1.12 The NPPF 2024 has further been updated to set out the affordable housing contribution requirements to satisfy the Golden Rules for Green Belt development. Paragraph 157 (NPPF 2024) sets out that 'Before development plan policies for affordable housing are updated in line with paragraphs 67-68 of this Framework, the affordable housing contribution required to satisfy the Golden Rules is 15 percentage points above the highest existing affordable housing requirement which would otherwise apply to the development, subject to a cap of 50%<sup>60</sup>.' Footnote 60 sets out that 'The 50% cap does not apply to rural exception sites or community-led development exception sites, or if the local planning authority has a relevant existing policy which would apply to the development which is above 60%.'

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

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

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

- Details of the mix of housing, number of units, type of units (e.g. social rented/intermediate), size of units
- Details of design layout and construction standards (e.g location of affordable units, phasing of development, compliance with design standards).
- For outline planning applications, the S.106 agreement will establish the broad requirements for affordable housing delivery and will make the detailed submissions a requirement of the Reserved Matters application/s.
- Details on affordability of the affordable housing units.
- How the affordable housing provision complies with Policy CP9.

## Delivering Affordable Housing in Bath & North East Somerset

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

**Table 3.1.A**

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

|             |   |
|-------------|---|
|             | with regard to local incomes and house prices to ensure affordability.  |
| First Homes | <p>First Homes are a specific kind of discounted market sale housing and should be considered to meet the definition of 'affordable housing' for planning purposes.</p> <p>Specifically, First Homes are discounted sale units which:</p> <ul style="list-style-type: none"> <li>a. must be discounted by a minimum of 30% against the market value;</li> <li>b. are sold to a person or persons meeting the First Homes eligibility criteria;</li> <li>c. on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and</li> </ul> <p>after the discount has been applied, the first sale must be at a price no higher than £250,000.</p> |

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

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

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

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

3.1.19 B&NES Homesearch policy has set the maximum ceiling on gross total income for households requiring an affordable home as £60,000.

3.1.20 This is a blunt tool, and the Council expects the cost of different affordable housing products to reflect different types of need in the District. All affordable housing products should be delivered within set affordability limits. The Council expects an overarching affordability test where no one living in an affordable home in the District has to pay more than **35%** of their total gross household income in meeting their total housing costs where:

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

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

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

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

3.1.22 Both Social Rent and Affordable Rent Tenures have their basis in local property values and in high value areas even affordable housing costs can be excessive. For all affordable rented tenures, the total housing cost (including service charges) for the tenant should not exceed the appropriate Local Housing Allowance (LHA) set by the National Valuations Office. [LINK: Local Housing Allowance](#).

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

3.1.24 Access to Low Cost Home Ownership should be equitable with the cost of accessing the local private rented market. For shared ownership products, the Council will not seek to impose strict parameters on % equity sales and % rent charged. Instead, proposals for the total housing cost for the shared ownership should reflect the total housing cost of accessing the lower quartile private rented market locally taking into consideration the overarching 35% income test for affordability.

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

3.1.26 The Service Charge payable by the occupants of any Affordable Housing Unit shall be limited to no more than £650 per annum and Index Linked annually from the date of occupation thereafter (This does not include RP management

charges for Social Rented Units). On developments with significant communal space, lifts or other exceptional services requiring high, on-going charges, Developers and RPs are encouraged to consider capitalising the service charge element to ensure annual service charges can be capped at the above rates.

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

### **Housing & Tenure mix**

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

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

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

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

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

3.1.29 In accordance with the aims of Policy CP10, the range of affordable housing units will reflect the pattern of open market homes proposed. The Council will

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

3.1.30 Unless specifically agreed otherwise:

- all 2 bed houses will be provided as 2 bedroom 4 person family houses
- On wholly or primarily flat 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 flat developments.
- 1 bed properties will be for 2 people
- 3 bed homes will be for 5 people
- 4 bed homes will be for 6 people

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

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

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

3.1.33 Evidence from the Strategic Housing Market Assessment (SHMA) 2013 suggests an affordable housing mix of 95% rented and 5% shared ownership homes. In order to promote diverse and sustainable communities, the Council

will generally expect an affordable housing requirement for 75% homes for social rent and 25% intermediate housing.

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

3.1.34 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 accommodation (Building Regulations M4(3)). Reference policy H7 of the Local Plan Partial Update.

3.1.35 Where a strategic demand for other forms of specialist or supported housing is identified for the development area, the Council will seek to negotiate appropriate provision and will take into account the additional costs that may be associated in specialist delivery when determining the level of affordable homes delivered or the availability of subsidy.

3.1.36 The Council does not support artificial use of age restrictions on general needs affordable housing. If a developer wishes to deliver homes for older people as an alternative to mainstream affordable housing, there will be an expectation that design and layout will be appropriate to the proposed client group and that a clear justification for the proposal can be made in terms of meeting the Council's strategic visions for housing for older people.

3.1.37 Such developments will be assessed against the 10 HAPPI principles which are considered critical to achieving excellence in housing for older people. See **Appendix 2**.

3.1.38 Proposals for Extra Care Housing will also be assessed with regard to the Housing LIN standards for Extra Care development to ensure that adequate consideration has been given to designing and developing a scheme appropriate for a frail elderly client group. See **Appendix 3**.

## **Implementing Policy CP9**

### Thresholds

3.1.39 The Council will have regard to the gross number of dwellings being proposed when considering whether Policy CP9 is applicable to an application, subject to issues including small site exemption and the Vacant Building Credit, set out above.

3.1.40 The Council will be mindful of applications that deliberately seek to circumvent the relevant threshold for affordable housing and will not permit any benefit to be gained from this. Proposals for residential development just below the relevant thresholds must be based on the assessed housing potential of a site and not an attempt to avoid the provision of affordable housing. Sites presented just below threshold levels will be scrutinised in terms of site/ownership boundaries, density and unit mix to ensure that land is not used inefficiently or in a piecemeal fashion to produce a scheme that avoids affordable housing contributions.

### Mixed Use Sites

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

### Phasing on Large Sites

3.1.42 On large sites where development will be phased, it is expected that the affordable housing will be developed at the same time as the market housing and a phasing plan submitted as part of the affordable housing master-plan. Generally, in respect of each phase, no more than 25% of open market dwellings should be occupied until 25% of the affordable housing units have been constructed and transferred to the affordable housing provider ready for immediate occupation.

3.1.43 No more than 85% of open market dwellings on each phase should be occupied until 100% of the affordable homes have been transferred to affordable housing provider, ready for immediate occupation.

3.1.44 Each phase will be expected to deliver a proportional level of affordable housing to ensure an even distribution across the development.

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

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

### **Specialist Residential Development**

3.1.46 The requirement for affordable housing extends to Extra Care, sheltered/retirement dwellings and any other forms of housing with care and support that has a C3 Planning Use Class. For the avoidance of doubt this requirement does not apply to accommodation at residential institutions, with a C2 planning use class, for people in need of care such as care homes or nursing homes. Please see **Appendix 3** for standards.

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

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

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

3.1.48 On sites larger than 30 units the Council wishes to see at most a cluster of 8 affordable houses or 8 affordable flats in a block. On smaller sites, housing layouts should consist of clusters of no more than 4 affordable units. Clusters of affordable housing will not share boundaries, within or across separate

phases of development. Any deviation from this will be determined in discussion with the Council's Housing Enabling and Planning Officers.

3.1.49 On primarily flatted developments a scheme by scheme consideration will be taken on clustering of units to address housing management and service charge concerns.

3.1.50 Planning layouts submitted as part of an application must clearly show the location of affordable housing units and identify their tenure and size and the location of wheelchair user units. For outline applications, this affordable housing layout plan will be part of reserved matters applications.

### **Design and Standards**

3.1.51 Policy H7 Housing Accessibility requires that 'For affordable housing, 7.8% of dwellings be built to meet Building Regulation M4(3)(2b) standard (wheelchair accessible housing) and the remainder to M4(2) accessible and adaptable dwelling standard within houses, ground floor flats and upper floor flats where a lift is installed, and age restricted homes.'

3.1.52 In exceptional circumstances, factors such as vulnerability to flooding, site topography and where the provision of a lift to dwelling entrances may not be achievable, may determine a reduced requirement in terms of Building Regulation M4(2) and M4(3) accessibility standards.

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

#### Internal space standards:

3.1.54 All affordable homes will comply with the Government's "Technical housing standards – nationally described space standard" (March 2015), as follows:

**Table 3.1.B: Minimum Gross Internal Floorspace and storage (square metres)**

| Number of bedrooms<br>(b) | Number of bed spaces (persons) | 1 storey dwellings | 2 storey dwellings | 3 storey dwellings | Built-in storage |
|---------------------------|--------------------------------|--------------------|--------------------|--------------------|------------------|
| 1b                        | 1p                             | 39 (37) *          |                    |                    | 1.0              |
| 1b                        | 2p                             | 50                 | 58                 |                    | 1.5              |
| 2b                        | 3p                             | 61                 | 70                 |                    | 2.0              |
| 2b                        | 4p                             | 70                 | 79                 |                    | 2.0              |
| 3b                        | 4p                             | 74                 | 84                 | 90                 | 2.5              |
| 3b                        | 5p                             | 86                 | 93                 | 99                 | 2.5              |
| 3b                        | 6p                             | 95                 | 102                | 108                | 2.5              |
| 4b                        | 5p                             | 90                 | 97                 | 103                | 3.0              |
| 4b                        | 6p                             | 99                 | 106                | 112                | 3.0              |
| 4b                        | 7p                             | 108                | 115                | 121                | 3.0              |
| 4b                        | 8p                             | 117                | 124                | 130                | 3.0              |
| 5b                        | 6p                             | 103                | 110                | 116                | 3.5              |
| 5b                        | 7p                             | 112                | 119                | 125                | 3.5              |
| 5b                        | 8p                             | 121                | 128                | 134                | 3.5              |
| 6b                        | 7p                             | 116                | 123                | 129                | 4.0              |
| 6b                        | 8p                             | 125                | 132                | 138                | 4.0              |

### Accessible Housing

3.1.55 The B&NES Corporate Strategy 2020-2024 overriding purpose is to improve people's lives with principles focusing on prevention and preparing for the future. As set out in Planning Practice Guidance, 'Accessible and adaptable housing enables people to live more independently, while also saving on health and social costs in the future. It is better to build accessible housing from the outset rather than have to make adaptations at a later stage – both in terms of costs and with regard to people being able to remain safe and independent in their homes.' (Paragraph: 008 Reference ID: 63-008-20190626).

3.1.56 Whilst planning policy sets out the requirements for accessibility standards through the Local Plan, requirements are implemented under Building

Regulations – The Building Regulations 2010 Access to and use of buildings Approved Document M Volume 1: Dwellings.

3.1.57 If it is agreed at the planning stage that a specific development warrants flexibility in the application of accessible housing standards M4(2) and M4(3), affected dwellings would be required to satisfy the mandatory building regulations requirements of M4(1) under Building Regulations.

3.1.58 The Council will use up to date evidence from its Homesearch Register and health and social care provider to determine the tenure of the wheelchair units to be provided. On outline applications with a delivery on a phased approach to reserved matters, the need for wheelchair units will be considered as part of each individual RM application.

#### Secured by Design

3.1.59 Ideally developers will demonstrate that scheme layout, design and specification will achieve Secured by Design: Homes 2019 Version 2 (March 2019) requirements (<http://www.securedbydesign.com>). As a minimum, developers will be expected to deliver the affordable homes to meet the requirements of Part Q of the Building Regulations – Security - Dwellings).

#### Gardens and outdoor space

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

#### Flexibility in design

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

## **Occupation of Affordable Homes**

3.1.62 Affordable housing delivered through Core Strategy policies may only be occupied by persons eligible for, and in need of affordable housing, who are unable to afford to buy or rent an appropriate property locally on the open market and who fulfil the criteria for affordable housing as laid out in the [Council's Allocations Policy \[LINK\]](#).

## **Bath & North East Somerset 'Homeseach'**

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

## **Sustainable Lettings Plans**

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

## **Management Standards and Perpetuity Arrangements**

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

## **Working with a Registered Provider**

### HomesWest - B&NES Housing Partnership

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

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

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

### Delivering affordable homes without a Registered Provider partner

3.1.68 The NPPF 2021 Glossary definitions for "Affordable housing for rent" requires it to meet a series of conditions: including "(b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider)" Therefore the only situation where affordable housing for rent can be provided without a Registered Provider is "Build to Rent schemes" in which case it states "affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent)." Where a developer proposes to develop and manage the affordable homes without the involvement of a Registered Provider, planning obligations and a legal agreement must be signed to ensure nomination rights, occupancy

controls other arrangements are in place to guarantee initial and subsequent affordability and compliance with housing management standards. Alternative providers will be expected to sign up to a non-partner housing agreement that stipulates the expected delivery standards for housing development and management. Allocation of rented affordable homes will be through Homesearch and the developer will be expected to sign up to the adopted Homesearch Nomination agreement [available on request].

3.1.69 There will be safeguarding clauses inserted into the S.106 and housing agreement which ensure alternative ownership / management arrangements will be secured in the event that the initial arrangements fail to meet expected standards or the provider cannot continue to own or manage the affordable homes. Reversion to open market housing will not be considered as an acceptable alternative in the first instance and any agreement to allow this will be accompanied by payment of a commuted sum in accordance with the requirements of **Appendix 1**

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

### **Enabling Fees**

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

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

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

3.1.73 The Council's Housing Enabling and Development Team will advise on the level of Enabling Fee payable at the time of development. Please also see the [Council's Housing Services Charging Policy \[LINK\]](#).

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

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

### **Rented affordable housing**

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

### Social Rented housing

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

### Intermediate housing

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

### First Homes

3.1.78 On 24th May 2021, the Government published a Written Ministerial Statement setting out First Homes requirements and published First Homes Planning Practice Guidance, with changes coming into effect from 28 June 2021. First Homes are a specific kind of discounted market sale housing and should be considered to meet the definition of 'affordable housing' for planning purposes.

3.1.79 The NPPF 2024 removed the requirement for First Homes (Starter Homes) as part of the affordable housing tenure delivery mix, however the remainder of the Written Ministerial Statement (24<sup>th</sup> May 2021) and the PPG currently remains extant policy.

3.1.80 The Council has published a draft First Homes Position Statement.

### Mortgagee Protection

3.1.81 Whilst the council wishes to see the retention of affordable homes in the sector and will restrict opportunities for these homes to be lost to the market, it

recognises that these restrictions make it difficult for the RP to bring private finance into the scheme through borrowing and prevent shared owners from mortgaging their property. An appropriately worded Mortgagee Protection clause will be allowed on all affordable housing schemes to ensure it will achieve the criteria required by banks and other lenders. The National Housing Federation model clause wording, as below, is the Council's preferred wording, however, we will consider alternatives on a case-by-case basis where justified.

*"The [affordable housing provisions] in this Agreement [DN: cross-referencing the specific provisions would be preferable] shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the [affordable dwellings] or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:*

- such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the [affordable dwellings] and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the [affordable dwellings] to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and*
- if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the [affordable dwellings] free from the [affordable housing provisions] in this Agreement which provisions shall determine absolutely"*

### **Affordable Housing Led Development**

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

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

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

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

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

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

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

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

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

3.1.87 The Core Strategy states:

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

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

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

- Rural Placemaking
- Rural Exception Sites development

### **Rural Growth**

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

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

3.1.91 Affordable Homes delivered under CP9 are NOT subject to the same, strict occupancy controls as homes delivered on rural exception sites, but the Council's Homesearch allocations policy does provide for a local connections approach to allocating the homes.

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

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

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

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

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

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

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

#### Role of the local community in Rural Exception Sites delivery

3.1.94 The Parish Council should be a key stakeholder in developing homes under policy RA4. There is a presumption that they will work very closely with the Council and housing provider on all aspects of delivery. The Parish Council may use a Neighbourhood Planning forum or other community group to be the key liaison point on affordable housing delivery.

#### Affordable Housing Provider

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

3.1.96 The Council welcomes the creation of Community Land Trusts for the delivery of rural affordable homes. [LINK Community Land Trusts website.](#)

#### Identifying Local Housing Need

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

#### Site identification

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

#### Cross subsidy

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

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

### Scale of development

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

### Local Occupancy Criteria

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

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

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

### Perpetuity arrangements

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

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

Meeting wider affordable housing expectations

3.1.107 The developer is expected to meet the requirements on housing standards that apply to the delivery of affordable homes through policy CP9.

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

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

## **3.2 Transport Infrastructure Works**

### **Introduction and Policy Background**

- 3.2.1 New transport infrastructure, or improvements to existing infrastructure, is often required to ensure that developments can be accessed in a safe and appropriate manner. In addition, appropriate transport infrastructure can play a vital role in delivering the Council's sustainability aims and reducing reliance on the private motor car.
- 3.2.2 The need for transport infrastructure works is recognised at paragraph 102 of the National Planning Policy Framework (NPPF) and throughout the Council's adopted Local Plan (including Policies ST1: Promoting Sustainable Travel and Healthy Streets; ST2A: Active Travel Routes; ST3: Transport Infrastructure; ST5: Traffic Management Proposals; and ST7: Transport Requirements for Managing Development); and Transport and Development Supplementary Planning Document 2022. This document defines and outlines the Council's approach and expectations for developments in relation to Walking and Cycling, Parking Standards, Ultra Low Emission Vehicles (ULEV) and Travel Plans.

### **Trigger for the Obligation**

- 3.2.3 There is no pre-defined trigger in relation to the need for transport mitigation measures, as it will be dependent on the development that is proposed. As such, requirements will be assessed on a case by case basis.

### **Level of Contribution**

- 3.2.4 The level of the contribution will be dependent on the measures that are required to make the development acceptable in planning terms. As such, it is not possible to set a standard contribution. Developers are encouraged to engage with the Council's Highway Officers at an early stage in the development process to establish and agree any measures that are required. Depending on the nature of the measure, the Council will either require the developer to make a financial contribution in order that the required works can be delivered, or agree for works to be carried out by the developer.

3.2.5 Two categories of required mitigation measures have been identified;

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

3.2.6 Each of these is considered in detail below.

### **Access and Local Works**

3.2.7 All development, irrespective of size, must be capable of being accessed safely by all forms of transportation and varying mobility needs. Development is also required to provide mitigation measures where a transport impact is identified, to ensure that the residual cumulative impact is not severe, in line with the NPPF. To achieve this, the developer may need to carry out and/or fund on and off site works that are directly related to the development. The type of works secured under this heading may include:

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

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

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

3.2.9 The type of works secured under this heading may include, on site cycle, pedestrian, disabled and public transport facilities, electric car club spaces and vehicles, and travel plans (for employment/retail/educational developments, which may include matters such as car sharing, free bus passes, interest free loans for cycle/bus pass purchase, lockers, showers, provision of travel information, car park charging amongst other things) and provision of travel information, cycles and free bus passes (in residential development).

### **Traffic Regulation Orders**

3.2.10 Traffic Regulation Order(s) (TRO) will often be required to facilitate access and/or part of highway infrastructure works. The developer is expected to pay the cost of the TRO, which will be calculated on a case by case basis.

### **Further Information**

3.2.11 For further information please refer to the Transport and Development SPD / contact the Council's Highways Department.

### **3.3 Public Transport**

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

3.3.1 Public transport is a key element of sustainable development and is recognised as such in the NPPF; West of England Joint Local Transport Plan 4 2020-2036 (JLTP4) approved March 2020; West of England Bus Strategy adopted June 2020; West of England 10 Year Rail Delivery Plan 2020-2030 through the Council's Transport Strategies, and throughout the Council's Local Plan (including Policies ST1: Promoting Sustainable Travel and Healthy Streets; ST3: Transport Infrastructure; ST5: Traffic Management Proposals; and ST7: Transport Requirements for Managing Development).

3.3.2 The West of England Mayoral Combined Authority and this Council aim to create a connected region, fit for the future, which will promote active and sustainable travel, improve community health and reduce private vehicle journeys thereby reducing carbon emissions and delivering sustainable development.

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

3.3.3 There is no trigger in relation to the need for public transport measures, as it will be dependent on the development that is proposed. Public transport requirements will be assessed on a case by case basis. There will be instances where public transport facilities are required to make a development acceptable in planning terms and are directly related to a particular development. Examples of this include the provision of a new bus service, bus stop, bus lane to serve a development, or improved rail provision and facilities. Where there is a requirement for public transport measures, the developer will be required to enter into a Section 106 agreement to secure the provision of the required measures.

#### **Level of Contribution**

3.3.4 The level of the contribution sought will be dependent on the measures that are required to make the development acceptable in planning terms. As such, it is not possible to set a standard contribution. Developers are encouraged to

engage with the Council's Highway Officers at an early stage in the development process to establish and agree any measures that are required. The Council will ordinarily require the developer to make a financial contribution in order that the required works can be delivered.

### **Further Information**

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

### **3.4 Green Infrastructure and Open Space**

#### **Introduction**

3.4.1 The Council defines green infrastructure (GI) as set out in the National Planning Policy Framework (2024). This is defined as:

*‘A network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity.’*

3.4.2 This chapter relates to open space. The following chapters relate to “Tree Replacement” and “Biodiversity Net Gain”.

#### **Policy Background**

3.4.3 Developments are assessed through the Development Management process and specific policies are included in the Core Strategy (2014), Placemaking Plan (2017) and Local Plan Partial Update (2023). Development proposals that do not address GI adequately are likely to be considered unacceptable.

3.4.4 Policies include:

- Policy CP7 (Green Infrastructure) provides that existing and new GI must be planned, delivered and managed as an integral part of creating sustainable communities
- Policy NE1 (development and green infrastructure) sets out requirements for developments to integrate GI and to link to active travel routes and existing or in-development strategic GI projects where feasible
- Policy LCR5 (safeguarding existing sport and recreational facilities) provides that development involving the loss of open space, land and buildings of value for sports and recreation will only be permitted provided it can be demonstrated that certain criteria are met
- Policy LCR6 (new and replacement sports and recreational facilities) provides for contributions to off-site accessible sport and recreational open

space to meet the need arising from development, where on-site provision is not practicable

- Policy LCR6A (Local Green Spaces) provides that development that would conflict with the reasons that the Local Green Space has been demonstrated to be special to the local community and holds a particular local significance; and prejudice its role as Local Green Space will not be permitted unless very special circumstances are demonstrated
- Policy LCR8 (protecting allotments) relates to the loss of land used for allotments (or land evidenced as last used as allotments) and amenity land related to allotments
- Policy LCR9 (increasing the provision of local food growing) relates to the creation of new allotment sites, development generating the need for new allotment sites and opportunities for informal food growing

3.4.5 The Green Space Strategy (2015) provides the detail to policies LCR6 and LCR9 and sets out standards for quantity, quality and access to open space. The following typologies are those where standards have been developed:

**Table 3.4.A: Summary of Open Space Standards (from Green Space Strategy 2015 - Table 19)**

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

|                    |  |   |
|--------------------|--|---|
| Natural Greenspace | 1.30 to include Natural and Amenity Greenspace for new provision | ANGSt and Woodland Trust for analysing existing provision |
|--------------------|--|---|

### Triggers for the Obligation

3.4.6 Developers must consider GI at an early stage of the design process as part of an integrated design approach and good place-making, recognising the multifunctional nature of this form of infrastructure and the benefits that it can provide. Developers should engage with the Council at an early stage in the planning process to establish requirements in respect of their specific proposals.

3.4.7 Developers must provide open space in accordance with the requirements provided in the Green Space Strategy. Table 3.4.B provides a guide to assess which scales of residential development (including purpose-built student and co-living accommodation) generate a need for on-site provision.

**Table 3.4.B: Requirements for Open Space (from Green Space Strategy 2015 – Table 27)**

| Type of provision / No. of dwellings   | 1-19 | 20-49 | 50-99 | 100+ |
|--|------|-------|-------|------|
| Allotments                             | X    | X     | Y     | Y    |
| Amenity / Natural Greenspace           | X    | Y     | Y     | Y    |
| Parks and Recreation Grounds           | X    | Y     | Y     | Y    |
| Play Space (children)                  | X    | X     | Y     | Y    |
| Play Space (Youth)                     | X    | X     | Y     | Y    |
| <b>KEY:</b>                            |      |       |       |      |
| Y on-site provision normally required  |      |       |       |      |
| X off-site provision normally required |      |       |       |      |

3.4.8 The decision on whether provision is to be on-site, off-site or both depends on the following considerations:

- The scale of the proposed development and site area
- The suitability of a site reflecting, for example, its topography or flood risk
- The existing provision within the neighbourhood and / or the sub area
- Other sites in the neighbourhood where additional provision is proposed
- Existing access within the neighbourhood and / or sub area

3.4.10 Policy LCR6 indicates that 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 or successor documents.

3.4.11 Policy LCR9 states that all residential development (including purpose built student accommodation and care homes) will be expected to incorporate opportunities for informal food growing; and where new development generates a need for allotments 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 allotments to meet the need arising from the new development in accordance with the standards set out in the Green Space Strategy or successor documents.

3.4.12 Management, maintenance, monitoring and funding must also be considered at an early stage of the design process and planned for the lifetime of a development. Developers are expected to maintain on-site open space and landscaping schemes for a minimum period of one year and will then be asked to maintain it through a management company or a similar arrangement.

## Green Infrastructure Planning Obligations

3.4.13 Planning Obligations are established at the planning application stage to mitigate the impact of a development and ensure GI is managed, maintained and monitored. These may include financial contributions towards creating or restoring and enhancing open space through a project that is directly related to the specific development.

3.4.14. Planning Obligations relating to GI are entered into to:

- **CREATE** new GI to address need and to meet growth
- **RESTORE** and enhance existing GI and improve quality and access to open space
- **MAINTAIN** existing and new GI through management, maintenance and monitoring arrangements

3.4.15 Table 3.4.C sets out the council's costs for the creation or restoration and enhancement of open space. The same charges apply. These costs include management, maintenance and monitoring arrangements, but do not include the cost of purchasing land. If this is required, a surcharge will be applied.

**Table 3.4.C: Costs for Creating or Restoring and Enhancing Open Space**  
*(From Green Space Strategy 2015 - Table 24) (figures indexed to 2025)*

| <b>Typology</b>             | <b>Cost per m<sup>2</sup></b> |
|-----------------------------|-------------------------------|
| Allotments                  | £43.67                        |
| Parks & Recreation Grounds  | £104.80                       |
| Play Space (Children)       | £247.44                       |
| Play Space (Youth)          | £247.44                       |
| Amenity/ Natural Greenspace | £21.83                        |
| <b>Total</b>                |                               |

## Adoption of Open Space space and Landscaping Schemes

3.4.16 On-site open space and landscaping schemes may be offered to the Council or its nominee (usually a town or parish council) for adoption as council owned and maintained provision.

3.4.17 In cases where provision of allotments comes forward as part of a development, the allotment site will be offered to the Council or its nominee (usually a town or parish council) by a developer for adoption as council owned and maintained provision.

3.4.18 The Council will consider adoption subject to several conditions, which are set out below, but there is no obligation to accept an offer.

**3.4.19 Conditions to be met for open space and landscaping adoption to be considered acceptable**

1. The provision offered to the Council for adoption must, in the case of parks & recreation grounds; amenity and natural greenspaces; and allotment provision, be useable, and, in the case of landscaping schemes, be of high quality. There are no specific standards against which the Council will undertake this assessment, as it will be dependent on the individual site characteristics. As such, an assessment will be made on a case-by-case basis.
2. The provision offered to the Council for adoption must be maintained by the developer to the satisfaction of the Council for a period of not less than 12 months after being provided on site. In some cases, this period may be extended (e.g. if remedial works required prior to transfer are not completed within an agreed timescale).
3. The developer must pay the Council a commuted sum to cover the cost of maintaining the provision for a 20-year period. The commuted sum payable will be dependent on the type of provision and will be calculated in accordance with the following formulas. These are based on Retail Price Indexed calculations from grounds maintenance figures in the 2015 Green Spaces Strategy and indexed to 2025.
  - **Parks & Recreation Grounds** = Quantity required in m<sup>2</sup> \* £130.04
  - **Amenity and Natural Greenspace** = Quantity required in m<sup>2</sup> \* £36.75

- **Allotments** = Quantity required in m<sup>2</sup> \* £30.69

### **Further Information**

3.4.20 For further information please contact the Council's Planning Service.

3.4.21

### **3.5 Tree Replacement**

#### **Introduction**

- 3.5.1 The Council requires trees of value to be retained and protected through the planning process and to be given due consideration on all developments.
- 3.5.2 If it is demonstrated that an adverse impact on trees is unavoidable to allow for appropriate development, then compensatory provision will need to be made in the form of replacement tree planting in accordance with the fixed number replacement system.
- 3.5.3 The fixed number replacement system is a non-expert system designed specifically for reaching an acceptable degree of compensation for the loss of trees as a result of new development. The number of replacement trees that it requires developers to plant is generated from table 3.5.A based on the principle of more value being given to larger trees. When setting the criteria, the aim was to develop a system that would replace canopy cover of the tree that is lost within 5-10 years, whilst generating a level of compensation that is a fair and realistic outcome for tree replacements in a planning context. The system requires a maximum of eight trees to replace any tree lost as a result of development, which is considered to be the level of replacement provision to make development acceptable in planning terms.
- 3.5.4 The number of trees required to compensate for loss of existing trees depends upon the size of the trees to be lost. This is set out in the following table:

**Table 3.5.A**

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

3.5.5 The advantages of this fixed number replacement system include the following:

1. It firstly prioritises the retention and protection of existing trees. This prioritisation ensures the long-term benefits of mature trees are considered, especially as new tree planting takes many years to make a significant effect on canopy cover and the landscape.
2. Secondly, it ensures that trees lost as a result of development are adequately replaced on site if retention of existing trees on site is not possible and has been demonstrated
3. If trees can not be planted on site then replacements will be sought in publicly beneficial locations.
4. Every development that impacts trees is likely to produce the information required to reach a value for compensation as a matter of routine (a measurement of the trunk diameter for the trees affected).
5. It is quick and doesn't require the costs of employing experts.
6. No specific training is necessary to use this system beyond the ability to identify if a tree has less than 10 years useful life expectancy or that is in such a condition that they cannot realistically be retained as living trees in the context of the current land use.

7. It is a system that is understood by most arboriculturists, developers, and planning officers which is a great strength in the context of planning application negotiations.
8. It conforms to the Community Infrastructure Levy Regulations (2010) and developers can clearly understand how many trees will be planted for the money that they pay.

3.5.6 It is expected that developers will adopt a reasonable and proportionate approach to the issue of tree replacement; however in the event that trees are felled prior to the submission of a planning application it will be possible for stumps to be measured and these measurements used to work out how many new trees need to be planted. If there has been degradation of the site through tree felling and there is insufficient evidence to establish trunk diameters of the lost trees, then an average of 4 replacement trees per lost tree will be necessary, or a requirement to establish a 10% increase on the existing canopy cover on-site based on any available evidence.

### **Policy Background**

3.5.7 The justification for requiring obligations in respect of replacement tree planting is set out in Policy CP7 of the Council's Core Strategy and in particular policy NE6. In addition, the National Planning Policy Framework (NPPF); England Trees Action Plan; Forest of Avon Plan: A Tree and Woodland Strategy for the West of England; the Council's Green Infrastructure Strategy, and Green Space Strategy, are relevant.

### **Trigger for Obligation**

3.5.8 Obligations in respect of trees will be required:

- Where trees of value covered by categories A, B and C of BS 5837 (Trees in relation to design, demolition and construction - Recommendations) are removed as part of a development, or where development results in the loss of Council owned or maintained trees.

3.5.9 Developers will be expected to plant suitable numbers of replacement trees, prioritizing larger longer lived trees, on site and in appropriate locations based on the principle “right tree right place”. The works will be expected to be carried out to a reasonable standard and maintained in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice to promote successful establishment eg BS: 8545:2014 Trees: from nursery to independence in the landscape – Recommendations.

3.5.10 Where on-site replacement is not possible, replacement trees can be planted off-site in locations identified by the Council. Developers will be expected to demonstrate why on-site replacement is not possible or appropriate before off-site replacement on public land is accepted.

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

### **Level of Contribution**

3.5.12 The developer is required to pay a contribution to the Council for all tree planting on public land. This may include a contribution towards tree planting through green infrastructure projects that are directly related to the specific development; place shaping projects, and Parks and Open Spaces projects. Tree maintenance costs relating to adopted highways are addressed within Section 38 (S38) agreements, under the Highways Act 1980.

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

3.5.14 The contribution covers the cost of providing the tree pit (where appropriate), and purchasing, planting, protecting, establishing and maintaining the new tree for up to 30 years. The level of contribution is as follows:

Tree in open ground (no tree pit required) **£1,284**

Tree in hard standing (tree pit required) **£1,988**

Indexation is to be applied from the first quarter, 2025, based on the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors.

3.5.9 The “open ground” figure will apply in the following circumstances:

- Where development results in the loss of trees in open ground on land which the Council is responsible for
- Where development results in the loss of trees on the development site and is unable to provide replacement tree planting based on the fixed number replacement system on site.

3.5.10 In both these cases the Council will provide replacement tree planting in the nearest appropriate area of open space which the Council is responsible for and may be linked to green infrastructure projects, place shaping projects and Parks and Open Spaces projects.

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

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

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

## **Further Information**

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

### **3.6 Biodiversity Net Gain**

#### **Introduction**

- 3.6.1 The Council has declared an Ecological Emergency in response to the urgent need to reverse biodiversity loss. The Local Plan includes direct measures to help address biodiversity loss and so help tackle the Ecological Emergency.
- 3.6.2 The need to achieve Biodiversity Net Gain (BNG) through decision making, was first introduced via the Government's 25 Year Environment Plan 2018 for England and has subsequently been enshrined in law as a requirement of planning decisions, through the Environment Act 2021. It is an approach to development that leaves biodiversity in a measurably better state than pre-development. Where a development has an impact on biodiversity it requires developers to first minimise those impacts and then provide a net increase in biodiversity of 10% over and above the pre-development baseline so that net losses from development can be halted, net gains can be achieved, and ecological networks can be restored. Given the long time periods involved in adequately compensating for habitats lost through development the intention is to ensure that measured Biodiversity Net Gains, once implemented, will be managed, and monitored for at least a 30 year period. Specific tools for measuring biodiversity and for calculating gains have been established by the Government.
- 3.6.3 From the 12<sup>th</sup> February 2024 the process of securing Biodiversity Net Gain is a mandatory condition of planning for developments subject to the Town & Country Planning Act. The Government published guidance and tools to support its implementation.
- 3.6.4 This section of the Planning Obligations SPD primarily supplements implementation of legislation and Local Plan Policy NE3a relating to Biodiversity Net Gain. The general approach for securing Biodiversity Net Gain through this policy is guided by the mandatory requirements and uses the statutory metrics and toolkits where applicable. Three measures of biodiversity (habitat area

based; hedgerow and watercourse linear habitats) must therefore be considered where relevant, and 10% gains must be achieved for each measure.

3.6.5 This section therefore sets out the BNG policy intention, the triggers for BNG obligations, and the details of BNG obligations. More details on the calculation, design and delivery of BNG will be set out in a Biodiversity Net Gain guidance note and subsequent SPD.

### **Policy Intent**

3.6.6 The intent of policy NE3a is to secure proportionate delivery of measured biodiversity gains through the planning process. Major biodiversity net gain applicable developments are mandated to deliver a 10% net gain as measured by the main DEFRA metric and toolkit. This requires input from professional ecologists. Minor developments can use the Small Sites Metric to calculate the gains required. This is less onerous and can be completed by a competent person (site agent; architect etc and does not require input from a professional ecologist).

3.6.7 The gains required should be calculated only after site selection and project design decisions have taken all reasonable steps to avoid and minimise ecological impacts. Negative impacts to irreplaceable habitat must be avoided; enhancements may be acceptable as part of the net gain plan. (Policy NE3 should therefore be considered in full prior to the application of Policy NE3a)

3.6.8 The habitat gains required by development can be delivered on site or off-site, or through a combination of both measures. The gains proposed must prioritise measures set out in the West of England Local Nature Recovery Strategy and where relevant, take account of established parish/community nature recovery strategies<sup>1</sup>; be sufficient; reasonable and deliverable and should be set out in a Biodiversity Gain Plan (BGP) that must be approved prior to commencement.

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<sup>1</sup> Local provision of off-site BNG is only deliverable if biodiversity enhancement projects are included on the National Biodiversity Gain Site Register ([DEFRA, 2024](#)).

The BGP may be secured through an appropriate conservation covenant or planning legal agreement as detailed below.

### **Trigger for Obligation**

3.6.9 Policy NE3a relates to all development subject to certain exemptions– 1). householder applications; 2) permitted development and 3) de minimus thresholds

### **What is the requirement/ obligation?**

3.6.10 Policy NE3a sets out the requirements in terms of Biodiversity Net Gain for developers. It states:

#### ***“Policy NE3a Biodiversity Net Gain***

*Development will only be permitted for major developments where a Biodiversity Net Gain of a minimum of 10% is demonstrated and secured in perpetuity (at least 30 years) subject to the following requirements:*

- a The latest DEFRA metric or agreed equivalent is used to quantify the biodiversity value of the site predevelopment, post-development after application of the mitigation hierarchy and for any off-site areas proposed for habitat creation or enhancement both pre- and post development.*
- b That the assessment be undertaken by a suitably qualified and/or experience ecologist and is submitted together with baseline and proposed habitat mapping in a digital format with the application.*
- c A management plan will be required, detailing how the post-development biodiversity values of the site and any supporting off-site provision will be secured, managed and monitored in perpetuity.*
- d Any off-site habitats created or enhanced are well located to maximise opportunities for local nature recovery”*

*For minor developments, development will only be permitted where no net loss and appropriate net gain of biodiversity is secured using the latest DEFRA Small Sites metric or agreed equivalent.*

*Opportunities to secure Biodiversity Net Gain on householder developments and exempted brownfield sites will be supported.*

3.6.11 In order to comply with this policy and in line with emerging government requirements for BNG, all qualifying planning applications will be required to submit and have approved a Biodiversity Gain Plan. The plan must be approved prior to commencement of development and be secured by planning agreement or conservation covenant.

3.6.12 Where off-site biodiversity gains are proposed the planning agreement must firstly set out that the gains proposed:

- *are on land made available by a site provider with sufficient rights to the land*
- *will be delivered by a specified person or body that is considered fit and proper to undertake the enhancement works*
- *will be suitably managed to meet the required enhancement*
- *will have commenced by a specified date (30 January 2020 or later)*
- *will be maintained for at least 30 years after the completion of those enhancement works*

3.6.13 For both on and off-site gains the Biodiversity Gain Plan shall include:

- i) Proposals for biodiversity net gain (full details of the habitats including digitised mapping showing the areas of habitat to be maintained, enhanced and/or created, both on and off-site);
- ii) A summary of proposed biodiversity net gains, with a clear breakdown by habitat type retained, enhanced and/or created showing baseline and proposed target condition;

- iii) a schedule of actions to achieve enhancements proposed and the maintenance proposed to maintain quality for a minimum period of 30 years;
- iv) a schedule of ecological monitoring for the 30 year period identifying when key indicators of habitat maturity should be achieved; and management responsibilities (including points of contact);
- v) a methodology to ensure the submission of monitoring reports, by a suitably qualified and/or experienced ecologist, in years 2, 5, 10, 15, 20, 25 and 30 from commencement;
- vi) Where off-site gains are proposed, the off-site biodiversity gain site will need to be recorded on the Government's biodiversity gain site register and the biodiversity units used allocated to the site. The selection of an appropriate off-site location should prioritise sites in the vicinity of the development. Details of the biodiversity gain site (BGS Reference Number) and justification for its selection are to be provided.

### **Other issues**

3.6.14 The planning authority will approve the Biodiversity Gain Plan once satisfied that:

- the biodiversity gain plan and completed biodiversity metric (submitted as the completed calculator document, not a 'snapshot' or summary) show a measurable net gain of at least 10% across all unit types (area-based, and where relevant, linear, and riverine habitats), having regard to policy on matters such as additionality;
- the information, including pre-development and post-development biodiversity values, presented in the biodiversity gain plan is complete;
- any claimed gains (both on-site and off-site) are appropriately secured and allocated, including the point in the development process that these gains are

to be delivered and a proportionate description of how enhancements will be managed and monitored;

### **Purchase of offsite biodiversity units**

3.6.15 The cost of offsite biodiversity units to attain the 10% gain objective is lead by the market and will vary depending on the number of biodiversity units required to achieve the necessary gain for each development, and the availability of habitat type required. Baseline biodiversity units for the habitat area measure are calculated using measures of habitat area, habitat distinctiveness, habitat condition and strategic significance. The appropriate DEFRA metric must be used to calculate the baseline biodiversity value of the development site. The same metric is then used to calculate the post-development biodiversity value of the site by calculating values for retained, created or enhanced on-site habitat.

3.6.16 In many cases it should be possible for the required gains to be achieved on-site through the retention, enhancement or creation of habitat as an integrated part of the development through landscaping, green space and /or garden provision. However, where sites cannot deliver the habitat increase on site, off site provision will be required. The calculation of off-site habitat gains requires use of the appropriate DEFRA metric to calculate the baseline habitat value of the off-set site, and then to calculate the proposed value of the off-set site following the habitat creation or enhancement and long term management proposed.

### **Monitoring of onsite and offsite Biodiversity Gain Plans**

3.6.17 Development proposing onsite biodiversity gain may have a monitoring requirement. The council may agree to monitor biodiversity gain plans subject to a monitoring fee to be secured by a legal agreement. The monitoring fee is set to ensure nil cost to the council. The general monitoring fee is £4000 per development. If high distinctiveness habitats are proposed specialist expertise may need to be procured, in these circumstances a bespoke fee arrangement can be agreed.

3.6.18 All proposals for biodiversity gains offsite are considered 'habitat banks' and will need to be recorded on the national register with biodiversity units allocated to the relevant development. Habitat banks can be approved with a legal agreement either as part of a development submission or in isolation. The general monitoring fee of £4000 applies to each habitat bank.

3.6.19 The general monitoring fee is subject to change and will be reviewed annually.

### **Further Information**

3.6.20 The Biodiversity Net Gain Guidance/SPD set out further information and guidance for Biodiversity Net Gain. For further information please contact the Council's Planning Service.

### **3.7 Carbon Offsetting**

#### **Introduction**

3.7.1 Bath & North East Somerset has declared a climate emergency and has committed to providing the leadership for the District to be carbon neutral by 2030, which means that all developments must play a part in meeting the net zero carbon requirements.

3.7.2 The Council's Sustainable Construction Checklist SPD sets out the information that an applicant needs to provide in order to show that they are complying with carbon reduction policies.

3.7.3 This section relates to planning obligations for, where agreed by the Council, residual carbon emissions (SCR7), that cannot be mitigated on-site, and residual on-site renewable energy generation (SCR6) that are to be offset through a financial contribution to the Council's carbon offset fund.

#### **Policy Context**

3.7.4 Policies SCR6 and SCR7 relating to sustainable construction in new build developments are as follows:

#### ***SCR6 Sustainable Construction Policy for New Build Residential Development***

*New build residential development will be required to meet the standards set out below.*

*New build residential development will aim to achieve zero operational emissions by reducing heat and power demand then supplying all energy demand through onsite renewables. Through the submission of an appropriate energy assessment, having regard to the Sustainable Construction Checklist SPD, proposed new residential development will demonstrate the following:*

- Space heating demand less than 30kWh/m<sup>2</sup>/annum;*

- *Total energy use less than 40kWh/m<sup>2</sup>/annum; and*
- *On site renewable energy generation to match the total energy use, with a preference for roof mounted solar PV*
- *Connection to a low- or zero-carbon District heating network where available*

*Major residential development*

*In the case of major developments where the use of on site renewables to match total energy consumption is demonstrated to be not technically feasible (for example with apartments) or economically viable, renewable energy generation should be maximised and the residual on site renewable energy generation (calculated as the equivalent carbon emissions) must be offset by a financial contribution paid into the Council's carbon offset fund where the legal tests set out in the Community Infrastructure Regulations are met.*

***Policy SCR7 Sustainable Construction Policy for New Build Non-Residential Buildings***

*New build non-residential major development will maximise carbon reduction through sustainable construction measures. Through the submission of an appropriate energy assessment having regard to the Sustainable Construction Checklist SPD all planning applications will provide evidence that the standards below are met.*

*Major development is to achieve a 100% regulated operational carbon emissions reduction from Building Regulations Part L 2013 (or future equivalent legislation), following the hierarchy set out below.*

- *Minimise energy use through the use of energy efficient fabric and services*
- *Residual energy use should be met through connection to a low- or zero-carbon heat network if available.*
- *Maximise opportunities for renewable energy to mitigate all regulated operational emissions.*

- *Residual carbon emissions that cannot be mitigated on site should be offset through a financial contribution to the Council's carbon offset fund*

3.7.5 The trigger for requiring carbon offsetting applies to major developments under policies SCR6 and SCR7. Major development in the case of residential development means developments where 10 or more dwellings will be provided, or the site has an area of 0.5 hectares or more; and in the case of non-residential development it means additional floorspace of 1,000m<sup>2</sup> or more, or a site of 1 hectare or more.

### **Requirements for Offsetting Obligations**

3.7.6 The Sustainable Construction Checklist SPD sets out the approach to calculating the expected carbon performance of a new development.

3.7.7 Carbon/energy offsetting will only be acceptable in exceptional circumstances, where it has been demonstrated clearly that on-site renewable energy generation/carbon emissions targets cannot be technically or feasibly met on-site. It is paramount that on-site renewable energy must be maximised in order to match total energy consumption. Offsetting is only acceptable where it has been shown that on-site renewable energy generation cannot technically or feasibly match total energy consumption. The same principle is evident for policy SCR7, in that offsetting is only acceptable if a 100% carbon reduction has been shown to be technically or feasibly not possible.

3.7.8 Where officers consider all opportunities to meet the relevant carbon reduction/renewable energy generation targets have been exhausted on-site, contributions to an offsetting fund will be sought to meet the shortfall.

3.7.9 Payments for energy/carbon offsetting will be secured through Section 106 of the Town and Country Planning Act 1990 (as amended). Offsetting payments will be paid directly into the Council's offsetting fund. These funds will subsequently be used to contribute towards emissions reductions, whilst also increasing the renewable capacity of B&NES.

### **Trigger for Contribution**

3.7.10 Where an energy/carbon offset contribution has been agreed, the level of financial contribution is calculated at the planning determination stage, in accordance with the below formula. All offset payments are to be made prior to commencement of the development scheme, unless otherwise varied at the discretion of the Council, to minimise the mismatch in timing between the development generating an operational energy demand and the corresponding offsetting taking effect (an important offsetting principle).

### **Level of Contribution**

3.7.11 The residual on-site renewable energy generation/carbon from the policy target is to be calculated using the Sustainable Construction Checklist SPD.

The formula for policy SCR6 is as follows:

= renewable energy deficit (MWh/annum) x 30-years (assumed development lifetime) x 130 (£/MWh) x 1.10 (10% administration fees)

The formula for policy SCR7 is as follows:

= Residual tonnes of carbon (tCO<sub>2</sub>e/annum) x 30-years (assumed development lifetime) x 410 (£/tCO<sub>2</sub>) x 1.10 (10% administration fees)

3.7.12 Administrative costs of 10% the offsetting fee are incorporated into the offset calculation formula. This is to account for the time of establishing the fund, identifying, developing and managing offset projects.

3.7.13 The 30-year lifetime is the duration assumed for the operational emissions from the proposed development. The offsetting payment is a one-off fee, therefore the entirety of the development's emissions contribution must be accounted for.

3.7.14 The offsetting price per MWh of residual energy for policy SCR6 has been set at £130/MWh and has been calculated to reflect all costs that would be incurred if the energy was to be provided onsite through roof-mounted solar PV panels for a 30-year period (an assumed lifespan of a development).

3.7.15 Further details of how the tariff has been calculated are set out in the South West Net Zero Hub (2024) study ‘Setting a net zero energy offset price for new build residential development’. The offsetting price per unit of CO2 for policy SCR7 is based upon the high carbon valuation for 2025 in UK Government Green Book Supplementary Guidance: Valuation of Energy Use and Greenhouse Gas Emissions for Appraisal. This is the same basis as the previous figure but updated to the latest figures from DESNZ.

### **Further Information**

3.7.16 For further information please contact the Sustainability Team or Planning Policy Team.

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

### **Introduction**

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

### **Policy Justification**

#### **National**

- 3.8.3 The NPPF states that Planning Policies should .... “set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth.”(Para 86a) and “seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment ”. (Para 86d)

#### **Local**

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

development that improves the economic, social and environmental conditions in the area.'

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

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

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

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

### **Trigger for Contribution**

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

- Residential and Extra Care units: 10 units of housing and above
- Commercial Premises (including Purpose Built Student Accommodation and Care Homes) over 1000sq m

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

### **Targets & contributions**

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

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

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

3.8.12 There are three distinct TR&T in construction outcomes defined for NETs as follows

- Work Experience placements on site of no less than 16 hours per opportunity
- Apprenticeship or similar trainee programme starts on site
- New jobs created on site advertised through the Department of Work & Pensions (DWP) and filled by DWP clients.

3.8.13 The contribution is intended to support opportunities for skills development, including NETs entering into TR&T in construction, providing training course or progression opportunities, travel and equipment costs. These figures have been identified by B&NES together with the B&NES Learning Partnership.

The breakdown of maximum anticipated costs are as follows:

- Work Experience - £234 per opportunity. This is to provide any necessary training (CSCS card), work safety ware or travel expenses.
- Apprenticeship starts - £3,120 per opportunity. This is to provide funds to support training and necessary work safety ware.
- New Jobs Advertised and filled with DWP - £234 per opportunity. This is to provide any necessary training (CSCS card), work safety ware or travel expenses, for those entering into employment.
- There are also set up and management costs, which are an additional 10% of the total contribution.
- Details of the site specific costs will be identified as part of the s106 heads of terms.

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

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

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

3.8.15 It is a requirement of the developer to provide a method statement following a template and guidance produced in partnership with the B&NES Learning Partnership that will outline the delivery of the TR&T target outcomes. The

developer will also be required to participate and contribute to a TR&T Management Board supported by the B&NES Learning Partnership that will have the overall responsibility of delivering the outcomes.

### **Further Information**

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

### **3.9 Fire Hydrants**

#### **Background**

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

3.9.2 Avon Fire and Rescue Service are consulted on all major planning applications and they will notify the Council when a fire hydrant obligation is required.

#### **Policy Background**

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

#### **Trigger for Obligation**

3.9.4 Obligations in respect of Fire Hydrants will be required where both the following criteria apply:

- Where the development is for 10 or more dwellings or in excess of 1,000 m<sup>2</sup> of commercial floor space; and
- Where the development will be erected more than 100m from the nearest existing fire hydrant.

#### **Level of Contribution**

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

### **Trigger for Payment**

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

## **3.10 Education Provision**

### **Policy Background**

3.10.1 The policy justification for requesting developer contributions for Education Provision flows from the National Planning Policy Framework (NPPF), Bath & North East Somerset Core Strategy Policy CP13 and Placemaking Plan policy LCR3A “Primary School Capacity” which states “*Residential development will only be acceptable where there is a school within a reasonable distance\* that has sufficient spare capacity or is able to be expanded to create additional capacity to accommodate the pupil needs arising from the development.*”

3.10.2 In addition, developers should also be aware of the guidance published in August 2023, ‘Securing developer contributions for education’<sup>2</sup>, which sets out the expectations of the Department for Education (DfE) on Local Authorities Securing developer contributions for education including home to school transport.

### **Trigger for Obligation**

3.10.3 In general, CIL forms the main mechanism for funding further development related to primary, secondary and sixth form school places. However, the utilisation of S106 contributions to fund more strategic needs for schools will be considered on a case by case basis depending on the context, existing capacity and impact, as major developments may require the provision of an extension to an existing school or new education facilities to accommodate the growth in pupil numbers.

3.10.4 Obligations in respect of education facilities could be sought from new residential development of all tenures with a net increase of 10 dwellings or more, district wide where there is insufficient school capacity. Bed sits, temporary housing and any dwellings designated for restricted use such as student accommodation, housing for the elderly or sheltered housing for adults

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<sup>2</sup> <https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>

with learning difficulties etc. would not normally be expected to contribute as the number of children generated would be marginal or nil. Dwellings with one bedroom are excluded as they are not expected to generate any children. All other new dwellings of two bedrooms or more will be included in the calculations.

3.10.5 The planning obligations referred to in this “Education Provision” section of the SPD relate to Early Years provision, Primary and Secondary School and Sixth Form provision Special Educational Needs and Disabilities (SEND) provision, and Home to School Transport.

3.10.6. The Council has a statutory duty to ensure there is enough Early Years provision and will seek developer contributions / set planning conditions for major developments to ensure enough places. The early years setting may be overseen by a school or a Private, Voluntary or Independent (PVI) provider. The determination of whether or not there is sufficient Early Years capacity available to serve the area of the development will be made with reference to the latest Childcare Sufficiency Duty Report<sup>3</sup>

3.10.7 Large development proposals may come forward that may generate a need for a new school, or an extension to an existing school (both primary and secondary including sixth form), due to the increase in the resident population resulting from the development. In such cases, the provision of a new school or school extension will be required through planning obligations, as the infrastructure is required to specifically mitigate the impact of the development.

3.10.8 The determination of whether or not there is sufficient primary, secondary and sixth form capacity available in the school or schools that serve the area of the development will be made with reference to the current school capacity figures and Published Admission Numbers (PANs), and to a projection of future pupil numbers based on current numbers on roll, births and resident population data

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<sup>3</sup> <https://www.bathnes.gov.uk/document-and-policy-library/childcare-sufficiency-assessment-report>

as outlined in the latest published School Organisation Plan. Pupil projections will also be adjusted to include pupils calculated to be generated from any previously approved new housing developments in the area of the development.

3.10.9 There is also a statutory requirement for the Local Authority (LA) to provide Special Education Needs and Disabilities (SEND) educational provision. The document “Securing developer contributions for education” refers to the need for securing SEND provision. There are various forms this can take including Resource Bases located in existing schools and standalone facilities.

3.10.10 The determination of whether or not there is sufficient SEND capacity available in the LA will be made with reference to the latest SEND Collaboration for BANES plan.

3.10.11. Where a development will result in the need to transport pupils to mainstream primary or secondary school including sixth form, contributions towards this will be required through planning obligations.

3.10.12 The Council will provide transport between home and school if the school attended is the nearest appropriate one, as designated by the LA and the distance between home and that school when measured by the nearest available walking route, using the LAs mapping transport software, is 2 miles or more for children aged 5 to 7 and 3 miles or more for children aged 8 to 16. These distances are referred to as ‘statutory walking distances’. The LA will also provide transport if the school attended is the closest school to the home address and closer than the designated school and the statutory walking distances are met.

3.10.13 The Council has a Safe Route to School policy and will also provide transport for pupils who cannot reasonably be expected to walk to their nearest suitable school, even if the statutory walking distances are met, due to the nature of the route being deemed by the Council to be hazardous, even if

accompanied by a parent. The determination of whether a route is hazardous lies with the Council's Home to School Transport Team.

3.10.14 The determination of whether or not Home to School Transport will need to be provided will be made with reference to the DfE statutory Home to School Travel and Transport Guidance and to Bath and North East Somerset Council's published Home to School Travel Policy for compulsory school age children.

### **Level of Contribution**

3.10.15 Where an existing off-site school is to be extended or upgraded, the Extension cost per place multiplier will be used to calculate a contribution.

3.10.16 Where the development creates a requirement for a new on-site school, whilst a New School cost per place multiplier has been quoted below, this is intended as a guide only, and the developer will be expected to pay the full cost of delivering the finished new school, including design fees and charges, construction, furniture and equipment, any costs associated with the site and to provide the site free of charge. In certain instances where the combined effects of two or more proposals create a requirement for a new school to serve the developments, developers will be expected to contribute to the land and the full cost of building the whole new school as proportionate to each development.

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

3.10.18 A formula is set out for the calculation and the following paragraphs and tables provide a breakdown of the expected planning obligations costs the developer will in most cases have to meet. The elements in the formulae below will be subject to annual review in line with government guidance and where

new or updated information becomes available from relevant government or Council departments that update current use values or cost indicators, the Council will make amendments to levels of contribution on this basis.

3.10.19 The cost per place multipliers are based on the regional (for the South West) cost per place figures from the DfE Local Authority School Places Scorecards, together with the advice contained in the DfE guidance document Securing Developer Contributions for Education. The cost per place multipliers will be reviewed annually with reference to the latest DfE Local Authority School Places Scorecards and may be updated every financial year.

3.10.20 Where home to school transport contributions will be required, these will be for a period of up to seven years for a primary age child and five years for a secondary age child and will be based on the latest market costs of providing home to school transport for pupils in Bath and North East Somerset.

3.10.21 Transport costs can vary significantly depending on factors such as the type of transport required, the distance to the nearest appropriate school provision and the number of pupils generated by the housing development. Methods of transport may include bus passes on public transport, if appropriate and if a public bus route is available; coaches or mini buses; taxis for smaller numbers of pupils. For example, the current average cost of providing public bus pass transport for a secondary age pupil per academic year in 2024-25 is £450.00 and taxi transport for a primary age pupil is on average £100.00 per day/£19,000.00 per academic year.

3.10.22 Where places are either available, or made available, at a school within statutory walking distance of a new development but the route to the school is deemed to be hazardous, developers may be asked to carry out or fund improvements to the route to bring it up to the necessary standard, both within and outside of their development site, as an alternative to paying home to school transport contributions.

3.10.23 The current cost per place multipliers (including Location Factor) that will be used when calculating contributions are as follows:

**Table 3.10.A**

| <b>Early Years per place</b>    |         |
|---------------------------------|---------|
| New Provision                   | £24,660 |
| Extension                       | £20,654 |
| <b>Primary School per place</b> |         |
| New School                      | £24,660 |
| Extension                       | £20,654 |

| <b>Secondary School &amp; Sixth Form per place</b> |         |
|--|---------|
| New School   | £29,875 |
| Extension  | £28,408 |

| <b>SEND per place</b> |          |
|-----------------------|----------|
| New Provision         | £109,070 |
| Extension             | £98,124  |

3.10.24 The Council will be notified of the proposed mix of dwellings in the development and the following pupil yield figures based on type of dwelling and number of bedrooms will be used to calculate the contribution.

**Table 3.10.B**

| <b>Category</b>                              | <b>Pupil Yield</b> |           |               |          |          |           |
|--|--------------------|-----------|---------------|----------|----------|-----------|
|  | <b>Flats</b>       |           | <b>Houses</b> |          |          |           |
| <b>No of Bedrooms</b>                        | <b>2</b>           | <b>3+</b> | <b>2</b>      | <b>3</b> | <b>4</b> | <b>5+</b> |
| <b>Early Years age 0-1 per 100 dwellings</b> | 2.88               | 4.32      | 5.76          | 8.64     | 9.36     | 7.68      |
| <b>Early Years age 2 per 100 dwellings</b>   | 1.8                | 2.7       | 3.6           | 5.4      | 5.85     | 4.8       |
| <b>Early Years age 3-4 per 100 dwellings</b> | 4.56               | 6.84      | 9.12          | 13.68    | 14.82    | 12.16     |
| <b>Primary pupils per 100 dwellings</b>      | 4                  | 30        | 9             | 30       | 46       | 65        |
| <b>Secondary pupils per 100 dwellings</b>    | 0                  | 0         | 3             | 14       | 27       | 46        |
| <b>Sixth Form pupils per 100 dwellings</b>   | 0                  | 0         | 1             | 3        | 10       | 8         |
| <b>SEND pupils per 100 dwellings</b>         | 0.126              | 0.945     | 0.315         | 1.4805   | 2.6145   | 3.7485    |

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

- 6 early years children age 0-1 per 100 dwellings
- 4 early years children age 2 per 100 dwellings
- 10 early years children age 3-4 per 100 dwellings
- 31 primary school pupils per 100 dwellings
- 19 secondary school pupils per 100 dwellings
- 4 sixth form pupils per 100 dwellings
- 1.5 SEND pupils per 100 dwellings

3.10.26 The following table shows the contribution per dwelling where an existing educational facility is to be extended.

**Table 3.10.C**

| <b>Category</b>                         | <b>Contribution per dwelling in £</b> |           |               |           |           |            |
|---|---------------------------------------|-----------|---------------|-----------|-----------|------------|
|   | <b>Flats</b>                          |           | <b>Houses</b> |           |           |            |
| <b>Dwelling Type</b>                    | <b>2</b>                              | <b>3+</b> | <b>2</b>      | <b>3</b>  | <b>4</b>  | <b>5+</b>  |
| <b>No of Bed-rooms</b>                  | <b>2</b>                              | <b>3+</b> | <b>2</b>      | <b>3</b>  | <b>4</b>  | <b>5+</b>  |
| <b>Early Years age 0-1 per dwelling</b> | £594.84                               | £892.25   | £1,189.67     | £1,784.51 | £1,933.21 | £1,586.23  |
| <b>Early Years age 2 per dwelling</b>   | £371.77                               | £557.66   | £743.54       | £1,115.32 | £1,208.26 | £991.39    |
| <b>Early Years age 3-4 per dwelling</b> | £941.82                               | £1,412.73 | £1,883.64     | £2,825.47 | £3,060.92 | £2,511.53  |
| <b>Primary per dwelling</b>             | £826.16                               | £6,196.20 | £1,858.86     | £6,196.20 | £9,500.84 | £13,425.10 |
| <b>Secondary per dwelling</b>           | £0.00                                 | £0.00     | £852.24       | £3,977.12 | £7,670.16 | £13,067.68 |
| <b>Sixth Form per dwelling</b>          | £0.00                                 | £0.00     | £284.08       | £852.24   | £2,840.80 | £2,272.64  |
| <b>SEND per dwelling</b>                | £123.64                               | £927.27   | £309.09       | £1,452.73 | £2,565.45 | £3,678.18  |

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

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

### **Further Information**

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

### **3.11 Health Facilities**

#### **Introduction**

3.11.1 Health care provision is an integral component of sustainable development – access to essential healthcare services promotes good health outcomes and supports the overall social and economic wellbeing of an area.

3.11.2 The justification for requiring obligations in respect of health facilities to mitigate impact of development is set out in Policy CP 13 of the Council's Core Strategy which requires new developments to be supported by the timely delivery of the required infrastructure to mitigate the impact of development on facilities. In addition, the National Planning Policy Framework (NPPF) indicates that strategic policies should set out an overall strategy for and make sufficient provision for community facilities such as health.

3.11.3 Assessment of impact on local health infrastructure will be prepared in consultation with the Bath and North East Somerset, Swindon and Wiltshire Integrated Care Board (BSW ICB) and other health stakeholders as appropriate. The BSW ICB is the statutory body who plan and manage health care services in the district for the local population and understand local needs based on demographics.

#### **NHS Ten Year Plan**

3.11.4 The NHS Ten Year Plan articulates that the NHS is to transform and improve the way healthcare is delivered across England. Its aim is to create a system that is more proactive, integrated, digitally enabled, and focused on prevention. To achieve this, the Plan prioritises strengthening community-based care, shifting activity away from acute hospitals where appropriate, and ensuring that services are organised around the needs of local populations rather than organisational boundaries.

3.11.5 A key mechanism for achieving this shift is the development of neighbourhood health, including **integrated neighbourhood teams**, which bring together primary care, community services, social care, mental health, and voluntary

sector partners. These “teams of teams” will ensure a more coordinated and responsive approach to population health, enabling patients to access a wider range of services in the most suitable settings. By aligning GP practices, community teams, and other health professionals within shared structures, integrated neighbourhood teams and neighbourhood health in general will support earlier intervention, improved access, and more personalised care.

3.11.6 Where possible neighbourhood health will be supported by Neighbourhood Health Hubs. These hubs will serve as local focal points for multidisciplinary teams and a broad range of diagnostic, therapeutic, and preventive services. Through these hubs, patients will increasingly be able to access care closer to home, reducing unnecessary hospital attendance and supporting faster, more holistic interventions. The new model emphasises:

- Enhanced primary care capacity;
- Community diagnostic and treatment centres;
- Modernisation and reconfiguration of existing NHS estate;
- Mental health facilities;
- New models of digitally enabled care.

3.11.7 Integrated neighbourhood teams will include:

- GPs and specialty/specialist clinicians
- Pharmacists and pharmacy technicians
- District and community nursing teams
- Community geriatricians
- Dementia and frailty practitioners
- Allied health professionals (e.g., physiotherapists, podiatrists/chiropodists, occupational therapists)
- Social prescribing link workers, mental health practitioners, and wellbeing coaches

3.11.8 To help address the increasing pressure acute services are under and demand on hospitals continues to increase, there is a national and local imperative to shift certain intermediate care, diagnostic, and outpatient

activities into community environments. Services such as screening, routine tests, and selected outpatient therapies can be delivered more efficiently outside hospital sites, freeing up specialist capacity and providing more convenient access for patients.

3.11.9 Neighbourhood Health Hubs and community diagnostic centres will play a crucial role in this shift, ensuring patients are seen in the right place, at the right time, by the right professionals.

3.11.10 BSW ICB and the council will work closely together to understand the changing needs of the population. Each year, BSW ICB will:

- Review the demand for GP, community, and hospital services
- Monitor population growth and health needs
- Check capacity across local services
- Plan healthcare premises needed to support the growth in population

3.11.11 This partnership approach will help make sure local people have access to high-quality care, modern facilities, and a broad range of services close to home.

### **Approach to Planning Obligations**

3.11.12 New housing developments increase the total number of patients that need primary care in a localised area. From a service planning perspective, to adequately provide for the needs of the population within the area the ICB must consider the total population that will live in the newly built homes and how services within an impacted Primary Care Network(s) (PCN) can best be provided to serve this additional population.

3.11.13 In its simplest terms a PCN is a group of GP practices working together across an area which serves a population. There are a number of PCNs in Bath, a Keynsham PCN and a Three Valleys PCN - including the Somer Valley, and Chew Valley GP Practices.

## **Trigger for Obligation**

3.11.14 Obligations in respect of health facilities will be sought from new residential development (self-contained and non-self-contained) of all tenures of 50 dwellings or more, district wide. In order to identify whether the equivalent threshold of 50 dwellings is triggered for communal accommodation, this will be calculated by dividing by the number of student bedrooms proposed by the national ratio (2.4) and the number of other communal bedrooms by the national ratio (1.9)<sup>4</sup>.

3.11.15 Contributions will only be required where there are specific proposals identified to mitigate impact, to ensure that the obligation meets the CIL Regulation tests.

## **Approach to Planning Obligations**

3.11.16 To determine if a planning obligation is required and the appropriate form of contribution, a four-step process will be followed as set out in Table 3.11.A

**Table 3.11.A Overview of Methodology for Calculating Primary Care Infrastructure Needs**

|   |   |
|---|---|
| Step 1: Assess level of primary care infrastructure need proposal generates | <ul style="list-style-type: none"><li>Average household size applied to total number of residential units / proposed no of occupants.</li><li>ICB floorspace requirement for growth 150sqm GIA per 1,750 patients</li></ul> |
| Step 2: Review capacity of existing primary care infrastructure             | <ul style="list-style-type: none"><li>Existing practices likely to be impacted identified by ICS</li><li>ICB benchmark for existing capacity 120sqm NIA per 1,750 patients</li></ul>  |
| Step 3: Consider appropriate additional capacity solutions and approaches   | <ul style="list-style-type: none"><li>Potential for expansion of existing facilities or new provision</li></ul>   |

<sup>4</sup> Reference – Ratios derived from MHCLG Housing Delivery Test Technical Note 2023 Updated December 2024:

|   |  |
|---|--|
| <p>Step 4: Identify appropriate form of developer contributions</p>   | <ul style="list-style-type: none"> <li>• ICB build cost benchmarks of £5,373/sqm for expansion of existing premises and £6,960/sqm for new build (updated annually)</li> </ul> |
| <p>Example calculation for 250 unit scheme mitigated by expansion of existing facilities:</p> $[(250 \text{ residential units} \times 2.3 \text{ persons/house})/1,750 \text{ patients}] \times 150 \text{ sqm} = 49 \text{ sqm floorspace requirement}$ $(49 \text{ sqm primary care floorspace}) \times (\text{£5,373/sqm ICB build cost benchmark for expansion}) = \text{£263,277}$ |  |

## **Step 1: Assess Primary Care Infrastructure Needs Arising from Development**

3.11.17 The residential population generated by the proposed development is used to estimate the direct impact on local primary care services by providing the number of GP registrations linked to the additional population.

- For self-contained (C3) dwellings the average household size of 2.3 as identified by 2021 Census will be used applied to all units.
- For non-self contained dwellings such as student accommodation the standard assumption will be one person per bedspace.

3.11.18 For older people's housing the most appropriate approach to determining population gain will need to be agreed on a case-by-case basis with the Council.

3.11.19 Alternate household size assumptions will only be considered by the ICB if justified by the applicant and agreed by the Council.

3.11.20 Department of Health best practice guidance for primary care facilities is provided in Health Building Note 11:01: Facilities for Primary and Community Care (HBN 11-01). Health Building Notes provide guidance on the design and planning of new healthcare buildings, as well as the refurbishment and extension of existing facilities. HBN11-01 describes the way to quantify the types of spaces needed for primary and community care facilities to

support the briefing and design processes for individual projects in the NHS building programme.

3.11.21 For planning purposes, the ICB uses a standard floorspace requirement of 150sqm Gross Internal Area (GIA) per 1,750 patients which is aligned to HBN11-01 guidance. This provides an appropriate benchmark for the early-stage planning of new facilities, to identify the scale of additional infrastructure required to provide primary care services to a modern standard of care for residents of new housing in efficient, flexible, and user-friendly environments. This floorspace standard is kept under review by the ICB to ensure it reflects the most up-to-date best practice guidance and may be revised accordingly.

## **Step 2 Review capacity of existing primary care infrastructure**

3.11.22 The ICB will identify the individual primary care premises likely to be impacted by new development based on existing GP catchments, predominant patterns of patient access in the local area and ICB objectives relating to primary care accessibility. This means that not all practices whose catchments cover the development site will necessarily be included in the assessment of existing capacity – for example while some GPs have very large catchments, the ICB does not consider it appropriate to expect patients to travel significant distances to access primary care facilities when there are closer options.

3.11.23 Early engagement with the ICB will ensure that baseline capacity assessment includes the correct premises. The ICB uses a standard floorspace requirement of 120sqm Net Internal Area (NIA) per 1,750 patients to assess the capacity of existing premises, aligned to HBN11-01. Where available, weighted patient list size should be used for the assessment. This results in a more accurate understanding of current infrastructure capacity because weighting for patient demographics reflects that certain types of patients place a higher demand on practices than others (e.g. older patients, very young patients).

3.11.24 In limited circumstances there may be existing capacity within the estate, or funded primary care estates projects with certainty around delivery that will deliver additional capacity in future. In such cases, it will be necessary to determine if the capacity will still be available at the time the proposed development is occupied – for example, improvement projects may have been identified in response to population growth associated with housing development that has already been approved but not yet implemented.

### **Step 3: Consider appropriate additional capacity solutions and approaches**

3.11.25 Developer contributions towards health infrastructure should contribute to the delivery of effective and efficient primary care services that meet the strategic needs of the impacted PCN(s) and the ICS. The ICB will identify capacity solutions to deliver the required additional floorspace based on either:

- **Refurbishment, reconfiguration and/or extension of existing premises** – this will depend on if existing premises are in the right location, have the potential for refurbishment, reconfiguration and/or extension, and alignment with ICB infrastructure strategy.
- **New build health facilities** – this may either be on-site or off-site depending on the scale/location of the development and alignment with ICB infrastructure strategy.

3.11.26 In context of the significant transformation taking place within primary care, the most effective means of expanding primary care to serve the needs of a specific new development may not be focusing investment on the facility closest to the development site. Planning obligations will be linked to delivering additional capacity within the relevant PCN area(s). This flexibility is necessary to enable the ICB to deliver the required additional capacity in the location that most effectively serves residents of the new development at the

time it comes forward, which may differ from the preferred mitigation project(s) identified at the time of permission.

3.11.27 At the masterplanning stage, development proposals in growth and areas of major change will generally need to provide flexibility to accommodate necessary health facilities on site. As a benchmark, this will typically apply to development over 1,500 homes, however a number of factors will be considered when determining whether a particular development should include on-site provision of a primary care facility including:

- The ability of local facilities to expand sufficiently and impact of a new facility on them
- Cumulative impact with other residential development proposals and the needs of the existing community
- The viability of the development and the cost of a new primary care facility against other potential solutions
- The viability of a new facility, particularly in the early years of a large, phased scheme
- How the location and configuration of the development would align with wider system objectives relating to service delivery

3.11.28 Where floorspace requirements from a single development are not large BSW ICB may seek to work with the developer to agree delivery of a larger facility.

#### **Step 4 – Identify appropriate form of contribution**

3.11.29 Once the appropriate form of mitigation has been identified by the ICB, the capital cost of creating the additional primary care floorspace to the required standard will be determined based on the relevant build cost benchmark. The 2024 benchmark costs to be used in the calculation of the required contribution amount are:

- £5,373/sqm for mitigation in the form of refurbishment/extension

- £6,960/sqm for mitigation in the form of new build

3.11.30 ICB build cost benchmarks for primary care facilities are prepared by independent quantity surveyors with a healthcare specialism to ensure accordance with HBN11-01. The capital costs of additional provision, whether for upgrades to existing facilities or construction of new facilities, are based on providing spaces that are specified to be ready for occupation, as opposed to shell and core condition. This reflects the full costs of delivering health infrastructure projects and therefore incorporate a range of allowances including (but not limited to) fit out, professional fees, externals and contingency. However, they do not include the cost of land acquisition.

3.11.31 Build cost benchmarks will be updated annually by the ICB to reflect current market conditions in the locality. In cases where the ICB has identified potential priority projects in the locality of the development, for example in their infrastructure strategy, as part of developing the contribution requests these projects may be explored in more detail to refine the request.

3.11.32 Where the scale of the proposals requires on-site provision of a new facility, mitigation will take the form of either:

- In-kind provision by the developer in the form of a turnkey, fully fitted out facility transferred to the NHS at no cost; or
- The provision of a service plot of land at no cost, and a financial contribution to equivalent to the full capital cost of a new build facility of the required size.

3.11.33 The final design of the health facility should meet the most up to date model of health care provision standards. This will be secured in the S106 agreement by a requirement for the health facility specification to be agreed by the ICS and (if relevant) healthcare provider(s). The S106 will also include mechanisms to ensure that the delivery of any in-kind facility is financially and operationally viable for the needed services, for example lease terms.

### **3.12 Other Site Specific Measures**

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

- Community Facilities
- Sustainability
- Waste and Recycling
- Public Realm including funding of Legible Signage
- Drainage and flood risk mitigation measures (Refer to Policy CP5)
- Improvements to and the mitigation of adverse impacts on the historic environment

#### **Policy Background**

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

#### **Trigger for Obligation**

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

## **APPENDICES**

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

- 1.1 Should the Council agree that an offsite payment is warranted as outlined in Para 3.1.83, then the following methodology will be used to calculate the commuted sum to deliver the broadly equivalent value as outlined in the NPPF (2021) Para 63.
- 1.2 The intention of the formulae is to deliver a simple broadly equivalent value as if the provision had been made on site, which can also be easily updated on an annual basis.
- 1.3 The formulae are applicable for small sites in designated rural areas, and larger sites as appropriate to the affordable housing percentage target within the Local Plan. This is especially appropriate to small sites where the offsite payment may be accepted in lieu of say one unit and a straight forward calculation will aid an accurate land offer.
- 1.4 These aspects will form part of the initial calculation for the affordable housing and used to calculate the final offsite payment on any particular site.
- 1.5 The offsite calculation is based on sample residual land value calculations for the different value areas as used in the CIL viability report 2014 and different scheme types, low density, medium density and high density to reflect the different types of housing and affordable housing mix that would be delivered. The value and build prices have been updated from the 2014 CIL viability study using the BCIS TPI and Land Registry Index for the financial year 2022/2023. The figures will be updated annually during February/March, to reflect market changes, for use in the following financial year.
- 1.6 The calculation uses a matrix of values to be applied to the proposed scheme as follows:

**Table 1. Per unit Commuted Sum (the financial year 2025/26: this table will be updated annually)**

| <b>Scheme Density</b>  | <b>Low Density</b>                      | <b>Medium Density</b>          | <b>High Density</b>       |
|--|---|--------------------------------|---------------------------|
| <b>Density Definition</b>  | <b>At least 80% houses or bungalows</b> | <b>Mix of houses and flats</b> | <b>At Least 80% flats</b> |
| <b>Bath Prime</b><br><br>High Value Area 1 - (40% affordable housing)          | £263,557                                | £194,353                       | £149,335                  |
| <b>Bath Rural</b><br><br>High Value Area 1 - (40% affordable housing)          | £192,180                                | £157,721                       | £120,908                  |
| <b>Bath North and East</b><br><br>High Value Area 1 - (40% affordable housing) | £160,686                                | £132,008                       | £101,424                  |
| <b>Area 2 Areas</b><br><br>Low Value Area (30% affordable housing)             | £112,957                                | £90,210                        | £67,525                   |

**Example 1** - A scheme of 10 houses in Bath Rural post code areas, the calculation would be as follows:

$10 \times 40\% = 4$  units. Scheme Type is 100% Houses = Low Density

The commuted sum figure per unit for Low Density in Bath Rural Post Code area is

£192,180 (See column 2 row 4 in Table 1 above)

**The Commuted Sum Calculation is  $4 \times £192,180 = £786,720$**

**Example 2** - A scheme of 15 houses and flats in Area 2 post code areas, the calculation would be as follows:

$15 \times 30\% = 4.5$  units.

Scheme Type is a mix of houses and flats = Medium Density.

The commuted sum figure per units for mix of houses and flats houses in Area 2 Post Code area is £90,210 (See column 3 row 6 in Table 1 above)

**The Commuted Sum Calculation is  $4.5 \times £90,210 = £405,945$**

**Note.** In line with NPPF definitions developments consisting of between 5 & 9 dwellings within designated rural areas will be liable for commuted sum payments at 20% for AH area 1 and 15% for AH area 2, half that of large sites, in order to encourage delivery.

Scheme density definitions used in table 1 are further set out within table 7 (page 141) of the [B&NES Placemaking Plan \[LINK\]](#).

### **Payment of the Commuted Sum**

1.7 Payment to be made in accordance with Para 3.1.86 or by agreement with the LPA and set out within the S 106 agreement.

### **Applications that Straddle financial year updates.**

1.8 The Commuted Sum calculation payable will be the commuted sum within the SPD as valid at the point of granting consent (i.e. the signing of the S 106 agreement). So an application in January 2018 and granted in May 2018 will use the relevant Commuted sum updated figures for the year 2018/19.

The updated Commuted Sum table can be found at the [Planning Obligations SPD webpage – see Appendix 1 \[LINK\]](#)

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

### Housing our Ageing Population: Plan for Implementation

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

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

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

The full HAPPI report can be found here:

[http://www.homesandcommunities.co.uk/sites/default/files/happi\\_final\\_report\\_031209.pdf](http://www.homesandcommunities.co.uk/sites/default/files/happi_final_report_031209.pdf)

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

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

**Table 3A – Extra Care Standards**

| <b>1. Dwellings</b>   | <b>Essential</b> | <b>Desirable</b>  | <b>Commentary</b>   |
|---|------------------|-------------------|---|
| Minimum size of dwellings:                                      |                  |                   | The desirable dwelling size standard is based on <i>Design principles for extra care</i> (Housing LIN factsheet 6). The minimums reflect current standards in some private sector retirement schemes. |
| One bed for 2 persons   | 50m <sup>2</sup> | 54+m <sup>2</sup> |   |
| Two bed for 3 persons   | 60m <sup>2</sup> | 68+m <sup>2</sup> |   |
| Mix of one and two bed properties                               | Essential        |                   |   |
| Some three bed properties                                       |                  | Desirable         |   |
| Minimum scale 45-50 dwellings                                   |                  | Desirable         |   |
| Must be self-contained  | Essential        |                   |   |
| Including an adaptable kitchen appropriate for the client group | Essential        |                   |   |
| <b>2. Standards</b>   | <b>Essential</b> | <b>Desirable</b>  | <b>Commentary</b>   |
| Overall standards   |                  |                   | Care Standards Act 2000 does not apply to extra care despite the care element of extra care schemes having to register with the CQC   |
| Registered Provider follows HCA standards                       | Essential        |                   |   |
| Lifetime home standards (now M4(2))                             | Essential        |                   |   |
| Design Principles for extra care (Housing LIN factsheet 6)      |                  | Desirable         |   |

| Compliance with the 10 HAPPI principals    |                  |                  | See below*  |
|--|------------------|------------------|---|
| <b>3. Facilities</b>                       | <b>Essential</b> | <b>Desirable</b> | <b>Commentary</b>   |
| Overall approach to facilities             |                  |                  | The range of facilities will be more extensive the larger the development and should also complement what else is available in the near community. This is not an exhaustive list but reflects what has been developed/ provided in other schemes |
| Communal lounges                           | Essential        |                  |   |
| Restaurant/dining room                     | Essential        |                  |   |
| Tea/coffee making area                     | Essential        |                  |   |
| Activity/hobby rooms                       |                  | Desirable        |   |
| Communal WCs                               | Essential        |                  |   |
| Assisted bathroom                          | Essential        |                  |   |
| Hairdressing/beauty therapy                | Essential        |                  |   |
| Informal seating space                     |                  | Desirable        |   |
| Scooter store                              | Essential        |                  |   |
| Car Parking                                | Essential        |                  |   |
| Manager's office                           | Essential        |                  |   |
| Care staff office                          | Essential        |                  |   |
| Staff rest room including changing/lockers |                  | Desirable        |   |
| Guest room with en-suite                   |                  | Desirable        |   |
| Laundry (if no washing machines in flats)  | Essential        |                  |   |
| Catering kitchen                           |                  | Desirable        |   |
| Cleaners storage                           | Essential        |                  |   |
| General storage                            |                  | Desirable        |   |
| Lift/motor room                            | Essential        | Desirable        | A lift is essential if housing complex is spread over more than one floor.  |
| Refuse store/bin room                      | Essential        |                  |   |
| Shop, gym, library, IT room, cinema        |                  | Desirable        |   |
| Treatment/therapy room                     |                  | Desirable        |   |
| <b>4. Care and Support</b>                 | <b>Essential</b> | <b>Desirable</b> | <b>Commentary</b>   |

|   |           |           |  |
|---|-----------|-----------|--|
| Overall approach re Care and Support                                      |           |           | Due to the unpredictable nature of need in extra care settings, it is more viable for one care provider to operate within a “scheme” although this may not be practicable if a resident is insistent on retaining an established care arrangement. |
| 24 hour on site care  | Essential |           |  |
| Emergency alarm   | Essential |           |  |
| Door opening and CCTV   | Essential |           |  |
| Assistive Technology personalised   |           | Desirable |  |
| Environmental sensor  | Essential |           |  |
| Meals provision   | Essential |           |  |
| Catering standard kitchen   |           | Desirable | Although meals need to be provided, it is not essential that these are produced on site.   |
| Culture that promotes independent living but discourages social isolation | Essential |           |  |

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

- Generous internal space standards:
- Plenty of natural light in the home and circulation spaces:
- Balconies and outdoor space, avoiding internal corridors and single-aspect flats:
- Adaptability and “care aware” design which is ready for emerging assistive technologies:
- Circulation spaces that encourage interaction and avoid an “institutional feel”:
- Shared facilities and community hubs where these are lacking in the neighbourhood:
- Plants, trees and the natural environment:

- High levels of energy efficiency, with good ventilation to avoid overheating:
- Extra storage for belongings and bicycles:
- Shared external areas such as “home zones” that give priority to pedestrians.

A proportion of units within extra care schemes must be (where Approved Document M: Volume 1 applies) suitable for wheelchair use (either wheelchair accessible to meet Building Regulation M4(3)(2b) (affordable housing) or wheelchair adaptable to meet Building Regulation M4(3)(2a) (market housing) in accordance with Policy H7.