Planning Obligations
Supplementary Planning Document

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# TABLE OF CONTENTS

1. Introduction and Background .......................... Page 2
2. Consultation on this SPD ............................ 3
3. Implementation date of this SPD ...................... 3
4. National Policy Context ................................ 3
5. Newcastle City Council response to CIL Regs ........ 3
6. Purpose of the SPD .................................... 4
7. Status of the SPD and its use in the decision making process .... 4
8. Thresholds .............................................. 4
9. City Council approach to location of provision through .... 5
10. Obligations ............................................. 5
11. Drafting of Agreements ............................... 6
12. Transfer of Land ........................................ 6
13. Financial Contributions ............................... 6
14. Index Linking .......................................... 7
15. Monitoring and Enforcement of Obligations .......... 7
16. Reporting of Section 106 Monies ...................... 7
17. Viability ................................................ 8
18. Citywide Planning Obligation Types ................. 8
   Affordable Housing ..................................... 8
   Highways and Transportation .......................... 10
   Open Space, Outdoor Sport, Children’s Play and Allotments (site specific) .... 14
   Training and Employment Management Provision .... 16
   Education .............................................. 16
   Other Site Specific Measures ......................... 20

NP09
1. Introduction and Background

This Planning Obligations SPD sets out Newcastle City Council’s proposed future Section 106 planning obligations approach which will run in conjunction with the Council’s proposed ‘Community Infrastructure Levy’. This will ensure that the development industry and others have a clear view on the likely extent of Section 106 planning obligations, which they will have to meet to ensure that any proposed development is acceptable and also makes a reasonable contribution to the infrastructure needs of the City.

Newcastle is the focus for significant levels of development, providing large numbers of new homes, student beds and businesses in neighbourhoods across the City. However, this development often creates a need for specific measures to mitigate its impact, without which there could be a detrimental effect on local amenity and the quality of the environment. This SPD will help to ensure that development contributes towards the provision of the necessary measures required to mitigate its impact, resulting in a high quality sustainable urban environment, where people choose to live, work, learn and play.

Planning obligations, also known as Section 106 Agreements, are legally binding agreements entered into between a Local Authority and a developer. They provide the mechanism by which measures are secured to mitigate the impact of development on local facilities that are geographically or functionally related to it. The use of planning obligations is an effective tool through which the Council will seek to ensure that development mitigates its impact and meets the objectives set out in national and local planning policies.

This SPD shows how it complies with national and local policy, and deals with procedural matters relating to the drafting and enforcement of Section 106 Agreements as well as setting out the types of obligation that the Council may seek to secure from development. It will identify the relevant policy basis, types of development to which the obligation will apply, thresholds over which the obligation will be sought and set out, where possible, the basis on which the level of obligation will be calculated. It specifically covers the following obligation types:

- Affordable Housing
- Highways and Transportation
- Local Open Space
- Children’s Play Facilities
- Outdoor Sport
• Allotment’s
• Local Employment Training and Opportunities
• Education
• Other site specific obligations

2. Consultation on this SPD

The SPD has been subject to statutory consultation with all responses considered. The responses are available on the Councils website in a ‘Consultation Statement’ which addresses all comments.

3. Implementation date of this SPD

It is anticipated that the SPD will be adopted for implementation following the consultation process and then full Newcastle City Council Cabinet approval. All planning applications determined after this date that require the use of planning obligations should be determined in accordance with this SPD.

4. National Policy Context

The legislative framework for planning obligations is set out in Section 106 of the Town & Country Planning Act 1990, as amended by Section 12 of the 1991 Planning and Compensation Act. Further legislation is set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (Amended). Government policy on planning obligations is set out in Paragraphs 203 to 205 of the National Planning Policy Framework (NPPF) (March 2012) and the online National Planning Policy Guidance tool.

The CIL Regulations and guidance require that local authorities scale back s106 requirements to those matters that are directly related to a specific site, or are otherwise not those set out in the regulation 123 list for the City Council area. In addition the CIL Regulations in general restrict the pooling of Section 106 contributions to no more than five obligations towards the provision of new infrastructure. Note this limitation applies to s106 agreement and not for stages of payments to be made as part of such an obligation. In accordance with Regulation 123, infrastructure on the Regulation 123 list of an operational CIL will not be sought through planning obligations.

Regulation 122 and Paragraph 204 of the NPPF set out the following tests that must be satisfied in order for obligations to be required in respect of development proposals:

• the obligation must be necessary to make the proposed development acceptable in planning terms;
the obligation must be directly related to the proposed development;
• the obligation must be fairly and reasonably related in scale and kind
to the proposed development.

5. Newcastle City Council response to the CIL Regulations

The Council intends to implement a CIL for Newcastle in order to secure
essential, largely off site contributions from development to support growth.
Consequently, this SPD deals only with affordable housing provision and site
specific obligations necessary to make development acceptable in land use
terms.

In accordance with CIL Regulation 123 (2) the Council will ensure that any
infrastructure planning obligation will not be entered into where funding of
the relevant infrastructure is identified on the CIL Regulation 123 list. Where
Regulation 123 list exclusions apply, other mechanisms such as section 278
and section 38 of the Highways Act 1980 and section 106 of the Town and
Country Planning Act 1990 can be secured subject to meeting all other
regulations. There will be no actual or perceived double dipping.

6. Purpose of the SPD

This SPD sets out the City Council’s approach to planning obligations when
considering planning applications, including the allocated sites, for
development in Newcastle. It complements and provides further guidance to
the policy approach set out in the Core Strategy and Urban Core Plan
(CSUCP) March 2015 and will assist in securing both local and national
objectives in respect of the provision of sustainable development across the
City.

The objective of the SPD is to provide clarity to developers, development
management officers, stakeholders and local neighbourhoods regarding the
basis on which site specific planning obligations will be sought to make a
development acceptable in planning terms. It details the obligations that may
be required from different types and quantum of development and sets out
the basis on which the level of obligation will be calculated, where
appropriate.

7. Status of the SPD and its use in the decision making process

The SPD has been prepared in accordance with the Town and Country
Proposals for development that may require the provision of planning obligations should be made in accordance with the relevant policies of the saved polices of Unitary Development Plan for Newcastle upon Tyne (1998), the CSUCP (2015), Benwell Scotswood Area Action Plan ( or Walker Riverside Area Action Plan. The SPD, which supports the CSUCP, constitutes an important material consideration in the decision-making process.

As any proposal that may require the provision of planning obligations will require the consideration of a number of planning issues, a variety of policies contained in the above plans will apply. The SPD supplements, in particular, the following policies:

Saved UDP Policies
- IM6 Implementation
- OS1, OS1.1, OS1.2. Open Space
- T2, T4.5, T5.3, T7.1 Transport

Spatial Strategy Policies
- CS1 Sustainable Growth
- CS2 Urban Core
- CS3 Neighbourhood Areas
- CS4 Rural and Village Areas

Strategic Policies
- CS5 Employment and Economic Growth Priorities
- CS9 Existing Communities
- CS10 Delivering New Homes
- CS13 Transport
- CS17 Flood Risk and Water Management
- CS18 Green Infrastructure
- DEL 1 Infrastructure and Developer Contributions

It is considered that the SPD is in conformity with these policies and consistent with national policy.

8. Thresholds

When securing non-contribution related obligations, planning obligations will be sought on new major developments as defined in the Town and Country Planning (Development Management) Order 2010.

Where contributions will be sought, planning obligations will be sought on the creation of 10 or more residential units and major commercial developments.
9. City Council approach to location of provision through obligations

Wherever possible, provision should be made on-site for facilities required through a planning obligation. However, there will be cases where this is neither practicable nor appropriate. In these instances, the Council will require financial contributions or physical works towards the provision of necessary measures to mitigate the impact of the development.

The City Council will consider the issue of whether facilities are to be provided on or off-site, and the level of such facilities or scope of works, (particularly where viability is agreed to be an issue) on a case-by-case basis.

The Council considers that developers may reasonably be expected to pay for, or contribute to, the cost of infrastructure that would have been necessary for their development. Negotiation over the level of contributions will take account of the economic viability of the development, including any abnormal costs and other planning objectives that may affect the viability of the proposal. However, the Council also considers that costs incurred in delivering a sustainable, high quality development are to be expected, and should not reduce the ability of the site to contribute towards relevant planning objectives.

In cases where a small number of developments (up to a maximum of five) are proposed in close proximity to each other and the cumulative effect will result in the need for a specific mitigating measure, the Council may pool contributions or obligations from each of the developments, in order to fund the necessary measure in an equitable way.

10. Drafting of Agreements

Section 106 Agreements and Unilateral Undertakings where applicable, will be drafted by the City Council’s Legal Services Team, or by solicitors acting on the City Council’s behalf. Applicants will be required to pay the Council’s reasonable costs incurred in drafting and completing the agreement.

11. Transfer of Land

Occasionally obligations will require land to be transferred to the Council, usually in respect of Highways, Public Realm or Landscaping Scheme or
community facilities obligations. In such cases, developers will be required to pay the Council's legal costs in respect of the land transfer. The Council will also consider payment in kind opportunities as part of the local CIL scheme.

12. Financial Contributions

Financial contributions will be payable at specific stages in the development process, usually on commencement or on first occupation of the development. However, there may also be cases in large-scale development where contributions can be phased, in order to match the proportional impact of each phase of the development.

Trigger dates for the payment of financial contributions will be included in the Agreement, as will any time periods by which the contribution is to be spent.

Following receipt by the City Council, financial contributions will be held in interest bearing accounts and will be individually identifiable due to each contribution being allocated a unique finance code. Contributions remaining unspent at the end of a time period specified in the Planning Agreement will be returned to the payee in accordance with the terms of the Agreement.

13. Index Linking

All financial contributions contained in this SPD are to be index linked from the date of the Section 106 Agreement to the date when the contribution is requested. The exception is where commuted maintenance payments are required and in these instances the payment will be index linked from the point at which the maintenance costs are agreed.

14. Monitoring and Enforcement of Obligations

Monitoring of obligations will be undertaken by the City Council’s Planning Obligations Officer to ensure all obligations entered into are complied with on the part of both the developer and the Council. Developers entering into agreements may be required to pay a Monitoring Fee in order to cover the Council’s costs incurred in the monitoring of the obligations. This will depend on the nature and complexity of the obligation being monitored.

The Council will enforce obligations through the relevant legal channels once all other reasonable approaches to remedying a failure to comply with the obligations have been exhausted. In such cases, the Council will seek to retrieve its legal costs in taking action against the party that is in breach of its obligations.
15. Reporting of Section 106 Monies

6 Monthly updates containing details of Section 106 monies received, held and spent, will be produced and reported to Planning Committee as well as being made available on the Council’s website. These will contain the following information:

- Information relating to Section 106 monies received during the previous month
- Information relating to schemes funded through Section 106 monies during the previous months

16. Viability

The Council accepts that there may be occasions where development proposals are unable to meet all the relevant policy requirements and still remain viable. Where the Council is satisfied that an otherwise desirable development cannot be fully policy compliant and remain viable, a reduced package of planning obligations may be recommended.

In order to enable the Council to assess the viability of a proposal, the applicant will be required to provide any necessary cost and income figures to the Council, and pay the Council’s full costs in appointing consultants to undertake the assessment.

In all cases, the Council requires viability to be undertaken using a residual land value approach. The Council's assessment will be carried out utilising best practice methodology. Guidance on this assessment process can be found in the Financial Viability in Planning (section 4.0) document on the Planning Advisory Service website at:

http://www.pas.gov.uk/viability/-/journal_content/56/332612/4079553/ARTICLE

17. Citywide Planning Obligation Types

Affordable Housing

Policy Background
The NPPF requires local planning authorities to significantly boost the supply of housing, to meet their full, objectively assessed needs for market and
affordable housing. CSUCP Policy CS11 specifies that in all developments of 15 or more dwellings, 15% of the dwellings should be affordable housing.

This target is derived from the 2010 Strategic Housing Market Assessment (SHMA) and is reaffirmed in the 2013 update to the SHMA. The SHMA Update Report identifies a need for around 150 new affordable homes per annum across Newcastle and recommends a mix of intermediate home ownership and social or affordable rent. In practice, this housing mix is not always the preferred provision of Registered Providers, and will be determined on a case by case basis, having regard to local and citywide evidence of need.

Policy CS11 is worded in a flexible manner in relation to affordable housing and specifically states that development viability will be taken into account when undertaking site-specific negotiations on the required level of affordable housing to be provided. The supporting text to the policy also makes allowance for the affordable housing provision to be made off-site. As such, policy CS11 is considered to be sufficiently flexible to take account of changing market conditions.

**Trigger**
Residential development with 15 or more dwellings, 15% of the dwellings should be affordable housing. The affordable housing provision could be made off-site. The level of financial contribution to be applied will be discussed with the Council.

**Level of Contribution**
Contributions will be assessed on a site by site basis with arrangements to be agreed with the Council.

**Exemptions from Obligation**
Policy CS11 is worded flexibly and the supporting text states that development viability, regeneration and sustainability considerations will be taken into account.

Although it is generally desirable to deliver an element of affordable housing on qualifying sites, in certain circumstances the developer and the Local Planning Authority may accept a commuted payment in lieu of on-site provision, for at least part of the requirement. Such circumstances may include:

- sites yielding fewer than 5 affordable homes, which may not provide for management efficiency;
• apartment schemes where service charges are likely to be prohibitively expensive;
• developments in locations which are not highly accessible to facilities and services;
• developments in higher value areas where affordable rented and intermediate home ownership products may not be affordable to those in housing need or where the overall level of subsidy would be markedly more beneficial if employed elsewhere.

Off-site provision and commuted payments can represent a useful supplement to the City Council’s delivery of specialist affordable homes on sites which may not otherwise be deliverable for housing.

**Highways and Transportation**

**Policy Background**
The objective of the SPD is to provide clarity to developers, development management officers, stakeholders and local neighbourhoods regarding the basis on which transport planning obligations will be sought. It details the obligations that may be required. The justification for requiring obligations in respect of Highway Infrastructure Works is set out in Paragraph 32 of the NPPF and Policies CS13, UC5, UC7, UC8, UC9, UC10, UC11 and DEL 1 of the Council’s CSUCP as well as saved UDP Policies.

**Trigger**
When securing non-contribution related obligations, planning obligations will be sought on all new major developments as defined in the Town and Country Planning (Development Management) Order 2010 and where significant changes in travel patterns occur.

Where contributions will be sought, planning obligations will be sought on the creation of 10 or more residential units and major commercial developments as defined in the Town and Country Planning (Development Management) Order 2010 and where significant changes in travel patterns occur.

**Highway Infrastructure Works**
Highway Infrastructure Works will be secured through one of two routes, as follows:

1. Where other obligations necessitating a full Section 106 Agreement are required, Highway Infrastructure Works and/or contributions are likely to be incorporated in the agreement. In addition, where the Highway Infrastructure Works are complex in nature they will also be secured through a Section 106 Agreement, as it is important that the
scope of such works are agreed prior to the granting of a planning consent

Where there are no other obligations or the other obligations only require a simple Unilateral Undertaking, and the required Highway Infrastructure Works are straightforward, they can be secured using a “Grampian” condition. This will enable a planning consent to be granted more quickly, but will require the developer to enter into a Section 278 Highways Agreement prior to commencing their development. As part of this all parties will be clear on the principle scope of works through the information submitted with the planning application.

In order to fulfil the obligation and deliver the agreed Highway Infrastructure Works, the arrangement for achieving this will be through S38 and S278 agreements.

Full developer guidance can be found on S278 Agreements, Design and Construction of Roads and Accesses to Adoptable Standards and S38 Agreements available at http://www.newcastle.gov.uk/planning-andbuildings/planning-applications/planning-guidance/developer-guidance

Specific details regarding the processes for undertaking Highway Infrastructure Works will be set out in the relevant highway agreement. Developers will be required to enter into a bond for an amount specified by the Council, to ensure the Council’s position is protected should the developer default in any way with regard to the Highway Infrastructure Works. This bond can take the form of a formal bond entered into with an approved surety, or a cash deposit held by the Council.

In addition developers will also be required to pay fees to cover the Council’s costs incurred in approving the detailed engineering drawings, inspecting the Highway Infrastructure Works and issuing the Certificates. The total fee for drawing approval and inspection of works will be calculated as proportion of the value of the bond.

Development needs to provide for site specific design requirements that involve alterations and amendments to the highway in the normal way. Contributions may be sought towards Strategic Transport Corridors, however strategic infrastructure off site contributions would not apply to student accommodation schemes where CIL Liable.

Where highways are proposed in a development and which is not to be adopted highway by the City Council, the developer will be required to
submit a long term management and maintenance plan to the City Council. This plan will form part of a section 106 agreement.

**Committed Sums**
Committed Sums are necessary when development increases NCC’s future maintenance liability. Typical circumstances where this may occur are:

- Maintenance costs for construction not required for the safe and satisfactory functioning of the highway (including alterations to existing highway only required to serve the development) with no general benefits;
- Maintenance costs for additional features, such as highway structures, additional street lighting, traffic signals installations, non-essential street furniture/ fencing, public transport infrastructure and landscaping;

Additional maintenance costs for permitted alternative materials and features, for example, bespoke street furniture, exceeding standard specification. Committed Sums will be sought through the S278 and S38 agreements accordingly.

**Parking Controls**
The extension or amendment of on street parking controls, waiting restrictions, parking permit eligibility restrictions, and permit free housing will be promoted to mitigate the impacts of development on parking conditions and the local highway network. Planning obligations will be required to secure a financial contribution to the Council to implement parking controls and to ensure that owners or occupiers of car-free residential units are not eligible for parking permits.

A Traffic Regulation Order (TRO) is the legal instrument by which a local council can implement traffic management controls on its roads. Under the provisions of the Road Traffic Regulation Act 1984, TROs can be implemented to regulate, restrict or prohibit the use of a road or any part of the width of a road, by vehicular traffic or pedestrians. The introduction or amendment of a TRO is a statutory legal process that can take up to six months.

The Traffic Regulation Order Consolidation Order, Off Street Parking Places Order, On Street Parking Order and City Centre Controlled Parking Zone effectively control and manage the highway. As a result of development it can be necessary to remove parking permit eligibility for example and amend the legal order.
If a development is required to enter into a TRO or Parking Places obligation for example, the council charges a fee of £2,000* (Index linked) for each legal order. This covers the council’s Legal and Traffic Management costs in processing the TRO. The costs of implementing the relevant lining and signs associated with the TRO will vary dependent upon the extent of the changes and will be borne by the developer as part of their S278 agreement.

The introduction or amendment of TROs or the Parking Places Order is required as a result of development, and therefore it is necessary for the TRO and amendments to be in place prior to occupation of the relevant development. Therefore all payments in respect of TRO obligations will be payable upon commencement of the development, in order to allow sufficient time for the TRO to be processed and works delivered.

*Figures are re-examined annually

Further information on Parking and the Legal Orders can be found at: http://www.newcastle.gov.uk/parking-roads-and-transport/parking

**Travel Plans**
The justification for seeking obligations in respect of Travel Plans is set out in Paragraph 36 of the NPPF and Policies CS13 of the Council's CSUCP.

The starting point for a Travel Plan is a Transport Assessment which shows what the issues are. The Travel Plan puts forward specific objectives to address these issues in relation to access and sets out all the measures to be implemented in detail, with an action plan, timescales, targets and responsibilities for implementation, monitoring and review. Where a development may cause transportation issues or concerns it may be possible for a travel plan to address these and reduce them to acceptable levels.

The type and scale of development that will normally trigger the requirement for a Transport Assessment, Travel Plan or Transport Statement can be found in the NCC Interim Planning Guidance Transport Assessments, Travel Plans and Parking. http://www.newcastle.gov.uk/planning-and-buildings/planningapplications/other-planning-guidance

A fee of £1280 (index linked) will become payable prior to occupation of the development to cover the council’s costs in approving travel plans and working with the developer to identify measures and initiatives to help reduce car use and increase levels of sustainable travel over the five-year monitoring period.
**Other Site Specific Highway and Transportation Measures**

Other site specific measures are those obligations required to mitigate the impact of a particular development, which cannot be calculated through a formula based approach or delivered on site, and which are not covered by other sections of this SPD. The following examples cannot be considered to be exhaustive but give an indication of the types of obligation that may be required:

- Funding of local transport measures such as walking, cycling and localised public transport improvements, where development creates a specific need for such measures to directly mitigate its impact.
- Provision of on-site Car Club Services in large-scale residential development
- Funding of Legible City Signage where a development will require new signage or the upgrading of existing signage
- Public Rights of Way Improvement in accordance with local needs and the Rights of Way Improvement Plan
- Controlled parking zones
- Public realm improvement
- Land for future Highway Schemes

Further information relating to all Highways and Transport Planning Obligations can be obtained from the council’s Development Management – Transportation Developments Team.

**Open space (Site specific), Outdoor Sport (site specific), Children’s Play (site specific) and Allotments (site specific)**

**Policy Background**

The policy on open space, sport and recreation has been incorporated into the green infrastructure and natural environment policies CS18 and UC15 of the CSUCP. This approach reflects national policy.

Policy CS18: Green Infrastructure and the Natural Environment and UC15: Urban Green Infrastructure contain references to the requirement for the protection and enhancement of open space, sport and recreation facilities and is consistent with the approach in saved UDP policies of the Newcastle upon Tyne Unitary Development Plan (UDP) 1998.

Policy CS18 specifically identifies Green Infrastructure Opportunity Areas and Policy UC15 identifies Urban Green Infrastructure Areas. In these areas
there is potential to conserve and enhance existing provision and address green infrastructure deficiencies through future growth or specific projects.

In Neighbourhood and Village Growth areas it is expected that there will be on site provision, where possible, of doorstop open space, children’s play, outdoor sport and allotments as set out in Newcastle Site Specific Policies AOC1, NN1, NN2, NN3, NN4, NV1, NV2 and NV3 of CSUCP. For these schemes the provision will remain in the developer’s ownership, will be secured via a planning condition and will not be accepted for adoption by the Council. Where it is not possible to provide on-site then off site provision through contributions would be required.

Trigger
New major residential developments of 10 or more residential units will be required to either incorporate open space and children’s play within their development site or if this cannot be met, contribute towards meeting local needs off-site. Contributions will be sought based on the assumed number of residents that will be accommodated in the development. Contributions will not be sought from student accommodation schemes which are CIL liable.

Requirement for contributions
The saved policies in the UDP provide for the following open space standards (Policy OS 1.2) 18:

- Local open space 1.20 ha/1000 persons or 12.0 sq.m / person;
- Outdoor Sport 1.10 ha/1000 persons or 11.0 sq.m / person;
- Allotments 0.60 ha/1000 persons or 6.0 sq.m/person, and
- Equipped play 5.0 sq.m / dwelling of two or more bedrooms

Use of Contributions
Financial contributions secured towards open space will be used in compliance with policies CS18 and UC15 to improve local green infrastructure. Contributions will not be used to provide or improve major built sports facilities where this type of infrastructure is included within the CIL list of infrastructure, so as to avoid double dipping.

In terms of what the expected levels of contributions could be we have previously assessed costings for the provision of local open space, sports and equipped play for different housing types. These are available at Appendix 1 in a table form to give a guide as to what developments may be liable to pay. These costings will be subject to an indexation to reflect current interest rates. The source for these costings are based on an average
household size of 2.3. This could change once further assessment is completed and the SPD would reflect this change.

**Training and Employment Management Provision**

**Policy background**
Securing employment, training and enterprise opportunities for Newcastle residents and businesses from investment and regeneration spend is central to the Council delivering against our Working City objectives, meeting ambitions for tackling inequality and enabling communities to share the benefits of investment and regeneration spend.

The use of the planning system gives the Council the opportunity to require that developers and contractors provide new entrant jobs, including apprenticeships and work experience placements for local residents, particularly those in the most deprived areas of the city. It is vital to Newcastle’s economy that our residents develop the skills, knowledge and qualifications to be successful in the labour market as being in work means fewer health and social problems and is the best way of increasing the resilience of individuals and communities.

The justification for requiring obligations in respect of the provision of Training and Employment is set out in the NPPF and Policy CS5 of the CSUCP as well as saved UDP Policies.

**Trigger**

**Means of Securing Training and Employment Provision**
Where a development would give rise to the need for a Section 106 Agreement, a Training and Employment planning obligation would be used. For an example of the wording of such a planning obligation please follow: [http://www.newcastle.gov.uk/sites/drupalncc.newcastle.gov.uk/files/wwwfoldero_ot/planning-and-buildings/planning/training_and_employment_planning_guidance.pdf](http://www.newcastle.gov.uk/sites/drupalncc.newcastle.gov.uk/files/wwwfoldero_ot/planning-and-buildings/planning/training_and_employment_planning_guidance.pdf)

If a Section 106 Agreement is not to be used then a planning condition can be used to achieve the desired provision. The link above also provides a standard condition for securing Training and Employment.

**Education Provision**
**Policy Background**

The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues before applications are submitted. The NPPF also encourages facilities, such as, primary schools to be provided in walkable locations to areas of new residential development to facilitate sustainable travel patterns.

The Newcastle UDP and CSUCP contain the enabling policies for this guidance, including saved UDP policy IM6 and policy DEL1 in the CSUCP.

The CSUCP plans for new development in locations that make best use of existing infrastructure capacity. Some of these sites are expected to hit a trigger point where extensions to existing schools and new school provision will be required to accommodate pupils generated aged 4/5-18.

**Current Position and Future Need**

Pupil projections are undertaken annually by the Council, using live birth and pre-school data, and take into consideration of recent admission trends. They are a snapshot in time and as such necessitate periodic updates.

Developers are strongly requested to liaise with the appropriate Council contact listed at the end of this section, as soon as possible and before submitting an application for residential development to ensure assessment of any potential need for primary age education contributions.

**Primary age provision**

There has been recent significant and sustained growth in the number of pupils of primary school age with 21% more pupils in reception than in year 6 (October 2014). This is a result of increased birth rates and inward migration to the city. Consequently, there is very little availability within the system, especially at the younger ages, with 97% of reception places filled citywide in October 2014. Additional primary school places have been and continue to be created through school expansions to try to keep pace with this rate of growth. Increasing growth from development in the city will add to this pressure, particularly in areas where the schools are currently at capacity.

This SPD seeks to ensure that developers contribute towards the necessary costs of school accommodation, taking into account the legislative tests, by identifying the likely pupils generated by differing house types.
Evidence from the Newcastle Gateshead Strategic Housing Market Assessment survey data (2010) indicated that the average household size in Newcastle was 2.25 and the average number of children within households varies considerably between house and dwelling types. 1 bed dwellings and bungalows showed a marginal pupil yield and thus new build or conversions of this size and nature have been disregarded as statistically insignificant as a generator of school age pupils. Sheltered housing, hostels, rest/ nursing homes and student accommodation (unless designed for families) are excluded. Overall there was an average ratio of 3 pupils per age group (5-18 years old) generated within every 100 eligible dwellings.

The national Census of Population 2011 has since been published and further analysis has been assessed to confirm the pupil yields indicated below. Analysis of Newcastle Great Park output areas indicated an average household size of 3.14 and over 400 primary age children in residence per thousand households, and has led to a change to the 4+ bed house category.

**Table 1 Pupil yield by dwelling size for primary age years¹**

<table>
<thead>
<tr>
<th>Property Size</th>
<th>Pupil yield for primary (7 years)/dwelling type</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 bed flat</td>
<td>0.03</td>
</tr>
<tr>
<td>2 bed house</td>
<td>0.17</td>
</tr>
<tr>
<td>3 bed house</td>
<td>0.26</td>
</tr>
<tr>
<td>4 + bed house</td>
<td>0.35</td>
</tr>
</tbody>
</table>

¹Assumed weightings for education sectors: primary 58%, secondary 42%

When a location for new or extended school provision is established, site investigations and site constraints would need to be considered, with any site abnormals and actual costs being taken into account. Land required for the construction of a new school or extension and associated open spaces should also be gifted to the local authority as part of a s106 agreement or other mechanism.

Please note prior to the operation of CIL, where secondary age provision infrastructure is included within the CIL list of infrastructure, secondary age provision contributions will also be required to comply with the Newcastle Site Specific Policies (Policies AOC1, NN1, NN2, NN3, NN4, NV1, NV2 and NV3), and be of a sufficient scale to meet forecast need. In such an
instance developers will need to follow the Primary Age Education Mitigation Process below to identify the secondary age mitigation costs.

Primary age provision contributions or delivery will only be required where excluded from the CIL Regulations 123 List.

**Operation and use of Contributions**

Charges will only apply in areas of the city where school places are needed and where development charges are viable. This means:

Need will be assessed based on the current and any projected forecast pupil school capacities in appropriate local schools as available at the time of developer discussion and application determination.

Viability of specific sites for charging will be informed by reviewing any supplied open book viability assessments from developers.

Education mitigation measures or contributions will be sought to ensure actual school pupil need and provision is made conducive to the effective management of pupil place planning. Funding will be secured to provide the capital costs of accommodating school pupils. This could fund the capital build, access, and associated site curtilage costs for an extension or new build. The following issues have the potential to be assessed in deriving a fair and equitable charge:

- The scope for a discount relating to any existing/ forecast surplus capacity of local school(s) taking into consideration the existing known school age cohorts.
- Any discount relating to forecast surplus places in appropriate local schools will be assessed equitably across relevant development sites so that developments that come forward at a later date are not put at a financial disadvantage due to timing of permission granted.

All planning applications will be assessed on a case by case basis, taking into appropriate and available information.

In setting the terms of any s106 agreement the trigger point for the payment or provision and opening of the additional school places would need to be agreed in advance to ensure that the necessary school provision is available when required, thus ensuring sufficiency of local school places. Note, this SPD does not make assumptions as to the management of new schools, but seeks to ensure adequate funding is in place for delivery.
Identification of a Primary Age Education Mitigation: The Process

Step 1 – Contact Development Management (DM) within the Council and ask for the current School Capacity Forecast.

Step 2 - Submit to DM for consultation the assumed calculation along with any justification for a discount and/or submit a viability appraisal based on evidence that the payment of such a charge in addition to development costs would render the proposed development unviable.

Step 3- Council confirms the appropriate proposed education requirement for an eligible development scheme.

Step 4- the applicant confirms agreement to Heads of Terms and charges for S106 agreement as part of the planning application process.

Other Site Specific Measures

Other site-specific measures are those obligations required to mitigate the impact of a particular development that may be required. This is not an exhaustive list but gives an indication of the types which may be sought:

- Funding for ecological measures where a development has an adverse impact on local habitats and ecology, or the provision of alternative habitats to compensate for any loss.

- Funding for measures formally identified as Neighbourhood Partnership priorities or through Neighbourhood Plans that will be adversely impacted on by a development proposal, and which could legitimately be covered by planning obligations.

- Provision of site specific SUDs for major housing developments. It may be provided either on site or off site and through either a section 106 agreement or a planning condition.

- Provision of site specific Air Quality mitigation.
• Initiatives that support the protection and enhancement of the historic environment.

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

Contact Details
Should you require any further assistance or clarification, please contact:
Development Management
Civic Centre
Barras Bridge
Newcastle upon Tyne
NE1 8QH

Email: planning.control@newcastle.gov.uk
Planning Obligations Officer: 0191 2778943
Appendix 1

Open Space, Sport and Recreation

<table>
<thead>
<tr>
<th></th>
<th>Average Occupancy</th>
<th>Local Open Space (£318 pp)</th>
<th>Outdoor Sport (£197 pp)</th>
<th>Allotments (£55 pp)</th>
<th>Play areas (£209 pp)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flat – one bed</td>
<td>1.2</td>
<td>£382</td>
<td>£236</td>
<td>£66</td>
<td>Not required</td>
</tr>
<tr>
<td>Flat – two</td>
<td>1.54</td>
<td>£490</td>
<td>£303</td>
<td>£85</td>
<td>Not required</td>
</tr>
<tr>
<td>Flat – more than two bed</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>House – two bed</td>
<td>1.76</td>
<td>£560</td>
<td>£347</td>
<td>£97</td>
<td>£368</td>
</tr>
<tr>
<td>House – three bed</td>
<td>2.32</td>
<td>£738</td>
<td>£457</td>
<td>£128</td>
<td>£485</td>
</tr>
<tr>
<td>House – four or more bed</td>
<td>2.95</td>
<td>£938</td>
<td>£581</td>
<td>£162</td>
<td>£617</td>
</tr>
<tr>
<td>Sheltered accommodation</td>
<td>N/A</td>
<td>£318</td>
<td>Not required</td>
<td>Not required</td>
<td>Not required</td>
</tr>
<tr>
<td>Shared accommodation (Class C4) @ 50% Open Space and 50% Sport</td>
<td>N/A</td>
<td>£159</td>
<td>£99</td>
<td>Not required</td>
<td>Not required</td>
</tr>
</tbody>
</table>

*pp – costing per person

Source: Average household size for Newcastle City is 2.3. This is subject to change following future assessments.