
**PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT:
INFRASTRUCTURE PROJECTS LIST**

**Responsible Cabinet Member - Councillor Chris McEwan,
Economy and Regeneration Portfolio**

Responsible Director - Richard Alty, Director of Place

SUMMARY REPORT

Purpose of the Report

1. To seek Cabinet's approval for the content, operation, governance and implementation of the Infrastructure Projects List (IPL), as the basis for delivering community infrastructure sought via developer contributions, known as planning obligations or a Section 106 agreement (as required by the Planning Obligations SPD), from new development.
2. To seek delegated authority for the Director of Place to release planning obligations funding to enable identified projects on the IPL to be delivered in accordance with the approach set out in paragraphs 23-24.

Summary

3. The Planning Obligations Supplementary Planning Document (Planning Obligations SPD) (adopted by Council on the 31 January 2013) sets out a new consistent and transparent approach to securing planning obligations from new development. Planning obligations can be used to secure infrastructure on a development site, off site or as a financial contribution in lieu of the infrastructure itself.
4. The new Infrastructure Projects List is one of its key delivery mechanisms; informed by infrastructure planning, it will identify where and on what financial contributions for a range of community infrastructure will be spent over the next few years to meet the needs of new development, or those affected by it. In those cases where land values are insufficient to deliver all community infrastructure requirements, financial contributions will be prioritised to deliver appropriate projects on the IPL.
5. This new approach will ensure that best value is achieved from financial contributions; community infrastructure will be coordinated and delivered in a timely fashion, particularly to address the cumulative impact of new development. As the cost of infrastructure projects and their delivery timeframe will be identified upfront, project managers, developers and the community will have greater certainty and

clarity in relation to the use of financial contributions, a key requirement of national planning guidance.

Recommendations

6. It is recommended that:-
- (a) The content, operation, governance and implementation of the Infrastructure Projects List be agreed.
 - (b) Members grant delegated authority to the Director of Place to release planning obligations funding on a bi-annual basis, until 2016, for relevant community infrastructure projects identified on the Infrastructure Projects List, in accordance with the approach in paragraphs 23-24.
 - (c) To amend the scheme of delegation, under the Legal Exceptions, to include an additional exception in relation to Specific Projects. The new delegation to be drafted as follows: 'In relation to the Planning Obligations Supplementary Planning Document: Infrastructure Projects List - variation of schemes and projects each financial year subject to planning obligation requirements being delivered - Director of Place' and be included in the Constitution as a consequential amendment.

Reasons

7. The recommendations are supported by the following reasons:-
- (a) To help deliver the Local Plan.
 - (b) To help deliver new and improved infrastructure in the Borough.
 - (c) To implement the Planning Obligations Supplementary Planning Document.

Richard Alty
Director of Place

Background Papers

Darlington Planning Obligations Supplementary Planning Document January 2013

Karen Johnson: Extension 2047

S17 Crime and Disorder	The IPL will have a neutral impact on the Council's ability to consider issues of crime and disorder.
Health and Well Being	The IPL contains projects for the provision or improvement of green infrastructure, sustainable transport provision, sport and recreation facilities that will encourage and enable people to lead more active lifestyles and improve health and well being.

Sustainability	Delivering projects via the carbon management fund to improve the energy efficiency of existing homes can be achieved through the IPL. This can help reduce the Borough's carbon footprint.
Diversity	The IPL contains projects for matters such as affordable housing, improving access to education, open space and sports facilities for people with disabilities so that the wider community can live easily in the Borough.
Wards Affected	All
Groups Affected	All
Budget and Policy Framework	This report does not recommend a change to the Council's budget or policy framework.
Key Decision	Yes
Urgent Decision	No.
One Darlington: Perfectly Placed	Delivering infrastructure at the right time to meet the needs of the new community strongly reflects the vision, themes and work strands of One Darlington: Perfectly Placed.
Efficiency	The IPL is part of a new planning obligation system that is led by infrastructure planning; this should lead to savings in officer time and workload later in the planning application process, particularly for significant schemes. It will help plan for, fund and coordinate infrastructure to support the Core Strategy's growth strategy.

MAIN REPORT

Information and Analysis

8. Planning obligations can be used to secure infrastructure on a development site (which should be provided by the developer, otherwise planning permission may not be approved), off site or as a financial contribution in lieu of infrastructure. The existing planning obligations system has served the Borough well until now, helping to manage and monitor planning obligations, particularly financial contributions but over the last few years several changes at a national and local level mean that this system is no longer fit for purpose:-
- (a) **Changes to national planning policy:** all planning obligations must now be consistent with the three tests set out in the new National Planning Policy Framework (para 204):-
- (i) necessary to make the development acceptable in planning terms;
 - (ii) directly related to the development; and
 - (iii) fairly and reasonably related in scale and kind to the development.

These tests are now applied more stringently, so use must be appropriate. It is important therefore that the Council implements a more transparent and coordinated system than exists so it is clear to developers, landowners and the community that the three tests are being applied correctly, thereby reducing the risk of challenge by developers.

- (b) **Changes to local planning policy:** a key aim of the Council's new Planning Obligations SPD is to make better use of planning obligations for a wider range of community infrastructure. Infrastructure planning has been used to inform the process for the first time; community infrastructure that is likely to be affected by different types and sizes of new development in each locality for the next three years have been identified, as have the costs for providing or improving that infrastructure. Project managers will now be clear about how much funding will be secured and when, so that they can efficiently plan for, and deliver infrastructure, in a timely fashion. At a time when the use of financial contributions is coming under close scrutiny by the development industry, this approach will help minimise the risk of unspent funding being returned to the developer.
- (c) **Challenging economic climate:** promoting viable development in Darlington today is extremely challenging. Build costs and infrastructure costs (provided by each Council service) have increased, whilst land and sales values have fallen. As a result, there are only limited financial contributions available for community infrastructure, at a time when there are increasing expectations that funding for more infrastructure will come from this source. In those cases where the viability of a development proposal is a concern, community infrastructure requirements will be prioritised. This will ensure that development can still take place, while its impacts are also mitigated.
9. To address these issues, a new Infrastructure Projects List (as required by the Planning Obligations SPD) has been established. Available on the Council's website it will identify exactly where and on what financial contributions for community infrastructure will be spent. As a result, it will be clear to developers, landowners, infrastructure providers and the community that financial contributions are being used efficiently and appropriately.
10. The IPL will be in place for a three year period initially, alongside the Planning Obligations SPD. But it is a 'living' document; its content can be updated each financial year to respond to the needs of different developments as well as changing infrastructure priorities e.g. where additional public sector funding has been secured and there is a need to deliver a project within a different timescale, or where development is not coming forward as expected.
11. After this time, the Community Infrastructure Levy (CIL) is expected to be introduced. This new planning charge will be a key way of providing, operating, maintaining, improving and replacing infrastructure as part of new development. Planning obligations and the IPL will remain in use alongside CIL, their focus is expected to change slightly, but the overall approach is likely to remain the same.

12. The IPL is closely linked to the themes in One Darlington: Perfectly Placed. Its aim is to help coordinate the delivery of the right amount of infrastructure at the right time to help create a high quality, distinctive, safe and sustainable built and natural environment for Darlington's residents and those who wish to visit or invest in the Borough.

Planning Obligations SPD: Summary of Approach

13. The Planning Obligations SPD sets out a new approach to securing planning obligations from new development. Planning obligations will be used to firstly:
 - (a) prepare a site for development and make it safe and sustainable e.g. new junction to access the site; and then
 - (b) to help deliver other relevant community infrastructure identified on the Infrastructure Projects List; where a development would have an impact on a particular type of community infrastructure, planning obligations funding would be sought to help deliver that project.
14. In the current economic climate, once the site related infrastructure needs have been addressed (Step i), it is anticipated that there will only be a small amount of funding remaining for community infrastructure (Step ii) in most parts of the Borough. The SPD identifies a range of community infrastructure targets (see **APPENDIX 1**) for the six localities covering the Borough (North West, Central, South West, South East, North East and Rural Area) that would be unable to cope with the demand from the size and type of new development expected to come forward to 2016. Where a development would have an impact on that type of community infrastructure, planning obligations funding would be sought to help provide or improve it. The community infrastructure targets have been translated into projects on the new Infrastructure Projects List (see **APPENDIX 2**) so that developers can clearly see where their funding has been spent.
15. The community infrastructure targets have been derived from a wide range of evidence including the Joint Single Needs Assessment, One Darlington: Perfectly Placed and the Infrastructure Delivery Plan. The ability of existing infrastructure to cope with increased use from new development, as well as committed infrastructure projects and the availability of funding from other sources have all been taken into account. As a result, infrastructure requirements may vary in different parts of the Borough and/or by size and type of development and are likely to change over time.

Infrastructure Projects List: Approach

16. Over the next three years, with the exception of schemes like Central Park that were granted planning permission before the Planning Obligations SPD was adopted (January 2013), the Council's housing trajectory indicates that 227 market homes are expected to come forward as part of new development. In addition to any site related infrastructure, only limited funding is expected to be generated for community infrastructure by this level of development (up to £1.1m in total). Additionally, approx £135,000 has already been secured by S106 agreement for

community infrastructure. Unless identified for a specific scheme, this funding will also be used to help deliver appropriate projects on the IPL, so that the infrastructure required to support development can be delivered in a shorter timeframe.

17. Financial contributions for community infrastructure will be secured as a result of implementing a planning permission so funding will be used to deliver:-
 - (a) **Small scale projects that are necessary to help deliver the Core Strategy's policies and the Infrastructure Delivery Plan** (new development should be consistent with the Core Strategy's policies, otherwise planning permission may be refused): given the level of funding expected to be sought from 227 market homes for different types of community infrastructure, in different parts of the Borough, it is considered that only small-scale projects can realistically be delivered in the timescales identified;
 - (b) **Community infrastructure targets** (see **APPENDIX 1**): the use of targets for this purpose received support from stakeholders and the community through the consultation for the draft SPD (June-July 2012) and is now a requirement of the Planning Obligations SPD;
 - (c) **Capital projects that add value to existing infrastructure, or for projects that have the majority of funding secured, but need a small amount of additional funding to be delivered**: given the size and type of development expected, it is unlikely that new large pieces of community infrastructure will be required before 2016. Instead, it is expected that the impact from new development will be experienced at existing community infrastructure. As a result most projects seek to improve existing infrastructure.
18. Project selection will also need to consider the impact of changes to national planning guidance from April 2014: only planning obligations from five developments will be able to be used to fund a specific infrastructure project, this includes obligations secured prior to that date. Projects selected for the IPL must therefore be capable of being delivered within a short timeframe or require a relatively small amount of funding, otherwise, in 2014, if there remains a funding shortfall for that project and five developments have already contributed, funding may have to be returned to the developer.
19. As a result of the issues discussed in paragraphs 16-18, the IPL will identify:-
 - (a) Appropriate community infrastructure projects required to mitigate the amount and mix of development expected to be delivered to 2016 in each locality (either the North West, Central, South West, South East, North East and Rural Area)
 - (b) The amount of planning obligations funding required to deliver each project.

As required by the Planning Obligations SPD, an accompanying guidance note will identify the spending priorities for community infrastructure funding should viability be an issue (as set out in paragraphs 23-24).

20. To ensure transparency, all projects on the IPL (see **APPENDIX 2**), and on any successor, must be supported by the following information, provided by each project manager (from the relevant Council service and/or infrastructure provider):-
- (a) evidence of existing demand for that type of infrastructure (including demands from permitted developments);
 - (b) additional demand likely to arise from the proposed development;
 - (c) the extent to which relevant existing infrastructure is capable, in terms of location, capacity and suitability, of meeting those additional demands;
 - (d) the location of the scheme;
 - (e) a costed scheme: including the amount of funding secured, that required from planning obligations and what it will be used for;
 - (f) timescale for delivery, including timescale for planning obligations funding to be secured, and any constraints on when alternative sources of funding must be drawn down by.
21. Adopting this approach will ensure that the IPL remains credible, is consistent with the specific purpose of planning obligations and is not seen to be delivering a 'wish list' of Council projects. It will also minimise the risk of planning obligations funding not coming forward during the anticipated timeframe, and projects stalling as a result; if the expected amount of funding cannot be secured within the financial year, the project can either be carried over, or the funding can be released to deliver an element of the project.

Delivering viable development

22. Planning obligations requirements and costs (set out in the Planning Obligations SPD) have been set to ensure that landowners and developers can secure competitive returns from delivered development, while ensuring that its impact is mitigated. But there may be exceptional cases, where once site related infrastructure has been secured, that the land values are insufficient to fund all community infrastructure requirements (as demonstrated by the developers' viability assessment).
23. To address this issue, the community infrastructure targets (see **APPENDIX 1**) have been prioritised to those that are most essential to mitigate the impact of that size and type of development, in that location. Priorities have been based on the size and type of development expected to come forward to 2016, the anticipated requirements for on site infrastructure, the potential demand on community infrastructure in that locality and the land values in that part of Darlington. As a result, infrastructure priorities may vary in different parts of the Borough. Three priority ratings have been used; critical, necessary and desirable (see table below). In each locality there are up to four critical and four necessary targets and up to six desirable targets.

Priority	Justification
Critical infrastructure	Delivery of the infrastructure is critical because it either: <ul style="list-style-type: none"> • is fundamental to deliver Core Strategy policies and the Infrastructure Delivery Plan in the correct timeframe; and/or • has funding for part of the infrastructure in place but additional funding is required to secure delivery; and/or • provides for or unlocks significant development that might not otherwise happen.
Necessary infrastructure	Required to meet a specific need and create a place so people can live there with access to essential facilities. But the delivery of the infrastructure can take place as development progresses.
Desirable infrastructure	Includes infrastructure required to deliver sustainable communities that has a benefit at a neighbourhood or locality level. It supports the development taking place and can be delivered within an appropriate timeframe after a development has been completed.

24. To ensure that the use of financial contributions remains clear and transparent, it is essential that the protocol for allocating funding in these circumstances, is agreed in advance. Based on extensive consultation with Council services, once site related infrastructure has been secured, the following approach will be used:-
- (a) The remaining total amount of planning obligations funding will be split between the outstanding targets. So that the amount of funding secured remains meaningful, if critical, necessary and desirable projects remain, the desirable targets will be removed. Then;
- (b) Equally split:-
- (i) 75% of the total funding between the infrastructure in the highest remaining priority category; and then
- (ii) 25% of the total funding between all targets in the next priority category.
25. So for example, the community infrastructure requirement for a 10 dwelling development in the South East locality would be; the carbon management fund, primary school places and wildlife friendly greenspace. If viability was an issue, the carbon management fund, as the only critical target, would receive 75% of the total funding. 25% of the remaining funding would then be split equally between the other two types of necessary infrastructure.
26. This approach is considered appropriate to achieve a balance between delivering viable development, while ensuring that the level of funding sought will generate a meaningful sum to deliver sufficient community infrastructure, to mitigate the impact of new development in the appropriate timeframe.

Governance Arrangements

27. Planning obligation negotiations will continue to be undertaken by Planning Officers in consultation with developers and officers from Council services and other organisations involved in the provision of infrastructure. Financial contributions will continue to be held in a ring fenced account; each project will have a separate analysis code so that the funding can only be used for the project for which it was sought.
28. The requirement placed on the Council to spend financial contributions within a specific timeframe, in a specific location to deliver infrastructure associated with new development remains unchanged. But a delegated authority to the Director of Place will be required so that financial contributions can be released bi-annually to deliver projects on the IPL in a timely fashion.

Delivery

29. Managing planning obligations is a complex process. To ensure that financial contributions are used appropriately and so that projects are delivered within identified timescales a clear and easily auditable process will be used. Once the total amount of planning obligations funding required to deliver a specific project has been received, it will only be released when the project manager provides a project brief showing that the works proposed satisfy the planning obligation and are planned to commence within 12 weeks. The Council's planning obligation IT system will be expanded to ensure it can easily manage and monitor this new approach.

Monitoring and Review

30. Infrastructure requirements, priorities and costs will change over time, partly as a result of the amount of new development taking place in different parts of the Borough. As a result the community infrastructure targets will be updated each financial year, and will inform changes to the Infrastructure Projects List; completed projects will be removed, new projects may be added or existing projects may need reprioritising.
31. This will involve Council services, other infrastructure providers and where appropriate Parish Councils and community groups. Ongoing discussions with developers active in the area will also help identify their infrastructure requirements, priorities and build-out timescales, particularly through the preparation of the Making and Growing Places DPD. To ensure accountability, all changes will be published annually at the Council's Place Scrutiny Committee.

Next Steps

32. Subject to Cabinet agreeing the recommendations, the Infrastructure Projects List and its approach to prioritising infrastructure will start to be used when negotiating planning obligations from new development.

Implications

33. Planning obligations are currently sought by the Council. Financial systems are currently in place to manage planning obligations received. Finance Officers confirmed this approach would continue to be appropriate to deliver the Infrastructure Projects List.
34. This report is fully compliant with the Town and Country Planning (Local Planning)(England) Regulations 2012, the Localism Act 2011 as well as the Community Infrastructure Levy (Amendment) Regulations 2011 and the Community Infrastructure Levy Regulations 2010. All guidance is also consistent with the National Planning Policy Framework.
35. The IPL is a delivery mechanism for the Planning Obligations SPD; this report has been prepared in consideration of the Equalities Impact Assessment (EQA) and Disabilities Equalities Impact Assessment (DEIA) undertaken for that document. It is not considered to impact specifically on the areas identified in the EQA and DEIA.

APPENDIX 1: RESIDENTIAL COMMUNITY INFRASTRUCTURE TARGETS 2013-2014

RESIDENTIAL DEVELOPMENT	North West				Central				South West				South East				North East				Rural Area							
	No. dwellings				No. dwellings				No. dwellings				No. dwellings				No. dwellings				No. dwellings							
Type of Infrastructure	5+	10+	15+	50+	5+	10+	15+	50+	5+	10+	15+	50+	5+	10+	15+	50+	5+	10+	15+	50+	5+	10+	15+	50+				
HOUSING*																												
Affordable housing			■	■			■	■			■	■			■	■			■	■			■	■			■	■
Improvements to Council owned housing			■																									
Improvements to private housing																												
TRANSPORT																												
Sustainable transport		■	■	■				■			■	■				■				■	■	■	■	■	■	■	■	■
Public transport			■	■							■	■									■	■	■	■	■	■	■	■
Highways**		■	■	■				■			■	■									■	■	■	■	■	■	■	■
Travel Plan				■				■				■				■				■				■				■
EDUCATION																												
Early years																												
Primary	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Secondary																												
Tertiary																												
GREEN INFRASTRUCTURE																												
Informal recreation																												
Children's play			■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Wildlife friendly space			■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SPORT & RECREATION																												
Playing pitches									■	■	■	■			■	■	■	■	■	■			■	■	■	■	■	■
Other sports facilities		■	■	■			■	■																				
RENEWABLE ENERGY*																												
Off site																												
Carbon Management Fund		■	■	■	■	■	■	■					■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
EMPLOYMENT PLACEMENTS																												
Construction			■				■				■				■				■				■				■	
PUBLIC ART																												
Public art			■				■				■				■				■				■				■	

*will only be applied if on site provision is not feasible or viable
 **will only be applied if not secured via S278/S78 agreement

- Critical
- Necessary
- Desirable

NON RESIDENTIAL COMMUNITY INFRASTRUCTURE TARGETS 2013-2014

NON RESIDENTIAL DEVELOPMENT Type of Infrastructure	North West		Central		South West		South East		North East		Rural Area	
	Size of development m ²		Size of development m ²		Size of development m ²		Size of development m ²		Size of development m ²		Size of development m ²	
	500+	1000+	500+	1000+	500+	1000+	500+	1000+	500+	1000+	500+	1000+
TRANSPORT												
Sustainable transport												
Public transport												
Highways**												
Travel Plan												
GREEN INFRASTRUCTURE												
Informal recreation												
Wildlife friendly greenspace												
SPORT AND RECREATION												
Playing pitches												
Other sports facilities												
RENEWABLE ENERGY*												
Off site												
EMPLOYMENT PLACEMENTS												
Construction												
End User												
PUBLIC ART												
Public art												

*will only be applied if on site provision is not feasible or viable

**will only be applied if not secured via S278/S78 agreement

APPENDIX 2: Darlington Infrastructure Project List 2013-2016

Name of Project	Description	Core Strategy policy	Locality	Planning Obligations Per Annum (£)
Affordable housing				
Delivering affordable housing	Providing affordable housing	CS11	Urban area	188,350
Improving Council owned housing				
Meeting the Enhanced Darlington standard	Provision of carbon monoxide detectors	CS3, CS12	Urban area	5,000
Transport				
Sustainable transport infrastructure	Cycling signage	CS19	North West Central South West	10,500 5,000 5,000
Public transport infrastructure	Bus shelters	CS19	South West	8,000
Education				
Meeting the education needs of new development	Delivering primary school places	CS1	North West Central South West	354,380 164,970 149,695
Green infrastructure				
Improving green infrastructure	Improvements to wildflower meadows: Cocker Beck Skerne Corridor, north of Skerne Bridge Skerne Corridor, Skerne Park	CS15, CS17	North West Central South West	15,032 13,004 5,763
	Improvements to play areas: Darrowby Drive North Lodge Park Green Park	CS17	North West Central South West	11,156 13,004 11,155
Sport and recreation				
Improving playing pitches	Improvements to drainage and surfacing: Springfield Park	CS18	Urban area	3,226
Improving sports facilities	Refurbishment of Dolphin Centre gym	CS18	Urban area	28,703
Carbon management fund				
Improving the energy efficiency of existing dwellings	Provision of energy monitors	CS3, CS12	Urban area	5,000