Developer Contributions

Supplementary Planning Document

Adopted February 2015

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Developer Contributions

Supplementary Planning Document

Adopted on 26th February 2015 (Brought into effect on 6th April 2015)

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Foreward

This Developer Contributions Supplementary Planning Document (SPD) has been prepared to provide further guidance on a number of policies in the Fenland Local Plan, in particular Policy LP13 - “Supporting and Managing the Impact of a Growing District”.

This SPD will be a material consideration when assessing planning applications. It was not known at the time of Local Plan adoption if the Council was going to introduce a Community Infrastructure Levy (CIL). It is now known that CIL is unlikely to be introduced in the short term; we have instead prepared this SPD to provide further guidance on how developer contributions will operate in Fenland in the absence of a CIL.

From the 6th April 2015, the Government has announced that no more than five Section 106 (S106) obligations can be pooled for infrastructure provision. As a result the onus is on Fenland District Council to make clear what contributions new developments will be expected to make towards the provision of infrastructure in light of such pooling restrictions.

This Developer Contributions SPD was adopted by Full Council on 26 February 2015, but it will come into force on 6 April 2015. This adopted document follows the initial ‘December 2014 Consultation Draft’ version which was amended following the consultation that took place between Friday 5 December 2014 and Thursday 15 January 2015, after due consideration of all comments received.

Contents

1 INTRODUCTION

Background

1.1 As stated in Policy LP13 of the adopted Fenland Local Plan 2014, this Supplementary Planning Document (SPD) sets out Fenland District Council's (FDC) approach for securing developer contributions from new developments that require planning permission. More information on the adopted Fenland Local Plan is available at: http://www.fenland.gov.uk/article/8789/Adopted-Fenland-Local-Plan---May-2014

1.2 This SPD supports policies in the Fenland Local Plan (particularly Policy LP13 - Supporting and Managing the Impact of a Growing District) and will be a material consideration when assessing planning applications. It was not known at the time of Local Plan adoption if the Council was going to introduce a Community Infrastructure Levy (CIL). Now that the introduction of a CIL is unlikely in the short term up to 2018 (see Cabinet agenda papers of 20 November 2014 for the reasoning why CIL is not to be introduced in the short term), we have instead prepared this SPD to provide further guidance on how developer contributions will operate in Fenland in the absence of a CIL.

1.3 April 2015 is an important date because, from the 6th April 2015, Government has announced that no more than five Section 106 (S106) obligations can be pooled for infrastructure provision. As a result the onus is on FDC to make clear what contributions new developments will be expected to make towards the provision of infrastructure in light of such pooling restrictions.

1.4 This SPD details the Council's approach to securing these developer contributions. The SPD provides clarity to developers, planning officers, stakeholders and local residents regarding the basis on which developer contributions will be sought. The SPD details the type of developer contributions that may be required.

1.5 This document seeks to ensure that developer contributions will only be sought from development where there is a need to mitigate any negative impact or to secure additional benefits necessary as a result of the development, and/or to make the development acceptable in planning terms. It also provides greater certainty for residents and developers before a planning application is submitted, or a site purchased, so that the cost implications of likely developer contributions can be taken into account prior to submitting a planning application.

1.6 This SPD was adopted by Full Council on 26 February 2015 and is brought into effect on 6 April 2015. At the same time (i.e. 6 April 2015), two SPGs are revoked by the Council, namely:

- Play Space Provision SPG (2003)
- Planning Agreements – Education Provision SPG (2000)

2 POLICY CONTEXT

Local Policy: Fenland Local Plan – May 2014

2.1 The Fenland Local Plan was adopted in May 2014. Policies in the newly adopted Local Plan form the basis for this SPD, such as Policy LP2 (Facilitating Health and Wellbeing of Fenland Residents) which requires good access to health, leisure and recreation facilities. Provision of accessible open space for play, sport, recreation and access to nature are considered as part of good design as set out in Policy LP16 (Delivering and Protecting High Quality Environments across the District).

2.2 However, this SPD takes its lead from Policy LP13 (see below) of the Local Plan. As a basic principle developers will be expected to meet and pay for the infrastructure need that a proposed development will generate not met by existing infrastructure. In part (b) of the policy, the need for developer contributions is referred to as well as the need to provide further guidance on where it will be sought, how it will be collected, and how the money collected will be spent. This SPD addresses these issues.

Fenland Local Plan 2014: Policy LP13 – Supporting and Managing the Impact of a Growing District

All new development should be supported by, and have good access to, infrastructure. The Council will consider proposals based on the following:

a) Infrastructure

Planning permission will only be granted if it can be demonstrated that there is, or will be, sufficient infrastructure capacity to support and meet all the requirements arising from the proposed development. Conditions or a planning obligation are likely to be required for many proposals to ensure that new development meets this principle.

Development proposals must consider all of the infrastructure implications of a scheme; not just those on the site or its immediate vicinity.

Consideration must be given to the likely timing of infrastructure provision. As such, development may need to be phased either spatially or in time to ensure the provision of infrastructure in a timely manner. Conditions or a planning obligation may be used to secure this phasing arrangement.

b) Developer Contributions

Developers will either make direct provision or will contribute towards the provision of local and strategic infrastructure required by the development either alone or cumulatively with other developments. Where a planning obligation is required, in order to meet the above principles of infrastructure provision, this will be negotiated on a site-by-site basis. This will be required in addition to the affordable housing requirement as set out in Policy LP5.

Further guidance on how the Council will implement this policy will be set out in a separate document(s), the content of which will depend on whether the Council prepares and adopts a Community Infrastructure Levy (CIL). Such a document(s), including a Planning Obligations SPD and an IDP, will cover items such as (but not exclusively):

- The infrastructure themes where contributions will be sought (e.g. education, open space, carbon offsetting)
- How contributions will be collected
- How contributions will be spent

3 GENERAL GUIDANCE

Mechanisms for Securing Developer Contributions

3.1 There are four different mechanisms which can be used to ensure that new development addresses unacceptable adverse impacts as well as contributing to the local economy and improving the environment, where possible. These are:

- Planning Conditions;
- Planning Obligations;
- Unilateral Undertakings; or the
- Community Infrastructure Levy (CIL)

Planning Conditions

3.2 The National Planning Policy Framework[1] (NPPF), states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions (or planning obligations – see next section). The aim is to deliver sustainable development, which includes infrastructure requirements as well as enhancing our natural environment and using our natural resources prudently.

3.3 Developer contributions required to mitigate the impact of development may be secured by granting planning permission subject to planning conditions under Sections 70, 72, 73 and 73a of the 1990 Town and Country Planning Act. Planning conditions can be used to enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. It is important to ensure that conditions are tailored to tackle specific problems, rather than be standardised or used to impose broad unnecessary controls.

3.4 Where a need for a developer contribution has been identified on the development site or on land owned or managed by the developer or landowner, a planning condition may be the most appropriate mechanism to ensure delivery. This type of condition (known as a Grampian condition) will normally prohibit occupation of the development until the developer contribution has been provided.

3.5 Where it is not possible to secure developer contributions through planning conditions, particularly where infrastructure is to be provided off site, or it is to be made by a monetary or other form of payment, the Council may be able to grant planning permission provided that a planning obligation under S106 is entered into.

Planning Obligations (S106 Agreements)

3.6 Planning obligations are legal agreements made under S106 of the Town and Country Planning Act 1990[2] (as amended by Section 12(1) of the Planning and Compensation Act 1991[3]), normally in association with planning permissions for new development. They usually relate to an aspect of development which cannot be controlled through the imposition of a planning condition or by other statutory controls.

3.7 The NPPF includes three key tests that planning obligations should meet. These tests are also set down in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). These tests are:

- necessary to make development acceptable;

[1] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf
[2] http://www.legislation.gov.uk/ukpga/1990/8/section/106
[3] http://www.legislation.gov.uk/ukpga/1991/34/section/12

- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

3.8 Regulation 123[4] (as amended) of the CIL Regulations, subsection 3b, provides for a maximum of five obligations to contribute towards any particular project or infrastructure type.

3.9 The NPPF stresses the importance of taking into account changes in market conditions over time and states that planning obligations should be flexible to ensure they do not stall development. Planning obligations that would undermine the viability of development proposals should be avoided.

3.10 Planning obligations are legal agreements negotiated between the Council and developers or landowners as a result of a planning application to carry out certain works, or to provide, or contribute towards, the provision of measures to mitigate the negative impacts of their development to enable it to go ahead (e.g. it ensures that adequate infrastructure and/or other relevant measures are in place to support development). The planning obligation is used to secure measures that cannot generally be obtained by imposing a planning condition or by other statutory means. Planning obligations are contracts between the Council, applicants and sometimes third parties that bind developers and others with a legal interest in the land to undertake specific works. Appendix B provides general guidance on the process involved in preparing a S106 legal agreement. A sample of a S106 Agreement is provided on our website.

3.11 A planning obligation will be used to provide a legal basis to ensure that mitigation or other requirements are delivered. In particular, such obligations will be used where:

- infrastructure delivery requires the involvement of a third party, such as the Highway Agency or local water company ; or
- the development proposal requires specific restrictions on use, or continuous provision of a service for a set period.

3.12 The National Planning Practice Guidance (NPPG)[5] gives more details, in a Q&A style, on the use of planning obligations and should be read alongside this SPD.

3.13 Where it is required, a completed planning obligation must be agreed and in place before planning permission is able to be granted. To facilitate the process, and ensure a timely decision can be made on a planning application, the Council expects that a Heads of Terms for a S106 is provided at the validation stage of a planning application. Planning approval subject to a S106 Agreement may be granted by the Planning Committee but this will depend on the S106 being substantially completed (and where necessary Committee being made aware of its substantive contents) and being capable of being signed by all parties very soon after the decision is made.

3.14 Therefore it is strongly recommended for all potential applicants to contact the Council at an early stage of the development process (e.g. at the pre-application stage) to discuss their proposals and to clarify whether there is likely to be a requirement for a planning obligation and the nature of the obligation likely to be required.

3.15 NPPF and CIL Regulations make it unlawful for a planning obligation to be taken into account in determining a planning application if it does not meet the three tests set out in Regulation 122 (as referred to above). Planning obligations will need to be considered and negotiated on a **site by site basis** in order to ensure that the three tests are complied with.

[4] http://www.legislation.gov.uk/ukdsi/2010/9780111492390/regulation/123
[5] http://planningguidance.planningportal.gov.uk/

The guidance in this SPD will help to ensure that the Council takes a consistent approach in applying the three tests.

3.16 If it is to avoid potential challenge, the Council must be sure that without the obligation, permission would be refused. In other words, the Council will need to be clear that planning obligations meet all of the three tests of Regulation 122.

Unilateral Undertakings

3.17 A developer may wish to enter into a Unilateral Undertaking as opposed to a S106 Agreement. Such an undertaking is offered by the applicant unilaterally in support of an application (or appeal), as opposed to agreeing an obligation following negotiation with the Council. The presumption will be that applicants will undertake provision of facilities themselves either on-site or off-site.

Community Infrastructure Levy (CIL)

3.18 CIL is intended to help pay for the infrastructure required to serve new development. This includes development that does not require planning permission. The Planning Act 2008 and accompanying CIL Regulations enable financial contributions to be levied from, in simple terms, all development that involves one or more dwelling or is 100 square metres or more. CIL is an optional charge available to local authorities in England.

3.19 In November 2014, FDC decided not to introduce a CIL for the time being. The district wide viability study carried out by consultants over summer 2014 indicates that there is limited scope to introduce a CIL in Fenland at the present time. This, along with the costs of setting up and administrating a CIL makes it an unattractive option for FDC at the moment. However, this position will be kept under review (a review is scheduled to commence late 2017) and CIL could be introduced when more favourable conditions arise. If the Council does introduce a CIL, this SPD will be reviewed at the same time.

S278 Agreements

3.20 A Section 278 Agreement[6] is a legally binding document between the Local Highway Authority and the developer to ensure that the work to be carried out on the highway is completed to the standards and satisfaction of the Local Highway Authority. This agreement cannot be used to secure developer contributions.

3.21 The document is prepared by Cambridgeshire County Council's solicitor and issued to the developer's solicitor in draft format. The details of the agreement are then agreed before the final document is completed and signed by both parties before the commencement of any work on site.

3.22 The agreement details what the requirements of both the Cambridgeshire County Council and developer are to ensure that the proposed works are carried out in accordance with the approved drawings. It also details how the Local Highway Authority may act should the developer fail to complete the works.

[6] http://www.legislation.gov.uk/ukpga/1980/66/section/278

4. DEVELOPMENTS LIKELY TO REQUIRE A DEVELOPER CONTRIBUTION

Introduction

4.1 Most planning permissions will include one or more conditions on the decision notice.

4.2 However, not all permissions will be required to be accompanied by a S106 planning obligation. Planning obligations will not normally be sought from, for example:

- householder applications (e.g. house extension or a garage)
- affordable housing (other than the provision of the affordable homes themselves);
- agricultural development;
- development which can be classed as a community facility itself; and
- replacement dwellings.

4.3 Generally though, residential developments with a net increase of 5 or more dwellings or a site area of over 0.1ha, will be required to make a developer contribution for certain types of infrastructure or service, where there is an identified need. It should be noted that these thresholds are a guide, and should not be read as an absolute cut off point - a decision will be made on a case-by-case basis as to whether a planning obligation would be appropriate and necessary. Nevertheless, it would be unusual for a planning obligation to be necessary for a scheme of 4 or less dwellings (particularly as the affordable housing requirement set out in Local Plan Policy LP5 – Meeting Housing Need – does not apply to such schemes). However, it cannot be ruled out (e.g. for small scale, necessary off-site infrastructure provision) and having a planning obligation for small applications such as this could be of benefit to the applicant (as the alternative could be a refusal of permission).

4.4 For housing schemes of 5 dwellings or more, affordable housing policy requirements do apply and would be expected to be provided (unless a site specific viability assessment indicates otherwise), and as such would, in the absence of any other issue, trigger the need for a S106 planning obligation.

4.5 If affordable housing was deemed not necessary for a proposal, and all other policy matters could be resolved through conditions, then it is unlikely that a residential proposal of 10 dwellings, or potentially more, would trigger the need for a S106 planning obligation. Unfortunately, FDC cannot be more specific than this advice, as every proposal has to be considered individually, and will have its own unique issues and circumstances.

4.6 Other types of development (retail, employment, etc) may also be required to have a S106 planning obligation agreed between the Council and the applicant, though it is even harder to make generalisations as to what types of schemes will or will not likely require one, other than to say a larger scheme with a greater impact is more likely to require a S106 planning obligation agreement. Section 5 of this SPD provides further advice.

4.7 Generally speaking, if a planning obligation is considered appropriate and necessary for 'non-major'[7] developments, it will either be:

[7] 'Major' development is defined in the TCP (Development Management Procedure) (Eng) Order 2010 as development involving any one or more of the following—

(a) the winning and working of minerals or the use of land for mineral-working deposits;

(b) waste development;

(c) the provision of dwellinghouses where —

(i) the number of dwellinghouses to be provided is 10 or more; or

- for provision of a very site specific infrastructure need related to the site itself (e.g. affordable housing or open space), and/or
- for provision of a very specific community infrastructure need (including improvement to existing infrastructure) in the local community where the site is located.

In respect of the second bullet point above, 'local community' would mean anywhere within or adjacent to the settlement within which the development is proposed for those settlements as listed, or covered by, 'Limited Growth Villages', 'Small Villages', 'Other Villages' or 'Elsewhere' in Policy LP3 of the Local Plan. For development in 'Market Towns' and 'Growth Villages' (see Policy LP3) the 'local community' would be those within the local vicinity of the site, which as a guide could reasonably be assumed to mean approximately 500m distance from the edge of the development site.

Provision of Infrastructure

4.8 The general presumption is that infrastructure shall be provided on-site by the developer wherever possible. However, for many types of infrastructure, this may be impractical. If the developer is unable to provide either on or off-site improvements, a financial sum may be paid to the Council or other infrastructure delivery partner to fund its provision.

4.9 The Council will carry out a regular review of the existing infrastructure provision in the district to determine where there are gaps in provision and where additional infrastructure is required to support new development. The Council has prepared an Infrastructure Delivery Plan (IDP) to support the Local Plan. This will be kept up-to-date (the next is due mid 2015) and will set out where, when and what type of infrastructure needs to be provided.

Maintenance Contributions

4.10 Where a development results in a need for new infrastructure and the ownership of the infrastructure is to be passed to the Council (or County Council), a maintenance contribution as a one-of payment (commuted sum) to cover the physical upkeep of the facility will generally be required. This will usually be equivalent to the cost of 20 years maintenance, but may be more or less than this depending on the type of infrastructure provided.

4.11 Where applicants choose to retain responsibility for a facility or obtain the services of a maintenance management company, then they will be bound to ensure proper maintenance of this through the S106 Agreement. A detailed maintenance plan is likely to be required to be submitted to the Council with the planning application to show maintenance responsibilities for all aspects of the infrastructure and how it will be maintained.

Procedure for Preparing and Securing Planning Obligations

4.12 Developers and agents are strongly advised to discuss their proposals with the Council's Development Management team before submitting a planning application. Pre-application

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Footnote continues from page 8.

(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);

(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or

(e) development carried out on a site having an area of 1 hectare or more;

discussions will help to highlight the likely impact of development and the need for developer contributions.

4.13 If pre-application discussions are not sought, infrastructure requirements will be identified when applications are submitted. With the exception of proposals listed in paragraph 4.2 (identifying when a planning obligation will not normally be required), planning applications may not be validated until the applicant provides a draft Heads of Terms document setting out S106 contributions that the applicant believes are necessary and appropriate. An application which is subject to an agreement, unilateral or otherwise, will not be validated unless accompanied by both proof of title and undertaking by them to pay the Council's legal fees in dealing with the agreement.

4.14 The Council will be guided by (but not wedded to) standard formula and/or standard charges wherever possible when determining the level of contribution required for off-site infrastructure, as set out in this SPD. This will help provide a consistent but flexible basis from which to negotiate planning obligations, appropriate to the size and type of development.

4.15 Financial contributions will normally be required to be paid in full upon commencement or first occupation, or when the impacts of the development that the contribution is intended to address occur, whichever is the sooner. However, there may be some circumstances where payments can occur in phases at different stages during development. As necessary, S106 Agreements will include trigger points for when the payment of financial contributions become due, as well as time scales for spending them for the delivery of the infrastructure.

Pooled Contributions

4.16 The Council currently has an Infrastructure Development Plan (IDP) which provides high level guidance of the infrastructure needs of the district to deliver new strategic growth. The IDP will be regularly updated to provide a detailed assessment of what is required and will need to be read in conjunction with this Developer Contributions SPD. It may be possible to outline what is needed in the short/medium term and also the long term in order to deliver sustainable growth in Fenland.

4.17 A strategic approach to infrastructure delivery will be taken by the Council, which includes taking a view on the most appropriate funding routes and identifying investment and delivery plans for key development sites. It will use this process to anticipate development proposals which may make contributions through planning obligations to fund critical infrastructure projects.

4.18 In the case where the infrastructure provision applies to a distinct collection of developments, the Council may expect a contribution towards a piece of infrastructure from more than one development. This, as outlined in Section 123 of the CIL Regulations, will only apply to a specific piece of infrastructure related to a site or collection of sites, and where delivery of the infrastructure is secured from contributions from no more than five separate developments. This approach will not only be taken for strategic sites but for other sites within the district where it would be appropriate and necessary to deliver needed infrastructure.

4.19 The contributions would be pooled together, for a period of time usually up to a maximum of 10 years (preferably less), and then used to fund the infrastructure once the funds required to deliver the scheme are raised. In addition to this, where items of infrastructure, which have been made necessary by the cumulative impact of a series of developments, are provided before all developments have come forward, then the later developments may still be required to contribute to the relevant proportion of the costs and expenditure.

4.20 It should also be noted that Section 278 highways schemes are not subject to the CIL Regulations, as these are linked to the work that is to be carried out by the developer on behalf of the highway authority.

Viability

4.21 The Council has recently undertaken a district wide viability study to provide an understanding of development viability across the district and can be viewed at http://www.fenland.gov.uk/article/9574/Developer-Contributions-and-Community-Infrastructure-Levy-CIL

4.22 Developers will be expected to create sustainable development in Fenland in that a proposal should minimise any adverse effect on the environment and also provide infrastructure generated by the development. Policy LP13(a) of the Fenland Local Plan makes it clear that 'Planning permission will only be granted if it can be demonstrated that there is, or will be, sufficient infrastructure capacity to support and meet all the requirements arising from the proposed development'. Where a developer considers that to meet all policy requirements (including infrastructure provision) their scheme would not be viable, they should contact the Council's Development Management team to discuss ways of addressing the viability issues. This should be done at pre-application stage, if possible. The Council will at first seek to test the development viability by seeking other viability enhancements such as deferring or phasing contribution payments. If there are still viability issues, the Council will require the submission of an 'open book' viability appraisal. Once submitted, the viability assessment will be considered and assessed by FDC and an independent viability assessor appointed by FDC.

Submitting Planning Applications to Fenland District Council

4.23 When submitting planning applications to the Council, the applicant should consult the Council's website at www.fenland.gov.uk to determine the implication of the development for infrastructure requirements. The Council intends to set up a page on its website on adoption of this SPD with a simple tool which will help an applicant determine the potential planning obligations which might be necessary. This will provide a rough guide to the amount and type of contribution needed to pay for the infrastructure required to support the development proposed, but should not be used as a definitive and final answer to what the required contribution will be.

Applications for Outline Planning Permission

4.24 Where an application for Outline planning permission is to be approved, the Council will require the planning obligations to be agreed at this time.

4.25 As the scale of the development may not be known, the nature and terms of the obligation might not specify an exact sum to be paid by a developer or infrastructure to be provided. Instead, the obligation will set out the formula to be used when determining the contribution and the terms of payment when the Reserved Matters are submitted.

Index Linking of Financial Contributions

4.26 To take into account the potential increase in costs of infrastructure throughout the lifetime of a planning permission, the level of contributions will be adjusted and modified in line with an index of inflation. Financial contributions will normally be linked to the Royal Institute of Chartered Surveyors (RICS) Building Cost Information Service (BCIS) indices. This will reflect the inflation costs arising between the negotiation of a S106 Agreement, and payment.

Payment of Contributions

4.27 All financial contributions (paid to the Council in lieu of undertaking or providing infrastructure works) identified within a S106 Agreement, will normally be triggered for payment prior to the development commencing. All infrastructure works to be provided by a developer (via Section 278 or other such agreement) should be completed prior to the first occupation or first use of the development, in accordance with a scheme of works to be submitted to the Council for approval, unless otherwise agreed by the Council.

4.28 For large financial contributions, it may be possible to negotiate phased payments, particularly where it helps to improve scheme viability. However, this will need to be agreed by the Council.

Repayment of Unspent Contributions

4.29 The Council will, in most cases, seek to negotiate up to a 10 year time period to implement planning obligations where these involve the payment of a financial contribution. This is considered to be a reasonable timescale for the delivery of most mitigation measures. However, where a more strategic or complex intervention is needed, or resources need to be pooled from a variety of large scale developments, then a longer time period will be sought (up to a maximum of 15 years). If the money is not spent at the end of the agreed contribution period, if requested by the payee, it will be returned to the payee.

Administration, Monitoring and Enforcement

4.30 A charge on planning obligation revenues will be applied for the purpose of implementation, administration and monitoring of planning obligations.

4.31 In addition, the developer will be liable for all of the Council's and other service providers' reasonable legal costs for the preparation, processing and conclusion of legal agreements.

4.32 The Council will track compliance with each provision contained in a legal agreement and ensure the money due is collected and passed to the relevant service or infrastructure provider on time.

4.33 If a S106 Agreement is not being complied with, the Council will instigate legal proceedings. Planning obligations can be enforced through the use of an injunction, which will stop the development proceeding. The Council also has the power to enter land and carry out any works that are required and, if necessary, recover costs from the developer or landowner.

Cross-boundary Working

4.34 Where developments are near or cross the boundary of neighbouring authorities, Fenland District Council will work closely with neighbouring councils to ensure that infrastructure provided meets the needs of all authorities affected by the development. For example, FDC will work closely with Kings Lynn and West Norfolk Borough Council to bring forward the Strategic Allocation in East Wisbech to ensure not only the required infrastructure is provided but also valued assets are preserved in the area in particular open space, biodiversity and high quality woodland. The Regional Freight Interchange will require close working with Peterborough City Council to bring this proposal forward. Although the majority of the site is within Peterborough City Council's boundary it will have an impact on the local transport network around Whittlesey and on the natural environment. A working group between the relevant authorities will be set up from the start of any pre-application stage. This is to ensure all impacts of the proposed development are considered and any adverse impacts mitigated.

5 INFRASTRUCTURE SPECIFIC GUIDANCE

5.1 Transport

5.1.1 Policy LP15 of the Local Plan sets a clear policy framework in terms of expectations relating to transport infrastructure (and developer contributions towards meeting such expectations), and this policy makes it clear that '*any development that has transport implications will not be granted planning permission unless deliverable mitigation measures have been identified, and arrangements secured for their implementation, which will make the development acceptable in transport terms*'.

5.1.2 Cambridgeshire County Council is the Highway Authority and is responsible for most of the transport infrastructure in Fenland (although the Highways Agency is responsible for the A47 Trunk Road; see also the section on rail below). At an early stage, developers are encouraged to consult Cambridgeshire County Council, and if necessary the Highways Agency, for advice on transport implications for their proposal. This is especially essential for major developments (see also section on rail below). Transport implications or provision does not just include motorised transport, it also includes footpaths, cycleways, bridleways and other Rights of Way. These are an important resource for recreation, healthy living and sustainable transport and are key to creating sustainable and networked communities. This is important for Fenland as discussed earlier. To help with this, the County Council has published a document "Public Rights of Way: A Guide for planners and developers" that summarises the statutory provisions and best practice relating to Public Rights of Way (PROW), as well as publishing the Cambridgeshire Public Rights of Way Improvement Plan.

www.cambridgeshire.gov.uk/download/downloads/.../public_path_order...

www.cambridgeshire.gov.uk/.../id/.../rights_of_way_improvement_plan

5.1.3 To help developers to determine transport needs of the market towns (which is where the majority of development in Fenland will take place), the County Council has produced an area specific transport strategy that recognises the unique nature of the market town. Each Market Town Transport Strategy (MTTS) aims to provide a five year programme of transport improvements and support the Local Transport Plan (LTP) objectives and contributes towards the prosperity and wellbeing of each town. They are written in partnership with district and town councils.

5.1.4 All market towns in Fenland (Chatteris, March, Whittlesey and Wisbech) have a current MTTS, and they are regularly reviewed and kept up-to-date. The key element of these strategies will be included in the IDP. The latest MTTSs can be viewed on the County Council website at:

http://www.cambridgeshire.gov.uk/info/20006/travel_roads_and_parking/66/transport_plans_and_policies/3.

5.1.5 When considering development proposals in a market town, especially larger development proposals (which, as a guide, but not fixed threshold, could reasonably be assumed to mean 50 or more dwellings or a similar scale non-residential scheme), FDC will take into account the latest MTTS for that town and determine whether it is appropriate (taking account of the necessary tests) for the proposal to make a contribution to one or more elements in that MTTS. If it is deemed appropriate, it will be made explicit in the S106 Agreement what element(s) of the MTTS the developer is contributing towards (rather than an open ended financial contribution to the MTTS as a whole).

5.1.6 For more site specific matters, highway related developer contributions could be in the form of conditions, planning obligations or S.278 Agreements. The Council's pre-application advice service should be able to assist in this regard.

5.1.7 Where pooling of S106 Agreements is required to pay for the transport infrastructure, this will need to be carefully considered. Projects in the IDP will be identified in order to accord with the CIL Regulations limiting the pooling of S106 monies. Contributions will be spent on the transport infrastructure once sufficient funds are generated for the project or the pooling of S106 Agreements has reached its limit. As stated earlier S278 Agreements are not subject to the same pooling arrangements as S106 Agreements.

5.1.8 In respect of rail related developer contributions, and the need for developer contributions, FDC will have regard to the Fenland Rail Development Strategy 2011 - 2031: Getting on Track[8]. This strategy includes the implementation of the Rail Stations Investment Plans and Station Masterplans, improvements to rail services and the Hereward Community Rail Partnership.

5.1.9 In a similar way to the MTTSs, when considering development proposals in March, Whittlesey and Manea (especially larger development proposals) there will be a need to consider the contribution that the development can make towards the Fenland Rail Development Strategy. Some of the rail strategy items are relatively small and inexpensive so there is an opportunity for nearly all development to make a contribution in market towns and in Manea or any other settlement which could reasonably be argued to have connections to the rail network. FDC will take into account the latest Fenland Rail Development Strategy and determine whether it is appropriate for the proposal to make a contribution to one or more elements in that Strategy. If it is deemed appropriate (taking account of the necessary tests), it will be made explicit in the S106 Agreement what element(s) of the Strategy the developer is contributing towards (rather than an open ended financial contribution to the Strategy as a whole).

[8] http://www.fenland.gov.uk/article/3489/Fenland-Rail-Development-Strategy

5.2 Community Facilities

5.2.1 Community facilities (such as libraries, community centres, youth, social services/over-50s/support, places of worship, post offices, children's centres, special needs and disability facilities) are a key factor in the development of sustainable communities. They are important for the communities they serve because they foster social engagement, enable volunteering, help establish community groups and are the means by which local residents can be genuinely empowered. Providing these facilities at a local level, in convenient locations, increases their accessibility for users, increases their usage and reduces the need to travel. These facilities further raise quality of life through creating community cohesion, reducing isolation, reducing fear of crime and creating opportunities for information sharing and participation in community activity.

5.2.2 It is essential, in providing new facilities that arrangements are in place for the governance and maintenance of such facilities. This will avoid the unfortunate scenario of a high quality facility being provided, but not used efficiently and effectively.

5.2.3 In rural areas, a village hall often serves as a hub of the local community and as such these should be preserved and enhanced where possible. In the market towns historically it was the libraries, now often referred to as community hubs which often serve a similar function.

5.2.4 **Strategic Sites:** On strategic allocations or broad locations for growth (i.e. 250 homes or more), the Council will be seeking on-site provision of community facilities in suitable locations.

5.2.5 **Non-Strategic Sites:** On smaller developments of less than 250 homes but more than 5 dwellings, where it is not normally appropriate or possible to provide community facilities on site, a contribution will be required from the developer to pay for this facility elsewhere or to enhance nearby existing facilities.

5.2.6 The financial contribution expected will be determined on a case by case basis, based on:

- local provision / capacity in the vicinity
- whether new build or enhancement to existing facilities is most appropriate
- the best solution taking account of pooling restrictions
- the legal tests for planning obligations

5.2.7 Because community facilities cover a wide range of buildings and current provision varies widely across Fenland, it is impossible to generalise in this SPD what level of financial contribution is appropriate. In some instances, if provision of all these facilities is already good in a locality, and the new development would not add pressure on such facilities, then a contribution will not be sought at all. However, in most instances, there will not be such capacity already existing and as such a contribution will be necessary.

5.2.8 The planning obligation which secures this contribution will be as specific as possible in terms of how it will be spent (in terms of what facility and where).

5.2.9 **Very Small Schemes:** On very small schemes of 1-4 dwellings, no contribution will be sought.

5.3 Education Facilities

5.3.1 Primary and secondary education provision in Fenland is mostly provided by Cambridgeshire County Council. It is also a significant provider of pre-school learning. Education contributions needed as a direct consequence of proposed new development will be sought from the applicant. Contributions will be sought in proportion to the number and size of residential units, subject to the circumstances of each proposal such as spare capacity in school facilities in the vicinity and the type of development proposed.

5.3.2 **Strategic Sites:** On strategic allocations or broad locations for growth (i.e. 250 homes or more), Policy LP7 of the Local Plan will apply which, in simple terms, expects provision on-site or, if justified, a contribution off-site.

5.3.3 **Non-Strategic Sites:** On smaller developments of less than 250 homes, where it is not normally appropriate or expected for education facilities to be provided on site, a contribution will be required from the developer to pay for this facility elsewhere or to enhance nearby existing facilities.

5.3.4 **Calculating contributions (on or off site):** At the time of publication of this SPD, the County Council is updating its own guidance as to what education contribution (on-site or off-site financial contribution) is expected as part of a new development scheme. A consultation on this guide is expected in early 2015 and to be adopted in summer 2015.

5.3.5 FDC will use this guide to assist in negotiations with developers. Cambridgeshire County Council will play a full part in those negotiations to ensure that any requirements to be contained in S106 Agreements are fully understood by all parties. This discussion will also be informed by the Fenland IDP which will outline education provision required in the vicinity of the proposal and how the infrastructure needs generated by the proposal will be met through a S106 Agreement.

5.3.6 Separate assessments, carried out in conjunction with the County Council, will be required for pre-schooling, primary and secondary education impact. It is anticipated that the current assessments will be carried out as outlined in the County Council guide.

5.3.7 When dealing with Outline applications, where no details of the number or size of dwellings are committed, it will be necessary to secure a S106 Agreement which requires that payment towards provision of Education facilities will be required and be assessed on the basis of the subsequent details (Reserved Matters) in accordance with the Local Plan policies, this SPD and the County Council guide in place at the time.

5.3.8 Unless the County Guide suggests otherwise, the intention is that the following types of dwellings will not be required to make an education contribution:

- Specialist residential development by Housing Associations or similar bodies for mobility/ elderly care accommodation
- 1-bedroomed accommodation

5.3.9 **Very Small Schemes:** On very small schemes of 1-4 dwellings, no contribution will be sought.

5.4 Healthcare Facilities

5.4.1 Facilitating the health and wellbeing of Fenland residents is one of the key messages of the Local Plan (see Policy LP2). This will be done through providing appropriate housing, local services, encouraging healthy transport such as cycling and walking, access to green infrastructure and active recreation.

5.4.2 When new development is proposed, a common public comment is along the lines of 'but the doctor's/ dentist's surgery is too full – we will need a new one/ or expanded one'. However, in simple terms, such surgeries are in effect a private business with complicated funding mechanisms linked, amongst other matters, to the number of patients. It could be said that, like a shop, doctor/ dentist surgeries are 'market-led'.

5.4.3 However, for very large strategic sites, which in themselves would generate demand for a new doctor's or dentist's surgery, we would expect a broad concept plan (see Policy LP7) to make space available for such facilities. To determine whether a site should provide such a space, it will require the developer to research local capacity/ demand, and provide such evidence with a planning application or broad concept plan.

5.4.4 It is likely, therefore, most planning proposals will not require a developer contribution towards healthcare facilities. The exception could be very large sites, which provide a space for such facilities with an appropriate agreement in place to secure the site.

5.5 Open Space and Play Areas

5.5.1 Public open spaces are essential for health and wellbeing of local residents and visitors. Policy LP16 (g) of the Local Plan requires development to provide publicly accessible open space for play, sport, recreation and access to nature, in accordance with the commentary and standards set out in Appendix B of the Local Plan (replicated on the next page).

5.5.2 On strategic allocations and broad location for growth, open spaces and play areas are expected to be provided on site in accordance with open space standards in the Local Plan. On smaller sites it is recognised that this is not always possible. In these cases off-site provision or payment towards enhancement of existing provision would be required.

5.5.3 This SPD does not attempt to amend or override the policy approach set out in the Local Plan. However, the following text will give additional guidance as to how:

(a) off-site financial contributions will be calculated; and

(b) maintenance arrangements

Off-Site Financial Contributions

5.5.4 When, in accordance with Local Plan policy, a financial contribution is sought for off-site open space provision, the starting point for negotiations will be the following.

5.5.5 First, the Open Space standards require a maximum 2.25ha open space provision per 10ha development site (on a pro-rata basis). This means 22% of a development area should make provision for open space.

5.5.6 Of this 22%, the standards are broken down in detail, so that the 22% is made up as shown in the table below. However, the standards also make commentary as appropriate as to when such provision is not necessary, and this is summarised in the third column below:

Open Space Type	% of development area	Where standard is not required to be provided
Neighbourhood / Town Park	4%	Less than 0.5ha
Children's Play	4%	14 homes or less
Natural Greenspace	5%	Less than 0.5ha
Allotments	1%	Less than 0.5ha/ 9 homes or less
Outdoor Sports	8%	Less than 0.5ha/ 9 homes or less
Total	22%	

5.5.7 To calculate what the financial contribution should be, the % open space requirement for that scheme will be applied to an assumed land value of the site, with that land value being based on the 2014 Viability Study undertaken by FDC (or a lower/higher value if an independent valuer or robust evidence can demonstrate on a particular site a lower/higher land value should take effect, though the floor for such valuations for the purpose of this section of the SPD is £100,000/ha).

5.5.8 Thus, if the land value of a 30 home scheme on a 1.0ha site is taken as being £250,000, then 22% of that figure will be applied, which equates to a financial contribution of £55,000. If the number of homes on the site decreases or increases to, say, 20 or 50, the contribution remains the same, as the open space standards are based on the development site area, not the number of homes. If the value was at the 'floor' level of £100,000 for the 1.0 ha site, the contribution would be £22,000.

5.5.9 The rationale for the above approach is that if no open space is provided on site, the landowner has 'saved' up to 22% of the land the developer would otherwise have had to provide as open space under Local Plan policy, and thus has an extra 22% of the land available to build profitable development.

5.5.10 The above worked example is a maximum (22%) that a developer would be expected to contribute. If, through evidence, one or more of the above open space types is shown to have capacity in the local vicinity, then a % discount, using the % in the above table, could take place but in line with the Local Plan, the Council may seek a greater % for some open space types if there is evidence of a particular deficiency in one open space type and an over-provision in another.

5.5.11 The final agreed open space financial contribution set out in the S106 Agreement will not be a single 'open space' contribution, but will be broken down in to one or more categories as reflected in the open space standards, and will be as specific as possible as to where, when and what the contribution will be spent on.

Maintenance

5.5.12 The Local Plan makes it clear that the future management and maintenance of open space will need to be agreed prior to planning permission being granted. The precise calculation of such will depend on the nature of the open space provided, based on the latest evidence of grounds maintenance costs and contracts. The maintenance costs will be in addition to any financial contributions paid for off-site provision and will be required to cover provision both on and off-site.

Detailed Design and Maintenance Requirements

5.5.13 For detailed design and maintenance requirements, please see Appendix C of this SPD, which are carried over from the earlier 2003 Play Space Provision SPG.

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Extract of Fenland Local Plan (2014): Open Space Standards (as found at Appendix B of the Local Plan:

OPEN SPACE STANDARDS:
Natural green spaces are very important to our quality of life. They provide a wide range of benefits for people and the environment.

All residential development within Use Classes C3 and C4 will be required to provide or contribute towards open space provision. The starting point for calculating the requirement are the standards set out in the table on the following pages.

The precise type of on-site provision that is required will depend on the nature and location of the proposal and the quantity/type of open space needed in the area. This should be the subject of discussion/negotiation at the pre-application stage. If there are deficiencies in certain types of open space provision in the surrounding area, the Council will seek variations in the component elements to be provided by the developer in order to overcome them.

If either:
(a) the proposed residential development site would be of insufficient size in itself to make the appropriate provision in accordance with the standards below; or

(b) taking into account the accessibility/capacity of existing open space facilities and the circumstances of the surrounding area, the open space needs of the proposed residential development can be met more appropriately by providing either new or enhanced provision off-site,

then proposals will be acceptable if the developer has first entered into a planning obligation to make a financial or in-kind contribution towards meeting the identified open space needs of the proposed residential development off-site.

Where appropriate, the Council will seek to enter into a Section 106 Agreement with the developer for the future management and maintenance of the open space provision, before granting planning permission.

Note, as a guide, 10ha residential development site is likely to accommodate around 500 people, based on approximately 70% of a site being net developable, of which 30 dwellings are provided per hectare, and the Fenland average of 2.3 people live in a dwelling. However, it is the size of the development area, rather than the likely population it will accommodate, which is the primary factor as the starting point for negotiations (though as part of negotiations, if a development scheme is significantly away from these assumptions, then a variant may be negotiated).

In respect of the Amenity Greenspace standard, the expectation is for such land to fall within the curtilage of the development scheme. Amenity greenspace to be adopted and maintained by the Council is unlikely to be approved.

For the avoidance of doubt, the Local Quantity Standard (column 3 of the tables) will be applied on a pro rata basis, except for proposals where no requirement is required (by virtue of commentary in column 4 or 5).

Open Space Type	National Standard	Local Quantity Standard	Likely on-site or offsite?	If off-site, funding arrangement
Country parks A large landscaped setting which may include a variety of natural features, or formal planted areas, typically over ten hectares in size.	ANGSt: At least one accessible 20 hectare site within two kilometre of home; One accessible 100 hectare site within five kilometres of home; and one accessible 500 hectare site within ten kilometres of home	One new country park, located in March.	Off-site	S106 contribution from development schemes of 250 or more homes. This applies to March only. No contribution from sites below 250 homes or sites away from March.
Neighbourhood / Town parks A landscaped area with formal and informal planting, typically between one and six hectares in size, providing for a range of activities	ANGSt: at least 2 hectares of natural greenspace in size, no more than 300 metres (5 minutes walk) from home	0.45ha per 10ha development site	On site for sites over 50ha Off-site for sites between 0.5ha – 20ha For sites between 20-50ha, to be subject to local site circumstances	Developer contributions: S106 contribution towards a named new or to be improved park.
Children's Play Including designated equipped play space and informal play space. Equipped and fenced areas specifically for play, including such facilities as toddler's play spaces, adventure play grounds, ball games areas and skate/BMX parks, providing for a range of age groups – depending upon the development.	FITs: 0.80ha / 1,000 population (of which, 0.25ha should be designated equipped playing space)	0.4ha per 10ha development site (with approx. one-third as Designated Equipped Playing Space and two-thirds as Informal Playing Space)	On site for sites over 2.0ha Off site for site Under 2.0ha	Developer contributions: S106 Contribution towards a named new or to be improved Children's Play area. No contribution from sites below 15 homes.
Natural greenspace An area of woodland, shrubs, grassland, heath or moor, wetland or open water, where the public may have a legal or permissive	ANGSt: a minimum of one hectare of statutory Local Nature Reserves per thousand	0.5 ha of natural greenspace, per 10ha development site.	On site for sites over 10 ha Off site for sites under 10 ha and more than 0.5ha	Developer contributions: S106 Contribution towards a named new natural greenspace

access, but should primarily support local biodiversity.	population.			
Allotments Open spaces where the primary uses is allotment gardening or community farming. Allotment sites should be of adequate quality and support the needs of the local community. Allotment sites which under perform in terms of their value to the local community should be improved.	NSALG: 20 standard plots of 250 square metres per 1,000 households	0.1ha per 10ha development site, plus land for appropriate access and parking arrange-ments	On site for sites over 10 ha Off site for sites under 10 ha and more than 0.5ha	Developer contributions: S106 – contribution towards a named new allotment or towards the refurbishment of a currently unusable allotment. No contribution from sites below 10 homes.
Outdoor sports Open spaces formally laid out for specific outdoor sports, including football, cricket, rugby and hockey pitches, synthetic turf pitches, tennis courts, basketball courts and bowling greens	1.6ha / 1,000 population	0.80 ha per 10ha development site	On site for sites over 10 ha Off site for sites under 10 ha and more than 0.5ha	Developer contributions: S106 – contribution towards a named new outdoor sports facility. No contribution from sites below 10 homes.
Amenity greenspace small pockets of grass, trees or landscaped areas which are an integral part of the design and layout of the development	None	No Standard	On-site. The expectation is for such amenity space to fall within the curtilage of the development scheme. Amenity greenspace to be adopted and maintained by the Council is unlikely to be approved.	

5.6 Water, Drainage, Flood Protection and Energy Provision

5.6.1 The Council has prepared a Resource Use and Renewable Energy SPD[9] which was adopted in July 2014. This SPD sets out in detail Fenland District Council's policies in respect of resource use and renewable energy, in order to suitably expand on Part (A) of Policy LP14 in the Fenland Local Plan 2014 (see link below): http://www.fenland.gov.uk/article/8179/Resource-Use-and-Renewable-Energy-SPD

5.6.2 In providing additional detail in relation to Policy LP14, this SPD will not only provide additional guidance to the Council when assessing relevant planning applications, but it will also provide prospective applicants with the necessary information that they should consider when preparing a proposal and submitting a planning application to Fenland District Council. The Resource Use and Renewable Energy SPD should be consulted at the design stage of the process to ensure measures are included in the proposal that would reduce the use of energy and where possible to include renewable sources of energy.

5.6.3 In addition, councils and other stakeholders across Cambridgeshire are preparing a Flood and Water SPD which should be adopted by the end of 2015.

5.6.4 In terms of developer contributions (conditions or agreements) with regards to all the matters, the Council will rely on the policy contained in these two SPDs, and use the most appropriate mechanism to secure the policy requirements contained within them. No further guidance is required in this SPD. The Flood and Water SPD will be a 'countywide' document and would also support Policy LP14 Part B of the Fenland Local Plan.

[9] http://www.fenland.gov.uk/article/8179/Resource-Use-and-Renewable-Energy-SPD

5.7 Culture, Leisure and Heritage

5.7.1 Good design and availability of cultural, leisure and heritage opportunities can define a sense of place as well as provide the social glue that can bring people together, enhance the quality of their life and health. It can bring economic benefits such as tourism to an area. Without integrated planning for cultural, leisure and heritage development, the financial and physical capacity to deliver cultural infrastructure is limited. Museum/galleries, theatres / venues, cinemas, sports centres, swimming pools, events, festivals and town centre programmes are some of the cultural and leisure activities that will be promoted in Fenland.

5.7.2 The Council will therefore seek S106 contributions in respect of leisure, culture and heritage assets in appropriate site specific cases. The funding may include facilities for the provision of new / upgraded / expansion of existing facilities to optimise their use, events (such as street theatre), and restoration or maintenance of heritage assets and their settings.

5.7.3 Fenland has a number of listed buildings and some are in need of repair. Where a proposal requiring any of the following is required, it may be necessary for planning obligations to be sought:

- repair and re-use of listed buildings and/or enhancement of setting;
- increased public access and improved signage to heritage assets;
- interpretation panels/ historical information and public open days;
- measures for preservation or investigation and recovery of archaeological remains and sites;
- display of archaeological sites and dissemination of information for educational or research purposes.

Where a planning application is made in a Conservation Area, applicants are advised to consult the Historic Environment Record, held by Cambridgeshire County Council. This will assist in the identification of possible mitigation or enhancement measures that may be necessary to a given site and these measures may need to be secured through a planning obligation.

5.7.4 It is likely that some development sites will be required to provide, through a developer contribution, on-site culture, heritage and leisure facilities. It could be if, for example, something already exists on site, or (such as frontage asset) is found on the site, which needs preserving or enhancing for the public good. These will be dealt with on a case by case basis.

5.7.5 **Strategic Sites:** On strategic allocations or equivalent (i.e. 250 homes or more), the Council will be seeking on-site provision of culture and leisure facilities in suitable locations.

5.7.6 **Non-Strategic Sites:** On smaller developments of less than 250 homes, where it is not normally appropriate or possible to provide culture and leisure facilities on site, a contribution will be required from the developer to pay for this facility elsewhere or to enhance nearby existing facilities.

5.7.7 The financial contribution expected will be determined on a case by case basis, based on:

- local provision / capacity in the vicinity
- whether new build or enhancement to existing facilities is most appropriate
- the best solution taking account of pooling restrictions
- the legal tests for planning obligations

5.7.8 Culture and leisure facilities covers a wide range of buildings, and current provision varies widely across Fenland. Therefore, it is impossible to generalise in this SPD what level of financial contribution is appropriate. In some instances, if provision of all these facilities is already good in a locality, and the new development would not add pressure on such facilities, then a contribution will not be sought at all. However, in most instances, there will not be such capacity already existing and as such a contribution will be necessary.

5.7.9 The planning obligation which secures this contribution will be as specific as possible in terms of how it will be spent (in terms of what facility and where).

5.7.10 **Very Small Schemes:** On very small schemes of 1-4 dwellings, no contribution will be sought.

5.8 Waste Collection and Disposal

5.8.1 Local Plan Policy LP 16 (f) provides the basis for requesting adequate, well designed facilities for storage, sorting and collecting waste. Further Fenland specific guidance is provided in the Delivering and Protecting High Quality Environments in Fenland SPD (see link below). http://www.fenland.gov.uk/article/8180/Delivering-and-Protecting-High-Quality-Environments-in-Fenland-SPD

5.8.2 In addition, developers should ensure the requirements of the Minerals and Waste Development Plan are met together with the supporting SPDs (see links below).

http://www.cambridgeshire.gov.uk/info/20099/planning_and_development/49/water_minerals_and_waste/7

http://www.cambridgeshire.gov.uk/info/20099/planning_and_development/49/water_minerals_and_waste/6

5.8.3 Combined, all of the above policies and guidance are clear as to the expectation for developer contributions. Therefore, no further guidance is required in this SPD.

APPENDIX A:

Glossary

Affordable Housing: Low cost or subsidised housing for sale or rent intended to meet the needs of local people who cannot afford accommodation through the open or low cost market.

Commuted Sum: A payment by developers to a local authority in lieu of carrying out specific works in connection with development. It can be for the maintenance of public open space within housing developments, in lieu of the provision of on-site parking or as a contribution to meeting the transportation needs of the development, including the promotion of accessibility in accordance with local transport objectives.

Community Infrastructure Levy (CIL): A mechanism for charging developers a levy, based on the size of the development, to fund infrastructure that is needed to serve development in the area.

Development Viability: The ability of an activity to take place, taking into consideration any constraints. With regard to development, viability is an assessment of the cost against the future revenue. A development is only considered to be viable where the revenue would exceed the cost and allowing for a reasonable profit too.

Infrastructure Delivery Plan (IDP): Sitting alongside the Local Plan, the Infrastructure Delivery Plan (IDP) outlines some of the infrastructure (such as transport, schools, health services and open space) which is needed to support new development.

Local Plan: The plan for the future development of the local area, drawn up by the local planning authority in consultation with the community. In law, this is described as the development plan document adopted under the Planning and Compulsory Purchase Act 2004.

Local Planning Authority: The local authority or council that is empowered by law to exercise planning functions for a particular area.

Local Transport Plan: A five-year integrated transport strategy, prepared by local authorities in partnership with the community, seeking funding to help provide local transport projects. The plan sets out the resources predicted for delivery of the targets identified in the strategy.

National Planning Policy Framework (NPPF): Sets out the Government's planning policies for England.

Outline Application: A general application for planning permission to establish that a development is acceptable in principle, subject to subsequent approval of detailed matters (Reserved Matters).

Open Space: All space of public value including not just land, but also areas of water such as rivers, canals, lakes and reservoirs, which can offer opportunities for sport and recreation. They can also act as a visual amenity asset and a haven for wildlife.

Planning Agreement: Any agreement made pursuant to Section 106 of the 1990 Town and Country Planning Act in respect of the land or buildings.

Planning Condition: A condition imposed on a grant of planning permission (in accordance with the Town and Country Planning Act 1990) or a condition included in a Local Development Order or Neighbourhood Development Order.

Planning Obligation: A legal agreement made under Section 106 of the Town and Country Planning Act. The agreement is between a local planning authority and a developer, or offered unilaterally by a developer, ensuring that certain extra works related to a development are undertaken, for example, the provision of highways, affordable housing and open space.

Section 106 Agreement: A legal agreement under Section 106 of the Town and Country Planning Act.

S278 Agreements: A legally binding agreement between the Local Highway Authority and the developer to ensure that the work to be carried out on the highway is completed to the standards and satisfaction of the Local Highway Authority.

Supplementary Planning Document (SPD): A document that provides further details and/or guidance with reference to policies and proposals contained in a Development Plan Document (DPD) or Local Plan.

Transport Assessment: A comprehensive and systematic process that sets out transport issues relating to a proposed development. It identifies what measures will be required to improve accessibility and safety for all modes of travel, particularly for alternatives to the car such as walking, cycling and public transport and what measures will need to be taken to deal with the anticipated transport impacts of the development.

Unilateral Undertaking: A unilateral undertaking is a simplified version of a planning agreement and is entered into by the landowner and any other party with a legal interest in the development site. They can assist in ensuring that planning permissions are granted quickly, which benefits both applicants and the Council.

Viability Assessment: A viability assessment examines whether different types of development are likely to prove financially viable when taking into account a range of different factors such as location, type of site, size of scheme and scale of contributions to infrastructure and facilities.

APPENDIX B:

Process for Preparing a S106 Legal Agreement

It is strongly advised you begin the process as soon as possible to avoid delays in your planning application. These delays could result in your application being refused if no agreement can be reached within time. Also, there can be significant delays in the issuing of permission if a decision to grant the application has been reached but a legal agreement has not been completed.

Pre-Application Process

As part of the pre-application process, we will provide you with a list of potential S106 Heads of Terms and possible contributions for each. You should indicate as soon as possible whether or not you are prepared to agree to these terms. Any negotiations should commence as soon as possible.

If you are happy with the proposed Heads of Terms and contributions then you should include written confirmation of this with your planning application. This will speed up the preparation of the S106 legal agreement and smooth the application process.

Application Process

Step 1

We determine the S106 requirements and outline the Heads of Terms.

Step 2

- We send you a request to provide a Costs and Undertaking at Risk (an agreement to cover the legal costs regardless of the outcome).
- You provide your solicitor details and a current copy of the title.
- We instruct our Legal Services Department to prepare a draft S106 legal agreement.
- We both agree to the definitions of the Heads of Terms.

Step 3

Legal Services prepare the first draft S106 legal agreement and circulates it to all relevant parties for comment.

Step 4

We receive comments from relevant parties on the draft agreement.

Step 5

Legal Services produce further drafts as a result of the feedback until agreement is reached.

Step 6

The final agreement is engrossed and approved or placed on hold if Planning Committee approval is required.

APPENDIX C

Detailed Specification for Design and Implementation of Open Space

1. SECURITY

1.1 Safety and security are vital elements in any residential development. The creation of a sense of personal and community safety is a complex issue; the perception of safety or danger does not always relate directly to actual incidence of crime. People feel comfortable and confident using play spaces where there is good visibility and effective lighting, where people feel that they can be seen and heard by other people. Thoughtful design is an important instrument in enhancing everyone's sense of well being and making spaces more user friendly, easy to understand and secure.

1.2 Crime prevention is a material consideration in determining planning applications. Open space and elements of it should be designed and lit to create a safe and secure environment and to minimise opportunities for crime. Design and layout should have built in a high degree of self-policing by encouraging a sense of belonging amongst residents.

2 CHILDREN'S PLAY SPACE

2.1 The District Council expects developers to have regard to the following specifications when designing children's play space.

Location/Siting

2.2 The play space must be:-

(i) Integrated into the development and overlooked for supervision purposes and to avoid vandalism problems. Not on a backland site.

(ii) Accessible on foot from every dwelling served without having to cross any road larger than a Type 3 Collector Road as defined in the Cambridgeshire County Council 'Design Guide for Estate Roads' document.

(iii) At least 5m (8m for 4-8 year olds equipped play area) from ground floor windows which are in full view of the activity area.

(iv) Easily accessible for maintenance purposes.

(v) On a reasonably flat, well drained site.

Design and Layout

2.3 Developers should discuss the design of the play space with FDC prior to the submission of detailed plans. The use of Landscape Architects/Designers is welcomed. An accurately drawn plan of 1:200 scale must be submitted. The design of play space should have regard to the following:

(i) Existing landscape features which are important in their own right or of nature conservation interest, should be retained and incorporated into the proposed layout where possible as this can improve play.

(ii) Where the play space abuts gable end or other house walls the design must include a minimum 1.0m wide area of dense planting along the boundary to protect from potential disturbance.

(iii) Where the play space abuts rear gardens there should be a 2.0m high close boarded fence or wall between it and the gardens to avoid potential disturbance as well as shrub planting to prevent damage. The ownership of the fence(s)/wall should be conveyed with the adjacent properties.

(iv) The play space should have a sense of enclosure, but without hiding it from view.

(v) The design should include trees, shrubs and other features to form an attractive and stimulating environment.

(vi) Construction standards are set out in Appendix 3.

Pre-School Play Sculpture

2.4 The type and sighting of the play sculpture must be to the Council's approval and include a minimum of three pieces of equipment. This could include the following:

- Animal shaped chairs
- Balance beam

- Hopscotch
- Mushrooms

Play Equipment
2.5 The exact type of equipment will be determined through discussion with FDC. The equipment should be capable of providing for all or some of the following experiences depending on the total number of pieces of equipment:

- Climbing
- Sliding
- Balancing
- Rocking
- Swinging

2.6 Play sculpture and equipment is to be obtained from a recognised manufacturer on the Council's Select List and must be erected strictly in accordance with the instructions.

2.7 Play equipment and sculpture is to be sited on, and surrounded with, either a wet pour or carpet safety surface material laid in accordance with the manufacturers instructions. Equipment and surround shall be in accordance with British Standards 5696.

2.8 All play areas should be surrounded by dog proof fencing but with access for children, pushchairs and wheelchairs e.g. a self closing gate and have a seat for carers and a litter bin.

3. **YOUTH/ADULT PLAY SPACE**
3.1 The following specifications relate to the adult/youth play space element.

Location/Siting
3.2 Youth/Adult open space must be designed in such a way as to reduce the impact of ball games ie large grassed areas are not appropriate in this instance as the area is too small and will cause nuisance problems to adjoining residents. It is not intended that ball games should take place on these areas but it is acknowledged that some ball use will be inevitable. This use can be reduced through design and landscaping. Such areas must be:

(i) Integrated into the development and overlooked for supervision purposes
(ii) Accessible on foot from every dwelling served without having to cross any road larger than a Type 3 Collector Road as defined in the Cambridgeshire County Council 'Design Guide for Estate Roads' document.
(iii) Easily accessible for maintenance purposes.

3.3 Open space areas greater than 0.2 ha can accommodate a large grassed area specifically for ball games, but should include a 'buffer zone' to reduce potential nuisance. It is advised that such areas may be better located adjacent to a development rather than being fully integrated within it, but at the same time easily accessible. Where possible these areas should be overlooked for supervision purposes. Such areas should be of a regular shape, well drained and level to allow for their intended use.

Design and Layout
3.4 Developers should discuss the design of the open space with FDC **prior to the submission of detailed plans**. The use of Landscape Architects/Designers is welcomed. An accurately drawn plan of 1:200 scale must be submitted. The design of the open space should have regard to the following:

(i) Existing landscape features which are important in their own right or of nature conservation interest, should be retained and incorporated into the proposed layout where possible as this can improve play.
(ii) Where the open space abuts gable end or other house walls, the design must include a 1.0m wide minimum area of dense planting along the boundary to protect from potential disturbance.

(iii) Where the open space abuts rear gardens there should be a 2.0m high close boarded fence or wall between it and the gardens to avoid potential disturbance, plus a 1.0m wide planting strip to prevent damage. The ownership of the fence(s)/wall(s) should be conveyed with the adjacent properties.
(iv) The design of play space within developments should include trees, shrubs and other features to form an attractive and stimulating environment.
(v) The design of play space larger than 0.2ha while allowing for ball games and other activities to take place must also include landscaping features to ensure it is an attractive and welcoming environment.
(vi) Construction standards are set out in Appendix 3.

Dog Fouling

3.5 Under the Dog Fouling and Land Act 1996 all public open space, play fields, etc will be subject to strict laws which the District Council will enforce. Developers will be expected to obtain the appropriate signage (available from the District Council for a small charge) to erect on new areas of open space included within the Act.

CONSTRUCTION STANDARDS AND MAINTENANCE REQUIREMENTS

CONSTRUCTION STANDARDS

1. **GENERAL**
1.1 This section sets out the minimum standard of construction required to ensure adoption by the Council. It covers the usual forms of constructing open spaces. Other types of design or construction may be acceptable but these must be approved prior to commencement of work.

2. **PLAY AREAS**
2.1 Where play areas are deemed large enough to be used for ball games (ie at least 0.2ha), the grassed area shall be laid to an even grade. In other cases the ground may be contoured in order to provide variety with the tops and bottoms of humps, valleys and embankments, etc., rounded. Banks and slopes should be used sparingly as these increase maintenance costs.

3. **GRASS AREAS**
3.1 These areas shall be regulated and shaped to the lines and levels as shown on the drawings, or as directed. They shall be thoroughly cultivated to a depth of 150mm and broken down to produce a fine tilth. All debris encountered during the digging, including stones larger than 25mm in gauge, vegetable growth, builder's material and rubbish, etc., shall be disposed of off site.

3.2 The final preparation of these areas shall not be carried out until all works adjacent to them have been completed and then only immediately prior to seeding.

3.3 The following specified seed mixtures are suggested and shall be sown at the seed merchants recommended rates:

Housing Estates/Open Spaces
Johnsons JL 22 Sow at 20g-30g/m2
25% Banner Chewing Fescue
45% Boreal Creeping Red Fescue
20% Fortuna Smooth Meadowgrass
10% Highland Browntop

Gerson No.913 Sow at 40g-50g/m2
75% Pernille Strong Creeping Red Fescue
20% Simone/Tamara Chewing Fescue
5% Highland Browntop Bent

Barenbrug Bar 12 Sow at 35g-40g/m2
50% Boreal Creeping Red Fescue
25% Barnica Chewings Red Fescue
20% Baron Smooth Stalked Meadowgrass
5% Highland Browntop Bent

Playing Fields
Johnsons JL 23 Sow at 20g-30g/m2
40% Cherokee Perennial Ryegrass
20% Banner Chewings Fescue
35% Boreal Creeping Red Fescue
5% Browntop

Barenbrug Bar 11 Sow at 35g-40g/m2
40% Bargredo Dwarf Perennial Ryegrass
20% Barnica Chewings Fescue

20% Baron Smooth Stalked Meadowgrass
15% Elanor/Boreal Creeping Red Fescue
5% Highland Browntop Bent

3.4 Whichever alternative is supplied, the seed shall be delivered and the bags stored in sealed waterproof containers bearing the name of the manufacturer, the percentage of each component in the mixture, the certificate number of the tested seed, and the date of manufacture. No seed shall be used which is over 12 months old.

3.5 Where necessary top soil shall be provided, complying with BS3882 and shall be classified as medium stone free or medium lightly stoned.

3.6 Where a grass area abuts a boundary fence, wall or similar, a 300mm wide x 100mm thick 25N/sq.mm concrete mowing strip shall be constructed immediately adjacent to the boundary and approximately 10mm below the level of the grass, and shall be shuttered during construction where necessary.

Grass Seeding
3.7 Seed shall be sown in April or September unless otherwise agreed .

3.8 Seed shall be correctly and evenly sown at a rate specified. Sowing shall not take place during periods of persistent cold or drying winds or when the soil is frost bound or waterlogged.

3.9 Immediately following sowing the bed shall be lightly raked and rolled.

3.10 Any area which fails to germinate within 4 weeks shall, when soil conditions permit, be re-sown.

Turfing
3.11 Turf shall comply with BS3969 and shall have been delivered to the site not more than one week before being laid. Turfs which have been dried out or become etiolated shall not be used and shall be removed from the site. Turfs shall be a minimum of 38mm thick and be of uniform thickness.

3.12 Turfs shall be laid so as to break bond by half a turf length, shall be neatly cut to edges and around obstructions, tightly butted to each other and the surrounding grass, and well firmed down.

3.13 Immediately after laying the turf shall be top dressed with fine sifted soil or sandy loam well brushed into the joints and lightly rolled to a firm even surface.

3.14 Where gradients on banks necessitate, the turfs shall be secured by wooden pegs driven through the turfs into the bed.

3.15 Any turf which does not establish properly shall be removed and replaced.

4. **TREE PLANTING**
4.1 As a general rule trees to be planted will be detailed on the drawings. They shall be sound, healthy, well shaped standard specimens, 1.83m (6.0ft) high trunk (up to start of crown) above ground level after installation.

4.2 All trees supplied shall be true to species or variety and size as specified and shall conform to BS5236 and BS3936.

4.3 Where replanting is carried out the developer shall remove all stumps, roots and other redundant materials and dispose of off site.

4.4 Tree pits shall be excavated to a minimum diameter of 600mm and minimum depth of 500mm to correctly take the trees. The bottom of the pit shall be loosened by forking to a depth of 200mm. A 2.4m long stake with 63-75mm top shall be driven firmly and vertically into position before planting.

4.5 The tree shall be planted to the depth of the nursery soil mark with the roots fully spread. It shall be firmly secured to the stake with two tree ties, one positioned not more than 75mm below the top of the stake and one 700mm from finished soil level.

4.6 40 litres of 'Growtree' planting mulching compost or other such approved material shall be mixed into the excavated soil and the pit backfilled and firmed correctly.

4.7 The site shall be left clean and tidy on completion.

5. **SHRUB PLANTING**
5.1 The developer shall carry out shrub planting operations in accordance with the approved plans.

5.2 All shrubs supplied shall be true to species or variety and size as specified and shall conform to BS3936.

5.3 Where replanting is carried out the developer shall remove all dead and redundant plants, root and other material and dispose of off-site.

5.4 Shrub pits shall be dug of sufficient size to accommodate the natural spread of the roots. The base of the pit shall be well forked to loosen soil.

5.5 The shrub shall be planted to a depth equal to that at which the plant has been growing.

5.6 Four litres of 'Growtree' planting mulching compost or other such approved material, shall be mixed into the excavated soil and the pit backfilled and firmed taking care to avoid damage to roots.

5.7 The ground shall be levelled and any excess soil evenly distributed over the area.

5.8 The site shall be left clean and tidy.

6. **HARDLANDSCAPING**
6.1 This shall be constructed to the design approved by FDC and shown on the approved plans and to the constructional details given in the current edition of the Cambridgeshire County Council document 'Design Guide for Estate Roads in Cambridgeshire Part 2', 'Construction Specification' and comply with Parts 1 and 3 of BS 6717 for Precast Concrete Paving Blocks.

MAINTENANCE REQUIREMENTS

7. **GENERAL**
7.1 The developer will be responsible for carrying out maintenance of the open space for a period of two years following completion of the work. This includes replacement of any failed trees, shrubs, grass, paving or equipment, etc.

8. **GRASS CUTTING**
8.1 The frequency of cutting for each site shall be not less than once every two weeks, except where varied due to abnormal weather conditions.

8.2 The operation shall be carried out in such a manner as to produce a true and even cut over the entire area.

8.3 The developer shall take care to cut as closely as possible round obstructions, edges, margins, etc., in accordance with the provisions of paragraphs 9.1-9.6 below.

8.4 Where operations are carried out on large areas, the direction of cut shall, where possible, be varied with each visit and the headlands cut first.

8.5 The developer shall allow for the sweeping and removal of grass cuttings from paths, roads, and hard areas at each mowing visit. All boxed cuttings shall be removed from site and disposed of.

8.6 The developer shall not, unless instructed by FDC, apply any growth regulator of any kind to any area of grass.

8.7 The general grass cutting season shall normally commence on the third Monday in March and continue until the end of September in each year.

8.8 Unless otherwise approved, the finished height of all cut grass shall be 20mm except on sites maintained as quality lawns where the height shall be 15mm.

8.9 Prior to undertaking each grass cutting operation on each site, the developer shall take all reasonable steps to remove litter, stones and other debris to enable grass cutting operations to be safely undertaken and so as not to produce shredded litter.

8.10 Where inclement weather prevents work being carried out, the developer shall resume work as soon as possible in accordance with the programme and shall be required to catch up any delayed work within seven days of the original timing within the programme.

GRASS EDGING

9.1 During the grass cutting season the edges of grass shall be trimmed once a month with sharp shears or other approved means where grass abuts:

(i) all planted out, rose and shrub beds
(ii) footpaths, litter bins and seats.

9.2 Grass against walls, fences, hedges, around trees (not newly planted shrubs, hedges or trees), lamp columns and other obstructions shall normally be controlled by approved chemical herbicides.

9.3 Chemical herbicides as approved shall be applied at manufacturer's recommended rates once per annum, immediately following the first grass cut, to produce a treated margin of 200mm.

9.4 A list of approved herbicides should be obtained from the District Council.

9.5 On the small number of sites where it may be considered unsafe or impracticable to apply chemical herbicides, the developer shall, in substitute, trim either by hand or mechanical means so that the grass is generally the same height as that obtained by grass cutting. The frequency of trimming shall be the same as the frequency of grass cutting.

9.6 Outside the grass cutting season, as necessary, the developer shall:

(i) reform the grass edges of planted out, rose and shrub beds, using a sharp edging iron
(ii) reform grass edges to hard surfaces to give a true line using a sharp edging iron.

9.7 All arisings shall be immediately collected; all hard areas swept clean and the arisings disposed of off site.

10. **SHRUBS AND OTHER PERMANENTLY PLANTED BEDS (EXCEPT ROSE BEDS)**

10.1 During February all beds, except rockeries/wall gardens/mulched beds and around susceptible species such as *Gleditsia, Sambucus, Senecio Greyi* and *Symphoricarpus*, shall be treated with an approved pre-emergent herbicide applied in accordance with manufacturers instructions.

10.2 The developer shall visit each bed once every two months throughout the year to undertake pruning, the removal of dead flower heads, branches and litter, deal with storm/vandal damage, removal and spot treatment of weeds with an approved post emergence herbicide, to ensure that growth does not create a nuisance or danger to the public, residents or to doors and windows.

10.3 At the same time as 10.2 above mulched beds shall be topped up to maintain a depth of 50mm mulch across the bed.

10.4 At the same time as 10.2 the developer shall prune shrubs and other permanent plants at a time and in the manner most suitable for the species concerned or as directed by FDC.

10.5 Where a developer has planted rose beds, without other shrubs, maintenance regimes are available from FDC.

11. **HEDGES**

11.1 Hedges shall be cut using shears or reciprocating hand held power cutters. In no circumstances shall side arm flails or any other tractor or vehicle mounted machine be used.

11.2 A trimmed hedge shall present a neat, tidy and level finish normally cut so that all growth is removed to the point of the previous cut. All clippings lodging in the top or sides shall be removed by hand picking and the hedge base cleared of all litter, weeds and debris.

11.3 Immediately on completing cutting or on leaving the site all arisings shall be collected and disposed of off site.

11.4 The frequency of cutting per annum shall be as follows:

(i) Privet Once during May and once during September
(ii) Privet/Thorn Mix Once during May and once during September
(iii) Thorn Once during August/September
(iv) Berberis Once during May and once during September
(v) Beech Once during August/September.

12. **TREES**

12.1 The developer shall undertake the following works as necessary.

12.2 Remove broken/damaged stakes and ties, straighten and firm up trees, fill voids with top soil, provide and fix new stakes and new ties.

12.3 Straighten and firm up trees, fill voids with top soil, provide and fix new stakes and new ties.

12.4 Re-tie and/or adjust ties to existing stakes using existing or new ties.

12.5 Firm up existing stakes and trees, fill voids with top soil and re-tie using existing or new ties.

12.6 Cut back broken branches and/or prune trees to shape.

12.7 Prune back level to root or stem all suckers and new growth from base of tree to height of lowest branch.

12.8 In all cases the site shall be left in a clean and tidy condition and all arisings disposed of off-site.

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