



Appendix B

Planning Obligations Supplementary Planning Document

February 2024

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1. PURPOSE

- 1.1 A supplementary planning document (SPD) builds upon and provides more detailed advice or guidance on policies in an adopted local plan. They do not form part of the development plan and cannot introduce new planning policies into the development plan. They are however a material consideration in decision-making and play a key role in describing and explaining how adopted planning policies should be considered and delivered through the development management process.
- 1.2 The purpose of this SPD is to provide further detail on the framework through which the Council will make use of planning obligations. Planning obligations are used to make otherwise unacceptable development acceptable where it's not appropriate to use planning conditions.
- 1.3 Almost all development has an impact on the local environment, local amenities, or on the need for infrastructure and services. The Fareham Local Plan 2037 sets out a framework to assess impacts from development and this SPD provides additional guidance for the assessment of planning applications. In doing so, this SPD will also assist in implementing local objectives in respect of the provision of sustainable development across the Borough by contributing towards the delivery of the Fareham Local Plan 2037 and the Infrastructure Delivery Plan.
- 1.4 This SPD sets out the most common planning obligations which may be required as part of any legal agreement. These have been identified through the policies set out in the Fareham Local Plan 2037. The planning obligations contained within this SPD have been tested through viability work for the Local Plan¹. This can be found on the Council's website.
- 1.5 Not all the obligation types within this SPD will apply to all types of development, and this guidance will not cover every possible circumstance and/or obligation that may need to be considered. It provides an indication of the possible planning obligations that may be sought from new development in respect of the provision of infrastructure.
- 1.6 This SPD has been produced to apply to varying scales of development, but proposals will be assessed on a site-by-site basis with the individual circumstances of each site being taken into consideration.
- 1.7 This SPD is accompanied by a Schedule of Costs which is referred to at several points within the document. Whilst the SPD sets out the methodology for requiring planning obligations, the Schedule of Costs provides the calculations for costs where appropriate. The Schedule of Costs will be reviewed annually and updated when required.
- 1.8 This document is intended to apply to the whole of the Fareham Borough

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http://planningpdf.fareham.gov.uk/PDF/planning/publicationplan/VIA001_Fareham_Local_Plan_Viability_Assessment.pdf

excluding Welborne.

- 1.9 The SPD is a material consideration in determining planning applications. This SPD will be updated as required to ensure it is in line with changes in national or local policy on planning obligations.
- 1.10 This SPD has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 and in accordance with the Council's Statement of Community Involvement. If you require further information, you can contact the Planning Strategy Team by email at planningpolicy@fareham.gov.uk or by telephone on 01329 824601.

2. WHAT ARE PLANNING OBLIGATIONS?

2.1 Planning obligations² are legal obligations that bind land in order to mitigate the direct impacts of development and are secured pursuant to section 106 of the Town and Country Planning Act 1990. They are therefore set out within legal documents called section 106 agreements or unilateral undertakings. Planning obligations can be used to secure new or improved infrastructure, services, and facilities, and, where appropriate, their maintenance to ensure that new development is acceptable. This is achieved through a financial contribution paid to the Council, which will arrange for the necessary investment to be made. For this reason, the term ‘developer contributions’ is commonly used, but non-financial planning obligations are also common. New or improved facilities may also be required that are to be provided directly by the developer on site.

2.2 There are three ways in which the Council can seek to mitigate against the impact of development; conditions, section 106 obligations, and the Community Infrastructure Levy. The following table provides a broad overview of how they are typically used.

Mechanism	Description	Examples of use
Section 106 (s106) obligations	Can secure specific on-site infrastructure and contributions towards off-site infrastructure required to make development acceptable in planning terms.	<ul style="list-style-type: none"> • affordable housing; • open space, • highway/transport improvements; • provision of new or expansion of existing schools.
Community Infrastructure Levy	To fund strategic local and borough wide infrastructure for the area.	<ul style="list-style-type: none"> • Leisure Centres • Community Buildings
Planning conditions (site/development related)	To mitigate the adverse effects of the development, to allow proposals to proceed where it would otherwise be necessary to refuse planning permission.	<ul style="list-style-type: none"> • Parking provision • Ecology Management • Appearance and materials

Table 1: Summary of types of mechanisms

2.3 Planning obligations are secured by either agreements (between the landowner/developer and the Council) or unilateral undertakings (given by the owner/developer to the Council) made under section 106 of the Town and Country Planning Act 1990.

2.4 The Council has adopted the Community Infrastructure Levy (CIL)³ payable on certain types of development. CIL is a tariff based charge, set on new development in order to raise funds to help fund the infrastructure, facilities

² Planning obligations - GOV.UK (www.gov.uk)

³ Further information on the Council’s CIL charging regime can be found on the website https://www.fareham.gov.uk/planning/local_plan/cil.aspx

and services needed to support new homes and businesses across the borough. CIL is payable on all qualifying development and is separate from S106 planning obligations.

Use of section 106 agreements

- 2.5 The Community Infrastructure Levy Regulations 2010 (as amended) sets out the tests that planning obligations (section 106) must fulfil in order to be a reason for granting planning permission. Regulation 122 (repeated in the National Planning Policy Framework⁴) states that they can only be used where they are:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
- 2.6 Whilst this SPD provides guidance, section 106 obligations will be determined on a site-by-site basis to ensure that they are in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010.
- 2.7 However, in accordance with those regulations and with section 106 itself, planning obligations may do any of the following:
- Restrict the development or use of the land in any specified way;
 - Require specified operations or activities to be carried out in, on, under or over the land;
 - Require the land to be used in any specified way;
 - Require a sum or sums to be paid to the authority, on a specified date or periodically;
 - Be unconditional or subject to conditions; or,
 - Be for an indefinite or specified period.
- 2.8 The Council may seek financial contributions to fund single items of infrastructure or to fund part of an infrastructure item or service that is necessitated by the development. The Council will also seek provision for the running and maintenance costs of infrastructure for a specified period of time as set out in this Supplementary Planning Document.

Pre-application discussions

- 2.9 National Planning Policy states that planning obligations should be identified as early as possible in the planning process. This includes the Masterplan process for strategic scale development. The Council provides a pre-application advice service and applicants are advised to use this service in order to understand the likely impacts of the development and potential mitigation required. The pre-app service can be found here: [Advice before You Submit Your Planning Application \(fareham.gov.uk\)](https://www.fareham.gov.uk/advice-before-you-submit-your-planning-application)

⁴ National Planning Policy Framework ([publishing.service.gov.uk](https://www.publishing.service.gov.uk))

Monitoring of Planning Obligations

- 2.10 The Council will seek monitoring fees to be used to monitor and report on planning obligations, for the lifetime of that obligation. The process can involve many officers across the Council and can therefore be resource intensive. The monitoring of planning obligations involves:
- Recording the details of all the planning obligations within the Council's databases;
 - Recording the triggers for all planning obligations within the Council's databases;
 - Monitoring the progress of the development to identify when contributions are due to be paid (this includes site visits to monitor development progress);
 - Monitoring the progress of the development to ensure infrastructure/ facilities have been delivered on site in accordance with the timescales required by the planning obligation;
 - Invoicing for financial contributions and ensuring they are paid in line with the obligation;
 - Recording how financial contributions are spent by the Council;
 - Ensuring details which are required to be submitted under the planning obligation have been submitted; and
 - Publishing detailed information on the collection and spending of financial contributions in spreadsheets.
- 2.11 The monitoring fee is presently set at £500 per obligation and came into effect on 1 August 2023.
- 2.12 The level of the monitoring fee will be index linked to RPI and updated every April and capped at £10,000 per agreement/unilateral undertaking for the monitoring of financial contributions. There is no cap on the amount that may be charged for the monitoring of non-financial planning obligations.
- 2.13 The monitoring fee will be secured as part of the section 106 planning obligation and will be payable upon completion of the planning obligation. The Council will similarly expect the relevant monitoring fees to be included in any planning obligation, whether by way of agreement or unilateral undertaking presented in connection with any planning appeal.

3. PLANNING POLICY CONTEXT

National Policy

- 3.1 The National Planning Policy Framework (NPPF) (December 2023) sets out the national planning policies for England. Paragraphs 55 to 58 deal with the use of planning conditions and planning obligations. It provides the framework for using planning obligations to make development acceptable. Paragraph 55 states that ‘Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition’.
- 3.2 The National Planning Practice Guidance (NPPG) on Planning Obligations (updated September 2019) echoes the NPPF regarding the purpose and use of obligations. It states in Paragraph 004 Reference ID: 23b-004-20190901 that ‘policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability’. It goes on to state ‘Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in regulation 122’.

Local Policy

- 3.3 This SPD will support the delivery of the Fareham Local Plan 2037. Strategic Policy TIN4: Infrastructure Delivery provides the overarching policy basis for securing mitigation and the framework for seeking planning obligations to fund infrastructure required to make development acceptable in planning terms.

Strategic Policy TIN4: Infrastructure Delivery

Developments (excluding householder applications) will be required to provide and contribute towards the delivery of new or improved infrastructure, or other mitigation, to mitigate the impacts of the development. Planning permission will be granted where:

- a) The new or improved infrastructure will be delivered at a rate, scale and pace taking account of phasing on larger schemes; or**
- b) The new or improved infrastructure will be provided on-site as an integral part of the development, unless the nature of the provision is better provided off-site through the process of developer contributions.**

- 3.4 A number of policies within the Plan are likely to result in the possible need for mitigation and therefore provide the policy justification for seeking planning obligations. The following list of policies is not exhaustive, but the most common policies are:
- HP5 (Provision of Affordable Housing)

- HP9 (Self and Custom Build Homes)
- CC2 (Managing Flood Risk and Sustainable Drainage Systems)
- NE1 (Protection of Nature Conservation, Biodiversity and the Local Ecological Network)
- NE2 (Biodiversity Net Gain)
- NE3 (Recreational Disturbance on the Solent Special Protection Areas SPAs)
- NE4 (Water Quality Effects on the Special Protection Areas, Special Areas of Conservation and Ramsar Sites of the Solent)
- NE5 (Solent Wader and Brent Goose Sites)
- NE6 Trees, Woodland and Hedgerows
- NE10 Protection and Provision of Open Space
- TIN2 Highway safety and Road Network

- 3.5 National Planning Policy Guidance Planning requires policies seeking planning obligations to be grounded in an understanding of development viability through the plan making process. The impact of the above policy costs on viability were considered and found appropriate in the Local Plan 2037 Viability Study and the Community Infrastructure Levy Charging Schedule Review Viability Study.
- 3.6 The Council has identified known projects in the Infrastructure Delivery Plan that supports the Local Plan, for both allocated sites but also from cumulative impact of development.
- 3.7 Fareham Local Plan 2037 is supported by an Infrastructure Delivery Plan (IDP). The IDP identifies known infrastructure projects required to mitigate the impacts from allocated sites and also from the cumulative impact of development. The IDP can be found here: http://www.fareham.gov.uk/pdf/planning/local_plan/Final_Infrastructure_Delivery_Plan.pdf
- 3.8 This identifies the key infrastructure required to specifically support development set out in the Local Plan. It is important that the infrastructure is provided in advance of, or at least alongside development so that it is delivered at the right time to mitigate the impact from the development. The determination of planning applications and the setting of the obligations and trigger points within the legal agreements will be agreed to ensure timely delivery.
- 3.9 This SPD provides further guidance on the following potential planning obligations:
- Green and blue infrastructure land and maintenance requirements
 - Open Space and recreation
 - Blue Infrastructure (Sustainable Drainage)
 - Trees
 - Environmental requirements
 - Solent Recreation Mitigation Strategy
 - New Forest Recreation Mitigation

- Solent Waders and Brent Geese Habitat
- Public Services provision requirements
 - Highways & Transport
 - Children's Services/Education
 - Adults Extra Care
 - Countryside, Public Rights of Way & Green Infrastructure
 - Flood & Water Management
 - Libraries & Archives Provision
 - Public Health
 - Waste Management

3.10 To support the delivery of the Local Plan 2037 and complement this SPD, further SPD's are available to provide detailed guidance on the following policy requirements. These are further described in section 8 of this SPD:

- Affordable Housing
- Self and Custom Build Housing

4. OPEN SPACE LAND AND INFRASTRUCTURE REQUIREMENTS

Public Open Space, Outdoor Sport & Children’s Play Equipment

- 4.1 In line with Policy NE10: Protection and Provision of Open Space of the Fareham Local Plan 2037, residential development will be required to provide open and play space to meet the needs of new residents.
- 4.2 Open space is therefore considered to be a requirement to make residential development acceptable in policy terms and will be secured via a planning condition or through a section 106 obligation where appropriate.

Does the development generate a need to provide Open Space and Sports Provision Requirement?

- 4.3 All residential development is likely to create some need for open space. Different age groups will have different requirements for open space, however, all the residents of a community will make some use of their local open spaces, whether it is for walking, sitting, sports or play. Therefore, all types of new residential development will be expected to provide or contribute towards parks, amenity open space and play facilities irrespective of type or tenure of dwellings.
- 4.4 The Council has used the Open Space Study 2018⁵ to inform the requirements for open space across the borough. This sets the overall standard for the three different categories:

Category	Requirement
Parks & Amenity Open Space (Natural Greenspace)	1.5 hectare per 1,000 population 15 sq.m per person
Outdoor Sport	1.2 hectare per 1,000 population 12 sq.m per person
Children’s Play Equipment	14 pieces of equipment per 1,000 1-12 year olds 2 sq.m per person

Table 2: Open Space and Outdoor Sports Provision per person requirements

- 4.5 For specialist accommodation schemes (such as hostels, student accommodation, older persons housing and accommodation for those with special needs) the Council will consider the need for on-site open space or an offsite contribution on a case-by-case basis. This will also consider the quality and function of the open space recognising the importance of passive recreation space in such cases.
- 4.6 For sites yielding between 20 and 49 dwellings the Council will normally seek to secure the provision of on-site parks and amenity open space where the proposed development will exacerbate or create a deficiency in provision. The determination will be based upon the contents of the latest available survey of

⁵ http://planningpdf.fareham.gov.uk/PDF/planning/publicationplan/NE010_Open_Space_Study.pdf

open space in the Borough.

- 4.7 On sites of 50 or more dwellings additional parks and amenity open space will generally be expected to be delivered on-site, in order to serve new residents' needs as locally as possible.
- 4.8 In developments over 300 dwellings there will likely be a requirement to provide on-site outdoor sports facilities to serve the needs of the new residents. The need for facilities possibly including playing pitches will be determined by taking into consideration the local provision of sports facilities as evidenced through the Playing Pitch Strategy⁶, including their accessibility in relation to the development site.
- 4.9 On sites of 600 or more dwellings the provision of on-site sports facilities including playing pitches will be required. Serviced land for appropriate ancillary facilities, including changing rooms should be safeguarded to serve these facilities along with a financial contribution paid to the Council for their provision or be provided directly by the developer. This will be agreed with the Council on a case by case basis. Whilst the total quantum of provision is derived through this SPD, the precise nature of the provision (type of pitch i.e. for rugby or for football etc) will be agreed with the Council based on the evidence from the Playing Pitch Strategy.
- 4.10 Where development proposals come forward that are part of a wider development or allocation (i.e. the individual application is below the threshold but the overall scheme to be delivered is in excess) the Council will determine the need based on the total quantum of development proposed in line with Policy D3 of the Local Plan. A proportionate approach will then be taken towards provision and contributions.
- 4.11 Applicants are advised to have regard to the most recent Open Space Study and Playing Pitch Strategy to determine the likely specific requirements for sports provision in the area of the proposal. This will be done in liaison with the Council during the application process.

Calculating the Requirement for Open Space and Outdoor Sports Provision

- 4.12 Applicants are strongly encouraged to engage the council in pre-application advice to determine the quantity as well as the location of open space and sports provision. The following guidance sets out how the quantum will be derived. If the provision is on site and provided by the developer, then the council will require an agreed schedule of works to ensure that the quality is consistent between private and publicly delivered spaces.
- 4.13 Table 3 sets out the quantum of open space and outdoor sports provision that would be expected from new developments. This is based on the per person requirements identified in table 2, multiplied by the average occupancy of people per dwelling. The calculation uses an average occupancy assumption

⁶ [Fareham Borough Playing Pitch Strategy](#)

rather than requirements for specific dwelling types.

- 4.14 This formula will be used to determine either the quantum of expected on site provision or the value of the contribution to be sought towards off-site provision.

Average Occupancy (2.4 persons)	Parks & Amenity Open Space	Outdoor Sports Provision
	@ 15 sq.m per person	@ 12 sq.m per person
Per dwelling	36 sq.m	28.8 sq.m

Table 3: Calculating the Requirement for Open Space and Outdoor Sports Provision

Calculating the Requirement for Children’s Play Equipment

- 4.15 Formal children’s play equipment should be provided on-site for new development to serve the needs of the children on that development. It should be provided through formal play areas such as Neighbourhood Equipped Areas of Play (NEAP) and Local Equipment Areas of Play (LEAP). The purpose of a NEAP play area is targeted mainly at older children, stimulating challenging play opportunities with a minimum of 8 play experiences. The purpose of a LEAP is for children who are beginning to go outside and play independently. The Council will expect the provision of these facilities in line with the following thresholds.

Net increase in dwellings	Children’s Play Equipment
Less than 20	Not normally required
20-49	LEAP may be required depending on circumstances and location
50-199	LEAP
200 +	LEAP and a NEAP

Table 4: Children’s Play Equipment Thresholds

- 4.16 Children’s play areas should be delivered to a specification agreed with the Council, with a fully developed Scheme of Works to be approved by the Council before commencement of the development. Alternatively, where appropriate, the Council may deliver children’s play areas, in which case the Council will seek a contribution to deliver the agreed scheme and future maintenance for a 30-year period.
- 4.17 The most up to date Open Space Study recommends the provision of 14 pieces of equipment per 1,000 1-12 year olds. This would be expected to be made up of a combination of play areas (LEAPs and NEAPs).
- 4.18 LEAPs are designed to provide equipment for younger children and should be located where they are easy and safe to access. Ideally this means they should serve a catchment area within 5 minutes’ walk or 400m of new homes. They should be a minimum 400sq.m in size, include at least 5 pieces of equipment to suit a broad range of play styles, ages and interests, on safety surfacing and be surrounded by dog-proof safety fencing. Given the Council’s experience to-date regarding the impact of LEAPs and the likely form of housing layouts in the future, the distance between the equipped area and the

nearest residential boundary should be a minimum 20m.

- 4.19 Therefore, a LEAP (0.04Ha), including buffer zone (0.32Ha), extends to a minimum 0.36Ha.
- 4.20 NEAPs are designed to provide equipment mainly for older children and should be located where they are easy and safe to access. Ideally this means they should serve a catchment area within 15 minutes' walk or 1Km of new homes. They should be a minimum 1,000 sq.m in size, include at least 8 pieces of equipment to suit a broad range of play styles, ages and interests on safety surfacing and a hard surfaced multi-purpose area and surrounded by dog-proof safety fencing. The distance between the equipped area and the nearest residential boundary should be a minimum 30m.
- 4.21 Therefore, a NEAP (0.1Ha), including buffer zone (0.90Ha), extends to a minimum 1.00Ha.
- 4.22 The Council recognises that in some circumstances the provision of the buffer to a LEAP or NEAP in addition to open space requirements may not be possible due to land constraints. The priority is to ensure that playgrounds are not within 20 to 30 metres of nearest properties and therefore in such cases the Council may consider the buffer being included within the overall open space allocation of the site.
- 4.23 For sites of less than 50 dwellings, children's play equipment may be required on site, or a financial contribution sought to fund provision offsite, if there are no existing accessible areas of children's play within a reasonable walking distance. However, for sites yielding over 50 dwellings, children's play equipment will normally be expected to be delivered on site to serve new residents' needs as locally as possible.
- 4.24 In addition to formal play areas, the National Design Guide⁷ promotes Informal Doorstep Play. Also known as Local Area for Play (LAP), these are small areas of play for use by children aged 6 and below, meaning no play equipment as such, relying more on demonstrative features indicating that play is positively encouraged that distinguishes the play space. The National Model Design Guide⁸ suggests that all housing schemes over 15 dwellings should include such provision within 1 minute walking distance. Such areas should be included in scheme layout and design.

On-site Provision

- 4.25 For large sites, the Council expects open space and sports provision to be provided on-site to meet the needs of those residents of the development. The Council will therefore seek on site provision according to the thresholds set out in table 5. The thresholds recognise that individual dwellings and smaller scale developments are unlikely to be able to deliver practical on-site

⁷ [National design guide.pdf \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/424242/national_design_guide.pdf)

⁸ [National Model Design Code \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/424242/national_model_design_code.pdf)

solutions.

Net increase in dwellings	Parks and Amenity Open Space	Outdoor Sport
Less than 20	Not normally required	Not required
20-49	May be required depending on circumstances and location	Not required
50-299	Will be required	Not normally required
300+	Will be required	Will be required on site (or off site contribution in lieu)

Table 5: On site Open Space and Outdoor Sports Provision Site Thresholds

- 4.26 The Open Space Study sets out a clear definition of ‘Parks and Amenity Open Space’, but in short it includes urban parks, buffer zones around children’s play equipment, informal recreation spaces, incidental space, village greens and green paths between developments. With the introduction of environmental requirements for new development, the provision of parks and amenity open space may also contain natural greenspace in the form of grasslands, wildflower meadows and other biodiversity enhancements. The defining characteristic is that this type of space is not laid out for defined sport, recreation or as a formal play space, but is accessible, available, and safe for all purposes. It is largely comprised of the sort of areas that people think of as “typical” public open space, for everyday activities such as dog-walking or a “kickabout”.
- 4.27 These types of spaces are vital to the success of new developments as they not only provide a pleasant backdrop to the urban environment, but they also play an important function in the health and wellbeing of all residents. In order to provide a useable space, which is of true value to its users, the minimum size of any on-site open space should be 0.1 hectare (Ha) based on an area of approximately 35m x 30m, with no single dimension less than 10m.
- 4.28 Outdoor sport is made up of playing pitches, courts, greens, athletics tracks or training areas. Playing pitches should be grass, artificial or synthetic surfaces marked out for team sports including football, rugby, cricket, hockey etc. This also includes areas around pitches required for “run-off”, player safety or spectator purposes.

Off-site contributions ‘in-lieu’

- 4.29 Where it is appropriate to seek financial contributions towards off-site provision of open space and sports, the level of contribution will be agreed with the Council based on a proportionate approach. The required level of provision will be calculated using the space standards set out in table 3. This will then be applied to the per square metre costs set out in the Schedule of Costs document ‘Provision and Maintenance of Green Infrastructure Assets’. The Schedule of Costs sets out the cost associated with the standard level of provision expected.

5. SECURED MAINTENANCE DELIVERY OPTIONS

- 5.1 For all open space, sports pitches and play equipment, the Council will need to be satisfied that suitable arrangements have been secured for the long-term maintenance (lifetime of the development) of the asset.
- 5.2 The Council expects that there should be no discernible difference in the standard of maintenance between land maintained by the Council and that of privately maintained land. To secure this, the Council will require an agreed management plan to ensure that the quality of the proposed maintenance regime is appropriate.
- 5.3 Where it is agreed between parties that public open space and assets are to be transferred into the control of the Council to manage long term, the ongoing maintenance cost will be secured and paid to the Council.
- 5.4 Where it is proposed to use a management company or similar to manage and maintain the public open space and assets, the Council will seek planning obligations that secure the long-term management and maintenance of those assets for the life of the development, including any necessary step in rights and cost recovery provisions.

Maintenance of assets to be transferred to Fareham Borough Council

Open Space, sports pitches and play areas.

- 5.5 In such cases where the land and management/maintenance responsibilities are to be passed to the Council, the Council will seek two main planning obligations:
 - i. The developer will be required to set out and maintain the approved infrastructure to the Council's satisfaction for a period of 12 months following its completion. After this period, following a satisfactory inspection by the Council, the land will be transferred to the ownership of the Council for an agreed sum (£1). Where remediation is required, this will be required to be undertaken prior to hand over.
 - ii. A financial contribution will be sought to cover the ongoing management and maintenance costs of the infrastructure. This contribution will secure maintenance costs for a period of 30 years, after which the cost of that service shall revert to the Council's revenue budget.
- 5.6 The amount sought as a financial contribution towards maintenance will be calculated on a per square metre basis using up to date costs relating to a maintenance schedule agreed with the Council. This will be based on the typical level of service set out in the Schedule of Costs document 'Provision and Maintenance of Green Infrastructure Assets'. The Schedule of Costs sets out the costs associated with the various maintenance regimes and will be reviewed on an annual basis and updated when necessary to reflect changes to the standard variables and pricing assumed on adoption of this SPD.

Blue Infrastructure

- 5.7 The Council does not typically take on the responsibility for open space or amenity land where Sustainable Drainage Systems (SUDS) or other open water features form a component either surface features or underground features. In these scenarios, the Council will require a detailed management plan and evidence of how these features will be managed and maintained and how they relate (access requirements etc.) to land transferred to the Council.
- 5.8 Schedule 3 of the Flood and Water Management Act 2010⁹ proposes that in the future SUDS will be approved and adopted by the County Council for the area. At the time of publishing this SPD, this is yet to be implemented, but subject to final decisions on scope, threshold and process, implementation is expected during 2024. Further information on SUDS design and approval should be sought from the Hampshire County Council, further information of which is available in section 7.

Trees

- 5.9 The cost of maintaining land and play equipment as detailed above, does not include the active maintenance of trees. It is therefore a requirement that where the Council adopts land which contains trees that are likely to require active management, an additional contribution is secured to cover the cost for management and maintenance.
- 5.10 Trees that are likely to require to be actively managed are those within close proximity to people (including routes that people use), boundaries and/or property (both within the open space and adjoining land). The management and maintenance of these trees will include regular inspection and maintenance by the Council. Where trees are included in land to be managed that are away from the proximity of people and property, an alternative (less intensive) management regime may be agreed with the Council.
- 5.11 Where the Council agrees to adopt a tree that will be actively managed, a maintenance contribution will be secured for each tree that will cover the cost of maintenance for a period of 30 years, after which the cost of that service shall revert to the Council's revenue budget.

Maintenance of assets to be undertaken by existing or proposed management companies

- 5.12 Where it is proposed that a management company will undertake the long-term maintenance and management of assets, the Council will require a management plan including performance/standard measures to be agreed and secured through the section 106 agreement.
- 5.13 To provide security against the long-term operation of the management company, one or more of the following aspects will be required to ensure the

⁹ [Flood and Water Management Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

long-term satisfactory maintenance of the assets.

Committed sum - an agreed figure paid to the Council to be ring-fenced to cover the cost of the management company carrying out all or any monitoring and maintenance of the obligations set out in the management strategy, in the event of a shortfall in the amount of service charge collected from residents. This provides for the management company to draw on a reserve funding pot to carry out its obligations in an event when service charges from residents are not received. It would only be accessible to the management Company where it is able to demonstrate satisfactorily to the Council that it has received insufficient funds to comply with the obligations in the legal agreement.

Bond - an agreed sum approved by, and payable to, the Council and provided by a reputable surety for the carrying out management and/or maintenance by the Council in circumstances where the management company fails to do so. This would allow the Council to undertake the required works using the bond, until such a time that the management company issues can be resolved.

- 5.14 This is not an exhaustive list and will depend on the circumstances of each particular development and management proposal.
- 5.15 The Council will also require provision for **enhanced step in rights** to be secured through the section 106. This will ensure that under specified circumstances (for example performance measures not being adhered to) the Council is entitled to take over the role of the management company on a temporary basis to enable the provision of the relevant services to the satisfactory standard and recovery of its costs from the owners in the development/of the land.

6. OBLIGATIONS TO MITIGATE DEVELOPMENT IMPACT ON HABITATS

- 6.1 To deliver on the requirements of the Habitats Regulations in protecting European Sites, the Local Plan includes policies related to environmental mitigation in Policy NE3 Recreational Disturbance on the Solent Special Protection Areas SPAs, and NE5 Solent Wader and Brent Goose Sites. These policies require the delivery of environmental mitigation in addition to open space requirements.
- 6.2 The Solent and the New Forest are internationally important for their wildlife with the Solent being recognised for its wildfowl and wader population with over 90,000 waders and wildfowl and 10 to 30 percent of the global population of Brent Geese. Four Special Protection Areas (SPAs) have been designated in the region to protect these important populations. The region is also home to a variety of important coastal habitats such as Atlantic Salt Meadows and Estuarine Mud Flats amongst others.
- 6.3 It is essential that new development does not adversely impact these important environments. This includes direct impact through development, but also the associated recreational pressures resulting from new residents that will want to enjoy these important natural environments. The Council has developed (in partnership with other authorities and Natural England) a series of approaches to ensure development does not adversely impact those areas.
- 6.4 The following are likely to require a planning obligation through either a tariff style contribution, or provision of offsetting land. Further details can be found through the links below:
- 1 [Solent Recreation Mitigation Strategy](#)
(To mitigate the recreational impact on the environmental designations of the Solent coast)
 - 2 [New Forest Recreation Mitigation](#)
(To mitigate the recreational impact on the New Forest environmental designations)
 - 3 [Solent Wader and Brent Goose Strategy](#)
(To mitigate the impact of development on grassland sites supporting the bird species for which the Solent is designated).

Strategy	Requirement
Solent Recreation Mitigation Strategy	Financial contribution per dwelling Our strategy - Bird Aware Solent
New Forest Recreation Mitigation Solution	Financial contribution per dwelling Report to the Executive for Decision - (Director of Planning and Development)
Solent Wader and Brent Goose Strategy.	1. Avoidance 2. On-site mitigation 3. Off-site provision (possible financial contribution). The Strategy – Solent Waders & Brent Goose Strategy (wordpress.com)

Table 6: Environmental Mitigation requirements

- 6.5 The Council also requires applications to demonstrate nutrient neutrality to mitigate the impact of wastewater pollutants on the water quality of the environmental designations of the Solent. Developers that propose to secure off-site credits through an agreement with a third party land owner will be required to evidence details of this agreement to the Council. Details of schemes with legal agreements can be found on the Council's website¹⁰.
- 6.6 There may be occasions where the provision of environmental mitigation may be provided as part of, or in relation to the open space/amenity land being provided. Given the site-specific nature of this provision, where this is required, the details will be agreed as part of the pre-application and/or application process. This will include the management and maintenance arrangements that will need to be agreed with the council, and if this responsibility is to be passed to the council, a suitable maintenance contribution will need to be agreed on a site-by-site basis which reflects the additional requirements of the environmental mitigation.

International Nature Conservation Designations – The Solent Recreation Mitigation Strategy

- 6.7 The Solent Recreation Mitigation Strategy (SRMS)¹¹ sets out the requirements based on the Conservation of Habitats and Species Regulations 2017 (as amended). Development proposals resulting in a net increase in residential units will need to demonstrate that the negative effects can be avoided or mitigated. This can be done via a financial contribution in accordance with the SRMS or by providing an alternative package of mitigation measures, separate from the SRMS, that would satisfactorily mitigate the adverse effects from recreational disturbance on the Solent SPAs. This should be carried out in consultation with Natural England.
- 6.8 Contributions will also be required from development comprising student accommodation, hotels and for additional dwellings provided through Permitted Development. Developments comprising residential institutions (within Use Class C2) for the elderly or disabled, including sheltered accommodation and nursing/rest homes, may also need to provide mitigation and will be assessed on a case-by-case basis based on an analysis of the likely impact of the residents on internationally protected sites and the level of care provided. In some cases, larger developments may be required to provide additional bespoke mitigation measures.
- 6.9 Developer contributions are paid to the local planning authority from new residential and visitor accommodation development and then transferred quarterly to the Solent Recreation Mitigation Partnership, where they are pooled to implement mitigation measures.

¹⁰ <https://www.fareham.gov.uk/planning/nitratepositionstatement.aspx>

¹¹ [Solent Recreation Mitigation Strategy.pdf \(birdaware.org\)](#)

International Nature Conservation Designations – The New Forest Recreation Mitigation

- 6.10 Parts of the New Forest are designated as a Special Area of Conservation (SAC), an SPA, and a Ramsar site. Evidence has identified that recreational activity has the potential to impact on these areas and to address this the Council developed a programme of mitigation measures to counteract the likely significant effects of recreation disturbance associated with new residential development (either alone or in-combination with other developments) within a 13.8km straight-line zone of influence from the protected sites in the New Forest. The mitigation measures have been formed into an interim mitigation solution¹².
- 6.11 Where impacts cannot be mitigated on site, a financial contribution will be sought towards the provision of new green spaces or the enhancement of existing green spaces in the local area including provision for their long-term maintenance and management costs. These enhancements are designed to deter people from visiting the New Forest and mitigate any adverse effect on integrity of the habitat sites in that location.
- 6.12 To ensure that the programme is responsive to changing circumstances and opportunities, the programme of specific projects will be maintained separately and reviewed on a regular basis to ensure that they are deliverable in the agreed timeframe.

Solent Waders and Brent Goose (SWBG) Sites

- 6.13 As a matter of course, applicants for sites with the potential to affect the integrity of the SWBG network sites must consider avoidance as the first approach, with on-site mitigation to be provided if that is not possible. An off-site solution will only be considered if there is clear justification that on-site mitigation cannot be achieved.
- 6.14 Where proposals are being made for mitigation and/or compensation measures, information to support those proposals will be needed. Any off-site enhancements will need to be consistent with the approach set out in the 'Guidance on Mitigation and Off-setting Requirements' (SWBG Steering Group, October 2018) and Policy NE5 of the Fareham Local Plan 2037.
- 6.15 Where on-site mitigation is agreed, the Council will need to be provided with full details of how it will be secured in perpetuity and confirmation of its suitability from Natural England. If the land is to be transferred to the Council, it is expected that it will be accompanied by a suitable and appropriate commuted sum for the long term (in-perpetuity) management of the site. This will be in accordance with a submitted Ecological Management Plan and based on the maintenance figures set out for public open space and amenity

¹²

<https://moderngov.fareham.gov.uk/documents/s29833/Implications%20of%20Natural%20England%20advice%20on%20New%20Forest%20Recreational%20Disturbance.pdf>

land considering the specific case by case ecological requirements of the site.

- 6.16 Where an off-site mitigation measure is identified, the Council will need to be provided with full details of the mitigation proposed including how it will be secured in perpetuity and confirmation of its suitability from Natural England. It will also need to be accompanied by an Ecological Management Plan to demonstrate how the long term management of the land will be provided for.

Biodiversity Net Gain

- 6.17 Under the Environment Act 2021, developers are required to deliver a biodiversity net gain of 10%. This means a development will result in more or better-quality natural habitat than there was before development. .
- 6.18 The Local Plan Policy NE2: Biodiversity Net Gain provides for a non-mandatory requirement to provide a 10% net gain. Where an application is deemed subject to this policy, an appropriate solution will be agreed on a case by case basis.

Environment Mitigation Unilateral Undertaking

- 6.19 The Council recognises that environmental mitigation is often required when no other planning obligations are. To minimise complication as well as legal fees, a standard template legal agreement in the form of a simple unilateral undertaking can be provided by the Council as part of the pre-application or application process.
- 6.20 A unilateral undertaking is a planning obligation that is signed only by the applicant's side (including applicants, land owners and lenders) but not by the Council or other parties. In most cases the Unilateral Undertaking comes into effect when the planning permission to which they are linked is granted.
- 6.21 The unilateral undertaking can usually be agreed as part of the application process prior to decision, helping to avoiding delays. The applicant will need to provide evidence of the ownership of their development site with their unilateral undertaking [and pay a small fee for the title information and completed document to be checked].

7. OBLIGATIONS TO MITIGATE DEVELOPMENT IMPACT ON OTHER SERVICE PROVISION

Hampshire County Council Services

- 7.1 The County Council is responsible for delivering a number of important public services which support both existing and new populations and development. As such, the County Council would normally also be a party to the section 106 agreement between the owner/developer and Fareham Borough Council.
- 7.2 The County Council provide guidance for its approach to seeking to secure planning obligations towards County Council services and infrastructure where there is a demonstrable impact. The guidance should be considered as advisory, and any and all contributions requested by the County Council will be considered by Fareham Borough Council as the Local Planning Authority on a site by site basis.
- 7.3 The guidance covers the following service areas for which the County Council will potentially seek mitigation towards:
- **Highways & Transport** – Guidance on Transport Assessments and Travel Plans to assess the need for any necessary highways works and improvements alongside measures to encourage the use of transport modes other than the private car;
 - **Children’s Services/Education** – Guidance on Education provision including new schools, extension to schools and provision for those with Special Educational Needs & Disabilities, early years and post-16 education;
 - **Adults Extra Care** – Guidance on the provision of adult care facilities;
 - **Countryside, Public Rights of Way & Green Infrastructure** – Guidance on improvements to Public Rights of Way and the Green Infrastructure network;
 - **Flood & Water Management** – Guidance on the use of SuDS in new developments and Ordinary Watercourse consents;
 - **Libraries & Archives Provision** – Guidance on improving the stock and services on offer at local library facilities, discovery centres and local archives services;
 - **Public Health** – Guidance on Health Impact Assessments and measures to improve the health and well-being of the occupiers of new developments.
 - **Waste Management** – Guidance on improving existing Household Waste Recycling Centres.
- 7.4 Full details can be found in the following guidance document: [Guidance on Planning Obligations and Developer Infrastructure Contributions](#)

8. OBLIGATIONS COVERED BY OTHER SUPPLEMENTARY PLANNING DOCUMENTS

- 8.1 The Fareham Local Plan 2037 is supported by a suite of SPDs which provide more detailed guidance on Local Plan policy.
- 8.2 As detailed within the Local Development Scheme (July 2023), the following SPD's relevant to Planning Obligations will be produced to support the implementation of the Local Plan:
- Self and Custom Build Housing SPD
 - Affordable Housing SPD

- 8.3 These SPDS are reviewed periodically and can be found on the Planning Strategy webpages here: https://www.fareham.gov.uk/planning/local_plan/

Self and Custom Build Housing Supplementary Planning Document (Adopted October 2023)

- 8.4 The Self and Custom Build Housing SPD provides guidance to developers on the policy requirements for self-build and custom build housing including the quantity required and the type and size of plots to be provided.
- 8.5 The SPD details the policy requirements for large developments which will be required to deliver 10% self and custom build, including identifying the phasing of the plots within the overall development, providing details of the marketing strategy which the developer will undertake and the design parameters for the self and custom build homes through the provision of design codes and plot passports.

Affordable Housing Supplementary Planning Document (Emerging)

- 8.6 The Affordable Housing SPD sets out the amount and type of affordable housing required as a result of the Local Plan Policy. It also provides more detailed guidance on design and integration of affordable housing into wider schemes.