

Vale of White Horse District Council

May 2008

## Adopted Supplementary Planning Document

### Open Space, Sport and Recreation

### Future Provision

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## Appendix A: Provision Standards

## Introduction

### The Scope and Purpose of this Supplementary Planning Document (SPD)

1.0 The Vale of White Horse District Council welcomes well designed, sustainable developments that accord with its adopted planning policies and will enhance the District as a place to live, work and visit. Networks of high quality, accessible open space, sport and recreation facilities are critical if this aim is to be met. The purpose of this Supplementary Planning Document is to provide guidance to those preparing planning applications for one or more houses as to what the Council will be seeking to mitigate the impact of their development on open space, sport and recreation facilities.

1.1 This SPD is in three sections:-

- The first deals with assessing the impacts of proposed residential developments in terms of open space, sport and recreation provision.
- The second explains how the Council intends to use planning conditions relating to open space, sport and recreation provision.
- The final section sets out the circumstances in which the Council will require developers to enter into a planning agreement or unilateral undertaking relating to open space, sport and recreation provision.

### Status of this SPD

1.2 This SPD does not stand alone but should be read in conjunction with the Vale of White Horse Adopted Local Plan 2011 and the Council's Open Space, Sport and Recreation Strategy. A background document to the Open Space, Sport and Recreation Strategy sets out the results of the Council's assessment of provision throughout the District undertaken in 2006-07, in accordance with the requirements set out in Government Planning Policy Guidance (PPG17) Planning for Open Space, Sport and Recreation. However, neither the Strategy nor its related Background Document are part of the Council's Local Development Framework.

1.3 The main policies in the Adopted Development Plan relevant to open space, sport and recreation provision are:

- Structure Plan Policy G3, *Infrastructure and Service Provision*, which states that proposals will not be permitted unless the relevant planning authority is satisfied that the necessary infrastructure is available or will be provided
- Local Plan Policies L1 and L4, which seek to protect existing outdoor play space and allotments but allow development of them for other uses where this will not exacerbate or create a local deficiency
- Local Plan Policy L2, which protects all urban open space defined on the proposals map

- Local Plan Policy L7, which protects local leisure facilities unless there is no longer a need for the facility or an alternative provision of equal or better quality is made available
- Local Plan Policy H23, which requires new housing developments of over 15 dwellings or 0.5 ha to provide 15% public open space and requires suitable arrangements for future management and maintenance of the open space to be in place.
- Local Plan Policies H15 and H7, which set out a list of spaces and facilities to be provided in association with the proposed major developments at Didcot and Grove
- Local Plan Policy DC8, which aims to ensure an adequate and timely supply of social and physical infrastructure to meet the needs of the occupiers or users of new development

1.4 The Council's forthcoming Local Development Framework will set out that the Council intends to seek planning obligations for all developments of one or more dwellings and not only 15 or more as set out in current Local Plan Policy H23.

1.5 An SPD does not have the same status as the Council's Adopted Local Plan or the Local Development Framework currently being prepared. However it will be taken into account as a material consideration by the Council, a Planning Inspector or the Secretary of State when determining planning applications and appeals.

1.6 This SPD reflects the policy advice given in paragraphs 25 and 26 of Annex B to Circular 5/2005 Planning Obligations. This requires planning authorities to set out their policy for the use of planning agreements in their Local Development Framework, complemented by an SPD setting out more details of how the authority will assess the level of contributions it will require through planning agreements.

1.7 This SPD was adopted by the District Council at its meeting of the full Council held on 21<sup>st</sup> May 2008. The Council will monitor its effectiveness and review its content at regular intervals to ensure that it remains relevant and compliant with Government advice on the use of planning conditions and obligations and any future reviews of the Council's adopted Open Space, Sport and Recreation Provision Strategy

## Terminology

1.8 For the sake of clarity and consistency, in this SPD:

- Developers' **contributions** (or, more simply, contributions) are capital payments which the Council will use to fund the provision or enhancement of open space, sport and recreation provision designed to mitigate the impact of proposed developments
- Commuted management, maintenance and establishment sums (or, more simply, **commuted sums**) are payments to the Council which it will use to fund a stream

of revenue payments over a number of years in order to maintain or establish new or enhanced spaces or facilities provided by developers which the Council has agreed to adopt and maintain

- **Establishment sums** are similar to commuted sums but designed to fund the establishment of spaces or facilities until such time as they become established or are fit for use. For example, some shrubs or trees in most planting schemes die within the first 2–3 years and have to be replaced and some sports facilities, such as bowling greens or cricket wickets, have to be maintained for 1–2 years before they can be used.

## The Council's Vision

1.9 The Council's vision for open space, sport and recreation facilities is set out in its draft strategy and is:

"The Vale's towns and villages will have a sustainable network of high quality open spaces and indoor and outdoor sports facilities that everyone will see as being of fundamental importance to their quality of life and want to use".

1.10 In more detail through the Local Plan and this SPD the Council's aims in relation to open space, sport and recreation are:-

- To support the implementation of the Council's Open Space, Sport and Recreation Strategy
- To promote the speedy, transparent and consistent application of the Council's provision standards to proposed developments
- To ensure that any new or enhanced provision funded by developers is large enough to be fit for purpose, appropriately sited, well designed, practical to maintain and sustainable
- To minimise the time needed to negotiate planning agreements with developers by setting out how the Council will calculate and use developers' contributions
- To facilitate and enable desirable developments for which the Council might otherwise have to refuse planning permission as a result of their impact on local infrastructure.

## Typology of Provision

1.11 This SPD relates to the following forms of provision:

### **Multi Functional Greenspaces (MFGS)**

Amenity greenspaces

Natural greenspaces

Parks and gardens

## **Other Public Spaces**

Civic spaces

Green corridors within urban areas (excluding rights of way, which are a County Council responsibility)

## **Activity Spaces**

Allotments

Formal play

Multi-sport courts

Youth facilities (this relates to physical infrastructure for informal use by young people, such as skateboard areas and shelters, and does not include County Council Youth Service provision)

## **Outdoor Sports Facilities**

Artificial turf pitches

Bowling greens

Grass cricket, football and rugby pitches

Tennis courts

## **Indoor Sports Facilities**

Indoor sports halls and swimming pools

## **Large Scale and Cross-boundary Developments**

1.12 For large scale developments the District Council will normally prepare a planning brief or expect developers to submit a design brief and/or masterplan to ensure developments are well designed, based on clear and consistent sustainable principles. This requirement is particularly important in relation to proposals that cross the local authority boundary, such as at Didcot. In such cases, the masterplan may suggest an alternative approach that will deliver the Council's vision but does not apply the Council's adopted provision standards in all respects. Once the Council has approved the design brief or masterplan, it will expect development proposals to conform to the principles and standards set out in it and therefore may not require individual developments to conform to all of its adopted provision standards. However, the Council will reserve the right to require developers to meet its adopted standards if particular proposals do not conform satisfactorily to the approved design brief or masterplan.

# Assessing the Impact of Proposed Developments

## Introduction

2.0 Appendix A sets out the Council's provision standards for open spaces, sport and recreation provision. These standards have been arrived at following an audit of open space, sport and recreation carried out by consultants in 2006-7. The Council will use these standards to assess the impact of any housing development proposed within the District on open space, sport and recreation provisions. This section of the SPD summarises the scope of the standards and explains how the Council will apply them.

## Pre-application Discussions

2.1 The Council encourages developers to engage in pre-application discussions with Council Officers in relation to any development proposal that is likely to have an impact in terms of:

- Increasing the local need for or use of open space, sport and recreation provision; or
- The quantity, quality and accessibility of open space, sport and recreation provision within the District; or
- The potential loss of any open space or sport or recreation facility

2.2 In the course of pre-application discussions, Council Officers will be able to provide advice on the Council's likely requirements for on-site provision, compensatory off-site provision or the enhancement of existing provision. However, while the Council will always endeavour to ensure that any such advice is the best possible at the time of the discussions, it will always reserve the right to amend its requirements in the light of the circumstances of a submitted planning application. The main reasons for this are:

- The applicant may change the details of the development proposal
- Other applications or developments in the vicinity of the proposed site may have an impact on the Council's and community's requirements in relation to any specific development

## Standards of Provision

2.3 PPG17, *Planning for Open Space, Sport and Recreation*, makes clear that deficiencies in provision can be both qualitative and quantitative. *Assessing Needs and Opportunities: A Companion Guide to PPG17* also stresses the importance of

accessibility because provision that is inaccessible to potential users is irrelevant to them, no matter how large or how high quality.

2.4 Accordingly, and in compliance with PPG17, the Council has developed three types of provision standards for open space, sport and recreation: the standards are set out in appendix A and include:-

- **Quantity standards**, which set out the amount of different forms of provision required per person across the District. The Council will use these standards to assess the amount of provision likely to be needed by the residents of new housing developments and therefore the amount it may require developers either to provide or fund.
- **Quality standards**, which set out the basic characteristics required of new provision. Whenever it requires developers to provide new spaces or facilities, and in all instances where developers offer spaces or facilities to the Council for adoption, the Council will impose a condition requiring them to comply with these standards. The Council will be aiming to bring all existing open spaces and sport and recreation facilities up to these standards. Where existing spaces or facilities, required to meet community needs, do not accord with these standards the Council will consider there to be a qualitative deficiency in provision.
- **Accessibility standards** (or distance thresholds), which set out the walking, cycling and driving times and distances that the Council regards as acceptable to potential users of spaces or facilities. The Council will use these standards to assess the extent to which existing provision may be relevant to the residents of proposed new housing developments. For practical reasons, the Council has adopted accessibility standards based on standard walking, cycling and driving speeds.

2.5 In accordance with PPG17, the Council will require developers:

- To provide or fund additional provision where there are identified quantitative deficiencies in provision within the appropriate distance thresholds of a proposed development, or where the development will result in quantitative deficiencies
- To contribute to the enhancement of existing provision when there is an identified qualitative deficiency in provision within the appropriate distance thresholds of a proposed development and one effect of the development will be to increase the demand pressures on these spaces or facilities.

2.6 The Council will use its quantity standards to determine the scale of contributions required towards new off-site provision or the enhancement of existing off-site provision. For example, if a particular development proposal requires X sq m of a specific form of provision, based on the net increase in the on-site population times the appropriate quantity standard, the Council will require developers to contribute to the creation or enhancement of X sq of that form of provision. The Council will determine which of these alternatives it prefers by taking account of the context

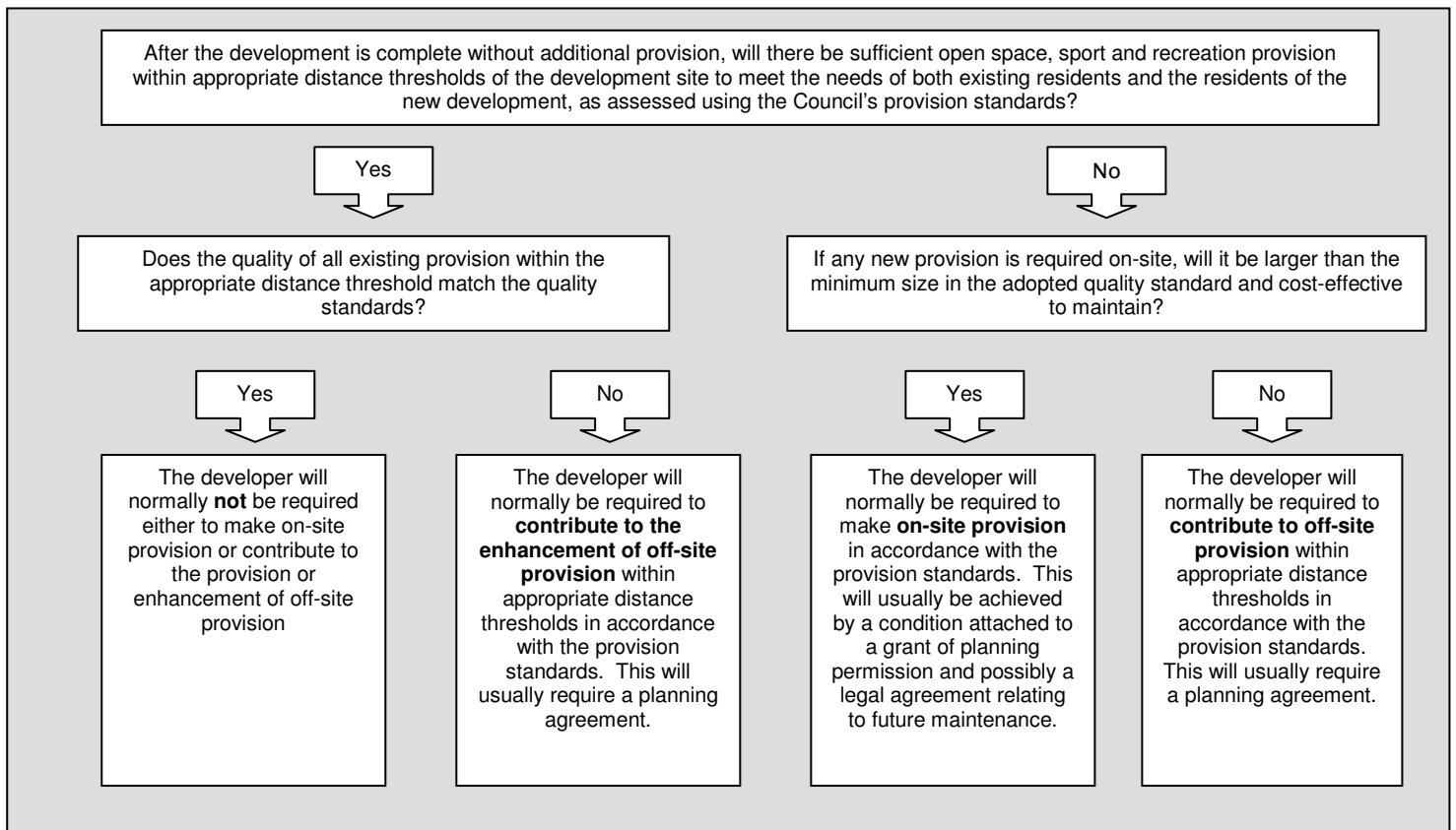


within which the development is set, the amount and nature of provision in the vicinity of the development site and any other material considerations.

### **Application of Provision Standards**

- 2.7 The diagram overleaf, based on *Assessing Needs and Opportunities: A Companion Guide to PPG17 (ODPM, 2002)*, sets out how the Council will use its provision standards to decide whether there will be a need to mitigate the impact of a proposed development and, if so, the most appropriate approach to adopt

## Flow Chart for Development Control Purposes



2.8 To forecast the likely impact of developments the Council will assess the amount of each of the various forms of provision that will be required to meet the needs of residents generated by the proposed development, within the context of the area in which the site is set.

2.9 The starting point for the assessment will be the calculation of the on-site population. For this purpose the Council will use the following occupancy rates:

- Dwellings with 1 bedroom 1.32 Occupants
- Dwellings with 2 bedrooms 1.95 Occupants
- Dwellings with 3 bedrooms 2.61 Occupants
- Dwellings with 4 bedrooms 3.33 Occupants
- Dwellings of unknown size 2.30 Occupants

Note: these figures derive from a survey of new residential developments in Oxfordshire undertaken by the Demographic and Social Statistics Adviser in the County Council's Strategic Policy and Economic Development Unit during 2005. The County Council intends to review the figures from time to time and the District Council will then amend the above occupancy levels as appropriate.

2.10 If the proposed development site includes existing temporary or permanent dwellings that have been occupied with in one year before the date of receipt of the planning application, the Council will use the anticipated net change in the number of residents. For example, if a proposed development consists of twelve 1 bedroom flats on the site of a 4 bedroom house which will be demolished the Council will assess the net change in the on-site population as follows:

- 12 dwellings @ 1.32 people = 15.84 people
- Less
- 1 dwelling @ 3.33 people = -3.33 people
- Net increase = 12.51 people

### Development Thresholds

- 2.11 Where there is an identified qualitative or quantitative deficiency in provision, the Council will seek contributions from any developments resulting in a net increase of one or more dwellings.

### Types of Housing Development

- 2.12 The residents of different types of dwellings are likely to have different needs in terms of open space, sport and recreation provision. For example, sheltered housing will not increase the local demand for football pitches but will very often require on-site amenity space for the use of residents even if there is existing provision nearby. The table overleaf sets out the forms of provision the Council considers will be required for different types of residential development. This means that it will not always be appropriate for the Council to require developers to make or fund new or enhanced provision for all those facilities for which it has a provision standard.

### Types of residential development to which the provision standards will apply.

Type of development	Multi-functional greenspaces	Other public spaces		Activity Spaces				Outdoor Sports Facilities				Indoor Sports Facilities	
		Civic spaces	Green corridors	Allotments	Formal play provision	Multi courts	Teenage areas	Artificial Turf Pitches	Bowling Green	Grass Pitches	Tennis courts		
Open market dwellings	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	All open market dwellings will generate demand for access to all forms of provision
Affordable housing	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	All affordable housing will generate demand for access to all forms of provision
Accommodation for active elderly people	✓	✓	✓	✓	x	✓	x	x	✓	x	✓	✓	“Active elderly residents” are able to live independent lives without personal assistance. They are unlikely to have live-in children but may take part in some sports activities such as tennis and bowls.
Special housing for less active elderly people	✓	✓	x	X	x	x	x	x	x	x	x	x	Residents of special housing requiring at least some degree of personal care will not take part in active pursuits but should increase the demand for parks and similar open spaces.
Hostels and special needs housing	✓	✓	✓	✓	x	✓	x	x	x	x	x	x	Residents with special needs may require access to sports facilities but will certainly be able to benefit from parks and other amenity open spaces.
One for one replacement dwellings	x	x	x	X	x	x	x	x	x	x	x	x	A replacement dwelling will only have a marginal impact on the need of community facilities.
Extensions to dwellings	x	x	x	X	x	x	x	x	x	x	x	x	Extensions are likely at most to have only a marginal impact on the need for

														community infrastructure.
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**Notes:**

✓ Provision normally required

X Provision not normally required

Multi-functional greenspace: amenity greenspaces, natural greenspaces and parks and gardens

## The Use of Planning Conditions

### Introduction

3.0 When the Council grants planning permission for a proposed development it may do so subject to a number of conditions. This section of the SPD therefore provides an overview of the conditions that the Council may impose in relation to open space, sport and recreation provision, together with how it will assess commuted maintenance sums in instances where developers offer on-site provision, or other provision intended primarily for the benefit of the occupants of a proposed development, for adoption by the Council or other appropriate agreed body such as one of the District's town or parish councils. If the Council or another body is to adopt open space, sport or recreation facilities any commuted maintenance payment will be subject to a legal agreement.

### The Purpose of Conditions

3.1 The purpose of conditions is to enable development proposals to proceed in cases where they would otherwise be unacceptable. In all cases, the Council will ensure that each condition is:-

- Necessary and therefore the development should not be permitted without the condition
- Relevant to land use planning objectives
- Relevant to the proposed development and justified by its nature or impact on its surroundings
- Clear and enforceable
- Reasonable in all other aspects

### Contributions Relating to Open Space, Sport and Recreation Provision

3.2 Open space, sport and recreation facilities must be managed and maintained effectively if they are not to deteriorate and have a negative impact on local amenity. Accordingly, in all instances where the Council requires developers to make on-site greenspace, sport or recreation provision, or when they do so voluntarily, it will require them to put in place measures for their management and maintenance in perpetuity. The Council's standard condition for this purpose is:-

*"Prior to the commencement of the development hereby permitted, a scheme for the future maintenance and layout of the open space areas as shown on the approved drawings shall be submitted to, and approved in writing by the District Planning Authority. The areas thereafter shall be permanently maintained in accordance with the approved scheme".*

*Reason: In the interests of visual and residential amenity.*

## Meeting the Council's Requirements in Relation to Management and Maintenance

3.3 In principle, the Council regards either of the following approaches as acceptable means of satisfying the requirement to secure the ongoing maintenance of open space, sport and recreation facilities:

- The handing over of the spaces or facilities to the District Council or other appropriate agreed body (such as the relevant town or parish council) for adoption, plus an appropriate commuted maintenance sum, on the basis of a legal agreement.
- The incorporation of a clause in the title deeds for the properties in the development:
  - a) Requiring the owners to contribute to the upkeep of the common areas of the development, including any on-site or other open space or sports and recreation provision intended predominantly for their use, and form a residents association to manage, or appoint a factor to manage, the necessary maintenance works to an agreed standard, which shall be not lower than the Council's adopted quality standard.
  - b) Granting the Council "Step-in" rights which will allow it to undertake the maintenance itself in the event that, in its sole judgement, the arrangements made in accordance with sub-paragraph (a) prove ineffective and recover the costs of doing so, including all legal and administrative costs, from the residents or occupants of the development on a suitable fair basis.

Note: this approach is designed to be compatible with paragraph B18 of DCLG Circular 5/2005, Planning Obligations, which indicates that Councils can require developers to make arrangements for the management and maintenance in perpetuity of spaces and facilities intended predominantly for the residents or users of a proposed development

3.4 The Council will be willing to consider other approaches put forward by developers on a case by case basis, but will always require to be satisfied that whatever detailed arrangements the developer may propose will be effective.

3.5 The Council or other agreed appropriate body (such as the relevant town or parish council) may be willing to adopt and subsequently manage and maintain on-site provision made by developers only if:

- The provision meets the appropriate quality standard(s) in all respects at the time of adoption; and
- The developer provides a commuted maintenance sum on or before the date of adoption of the space or facilities to the agency in whom the land is to be vested, sufficient to fund the management and maintenance for a period of 20 years; and
- The developer pays all of the legal costs relating to the transfer of the land or facilities of the body in whom the land is to be vested.

3.6 The Council will publish on its website, and revise annually with effect from 1 April in each year, a statement of the standard commuted maintenance sums it will require

for different forms of provision. It will base them on anticipated annual maintenance costs, using costs provided by its grounds maintenance contractor, including as many of the following as may be appropriate:

- An establishment cost, designed to fund the replacement of any plants or trees which may die within an initial establishment period of 5 years
- All maintenance materials required over 20 years
- An appropriate proportion of equipment costs, taking into account the anticipated lifespan of maintenance equipment
- A 10% on-cost, to cover the management of maintenance operations

**3.7** The Council will calculate commuted sums in the form of the net present value (NPV) of the anticipated stream of establishment or maintenance costs over a 20 year period, based on:-

- Current costs provided by its grounds maintenance contractor
- A predicted annual increase for inflation and other costs
- A discount rate of 4%.

### **Large and Phased Developments – Payment of Commuted Sums**

**3.9** If the Council or another appropriate agreed body (such as the relevant town or parish council) is to adopt on-site or other spaces or facilities, it is likely that they will be completed and ready for handover and adoption at different times during the construction of large or phased developments. When this will be the case, the Council is willing in principle to allow the payment of commuted sums on a phased basis which matches the points at which it or the other appropriate body adopts the spaces or facilities. However, this will always be conditional upon:

- The spaces or facilities being in a fully adoptable condition in all respects
- Any related commuted sums being index-linked from the date of the grant of planning permission to the date of payment
- The dates or other trigger point at which spaces or facilities are to be adopted being agreed in writing before the start of the development on site

### **Indexation**

**3.10** There are several published cost indices that the Council could use when indexing Contributions or commuted sums. However the indices that the Council will normally use are: for construction works, the Department of Trade & Industry Tender Price Index of Public Sector Non Housing (PUBSEC) smoothed all-in-index: for commuted sums, the index of Retail Price.

## **Sustainable Urban Drainage Systems (SUDS)**

Vale of White Horse District Council



- 3.11 The Council encourages developers to incorporate proposals for sustainable urban drainage schemes in their developments whenever possible and to ensure that the management and maintenance of SUDS features is seen as part of the overall management regime for a site. However, the Council does not adopt any open space designed for drainage purposes as part of a sustainable urban drainage systems (SUDS).

# Planning Agreements

## Introduction

4.0 Wherever possible and in accordance with Government advice, the Council will seek to use planning conditions, however there will be many instances where the barriers to granting planning permission cannot be resolved by the use of conditions. In these instances the Council will seek to negotiate a planning agreement with the developers.

## The National Justification for Planning Agreements

4.1 Government has made it clear in various Planning Policy Guidelines (PPG's) and Planning Policy Statements (PPS's) that the community should not be disadvantaged by new development. Accordingly, it is the Government's view that it is reasonable for planning authorities to expect developers to contribute to the cost of meeting local needs for community facilities and infrastructure which arise from their developments. Development creates a need for additional or enhanced infrastructure, giving rise to a "planning obligation" on the developer to provide or fund whatever measures may be required to mitigate (ie meet) those needs. The legislative basis for this is set out in Section 106 of the Town & Country Planning Act 1990, as substituted by Section 12(l) of the Planning & Compensation Act 1991. This allows for obligations to be discharged either through a planning agreement negotiated between the developer and local authority or a unilateral undertaking, offered by a developer. The difference between them is simple. In a planning agreement, the developer and/or land owner(s) and the relevant local authority, both "covenant" (a legal term which effectively means "undertake" or "promise") to do certain things. For example, the developer might covenant to pay an amount of money (a "contribution") to the local authority, which in turn enters into a "reciprocal covenant" to use that money for the purpose or in the way set out in the agreement. Unilateral undertakings, on the other hand, are effectively one-sided planning agreements: the developer/land owner covenants to do something that will make the development acceptable to the local authority (for example, to pay a contribution of £X to the local authority for it to use to enhance local greenspace), but the local authority does not enter into any reciprocal covenants. In this context, the term "local authority" can have a wide meaning; it frequently includes the District Council, as the local planning authority, and the County Council in several distinct roles, for example as the Highways Authority, the Education Authority and the Library Authority.

## The Need for Planning Agreements

4.2 Paragraph 33 of PPG17 states that:

"Local authorities will be justified in seeking planning obligations where the quantity or quality of provision is inadequate or under threat, or where new development increases local needs."

- 4.3 In most instances, the need for a planning agreement will arise because:
- The development will result in additional pressures on existing open spaces, sport and recreation facilities which cannot reasonably be sustained
  - It would not be realistic, or sensible in land use terms, for the Council to require the developer to mitigate these pressures on land in the developer's ownership
- 4.4 In these circumstances, if there is not a commensurate increase or improvement in the amount, quality or capacity of provision, the result will be a "planning loss" to the local community: for example, there will be more demand for local football pitches than can realistically be accommodated. The Council may seek agreements in order:
- To require the developer to fund compensatory provision; or
  - To require the developer to provide a financial contribution which it will use off-site to mitigate the impacts of the development
  - To seek contributions to future maintenance of on-site provision.
- 4.5 This section of the SPD sets out the circumstances under which the Council will be seeking a planning obligation to secure contributions or compensatory provision of open space, sport and recreational facilities. It explains how the Council will assess the possible need for and scale of those contributions and how it will use them. It therefore has two main purposes:
- To provide clarity and transparency for developers so that they are aware of the possible need for a planning agreement and related financial contributions early in the development process
  - To facilitate a consistent approach to the securing of planning agreements and the use of contributions throughout the District.

### **The Scope of Planning Agreements**

- 4.6 The Council may seek a planning agreement relating to the provision of any type of open space or sport and recreation facility for which it has a provision standard. (These standards are set out in Appendix A).

### **The Nature of Planning Agreements**

- 4.7 Planning agreements can take many forms. Circular 05/2005 *Planning Obligations* sets out three main purposes for them:
- To prescribe the nature of a development in order to achieve planning objectives
  - To mitigate the impact of a development
  - To compensate for loss or damage caused by a development
- 4.8 The Council will require planning obligations to mitigate the impact of a development or compensate for provision of open space, sport and recreation facilities which will be damaged or lost as a result of the proposed development.

4.9 Circular 5/2005 re-affirms the five policy tests for the reasonableness of a planning agreement. The Council interprets these policy tests as follows:

- **The proposed agreement must be necessary:** the proposed development will increase the need for greenspace or sport and recreation provision in an area where as a result of the development there will be a quantitative deficiency or result in additional demand pressures on existing spaces or provision in an area where there is a qualitative deficiency and therefore necessitates their enhancement
- **The proposed mitigation must be relevant to planning:** the Council will seek contributions only for purposes which relate to the use or development of land
- **The proposed mitigation must be directly related to the proposed development:** it is not necessary, and may be impractical, to attempt to mitigate all of the impacts of a proposed development in the immediate vicinity of the site. However, the additional demands arising from the development must be met within a reasonable distance of it. This “reasonable distance” will vary with the nature of the infrastructure and is set out in the Council’s standards in an Appendix to this SPD. The reasonable distance will be fairly limited for facilities such as play areas for young children but longer for facilities such as artificial turf pitches which serve a significant catchment area. PPG17 recommends the use of distance thresholds and the Council has adopted this approach and will use it to determine how far a proposed mitigation is “directly related” to a development.
- **The proposed mitigation must be fairly and reasonably related in scale and kind to the proposed development:** the Council will not ask developers to fund a greater amount of infrastructure than needed to accommodate the additional pressures created by their development
- **The proposed agreement must be reasonable in all other respects:** in broad terms, the key test the Council will apply is whether the requirement for an agreement is so directly related to the regulation of the proposed development that it should not be permitted without it.

4.10 It follows that the Council will not seek contributions to reduce any infrastructure deficiency which existed at the time a development was first proposed to a greater extent than justified by the scale and nature of the proposed development. However it may seek contributions to prevent any such deficiencies becoming more as a direct result of the proposed development.

4.11 Planning permission must never be bought or sold. Accordingly, the Council will not grant permission for an unacceptable development because the developer has offered to provide or fund unnecessary or unrelated benefits through a unilateral undertaking. However the Council will refuse planning permission for an otherwise acceptable development if the developer is unwilling or unable to contribute to infrastructure improvements needed as a result of their development.

## The Calculation of Developer Contributions and Commuted Sums

4.12 The Council will use a spreadsheet model to calculate developer contributions and commuted sums. The Model:

- Calculates the likely on-site population of the proposed development and the net increase or decrease in the local population
- Calculates whether the quantity of existing provision within the relevant distance thresholds before and after the proposed development meets the adopted quantity provision standards
- Indicates whether there is a surplus or deficiency of each form of provision before and after the proposed development
- Calculates the amount of on-site provision and commuted maintenance sum needed to meet the needs of the on-site population, whether there is a deficiency after the development, and compares this with the minimum size element of the provision standard
- Calculates the amount of off-site provision and related commuted payment needed to meet the net increase in population arising from the development
- Identifies whether any of the existing provision within the appropriate distance threshold of the proposed development site requires enhancement and, if so, calculates the developer's contribution towards this enhancement, based on the net increase in local population

4.13 The Model therefore provides clear answers to the questions in the line of thinking above. The Model, includes:

- The amount of each form of on-site provision to be made by the developer, if any
- The required commuted maintenance sums required for on-site provision, if any
- Contributions required to new off-site provision, if any
- Contributions required to enhanced off-site provision, if any

4.14 The Model calculates a "menu" of the possible permutations of these requirements. The Council will then use its judgement to select the most appropriate way of mitigating the impact of a proposed development from this "menu", including the form(s) of provision it may require developers to provide or fund. The Council will make the model available to developers on its website [www.whitehorsedc.gov.uk](http://www.whitehorsedc.gov.uk) so that it can be used to assess the requirements the Council may have in relation to a proposed development at an early stage in the development process.

## **Developer Contributions**

4.15 When calculating developer contributions, the Council will include all of the costs the Council is likely to incur. These costs will include:

- Land cost, if appropriate
- Construction cost
- Design team fees and expenses
- Essential furniture and/or equipment
- Legal costs, including those incurred in drawing up the agreement

- A 15% on-cost, to cover monitoring, project procurement and management by the Council
- VAT, if irrecoverable

### Maintenance Payments

- 4.16 Circular 05/2005 enables planning authorities to use planning agreements to secure the appropriate long term management and maintenance of spaces or facilities in two sets of circumstances:
- **Where spaces or facilities are provided primarily for the benefit of the residents or users of a development:** the Council will require developers to make arrangements for their effective management and maintenance in perpetuity. This approach complies with paragraph 18 of Annex B to Circular 05/2005.
  - **Where spaces or facilities are intended for wider public use:** the Council will seek an establishment payment designed to fund management and maintenance which reflects “the time lag between the provision of the new facility and its inclusion in public sector funding streams, or its ability to recover its own costs”. This approach complies with paragraph 19 of Annex B to Circular 05/2005.

### Pooled Contributions

- 4.17 Most planning obligations relating to greenspace, sport and recreation provision will require developers to provide contributions which the Council will subsequently invest in new or enhanced off-site provision. In order to maximise the impact and benefits of such investment, the Council may pool contributions from two or more developments in the same area, using its accessibility standards as its means of defining “the same area”.
- 4.18 Across the District many open spaces, sport and recreation facilities are owned and managed by the Town and Parish Councils, and the District Council will collect contributions through the planning process on their behalf or for any other agreed appropriate body.
- 4.19 The contributions received from a development will not always be sufficient fully to fund the required enhancements of existing spaces or facilities. In these circumstances the District Council will seek to aggregate contributions from other developments in the same area so that the required enhancements are affordable. If this is unlikely to be achievable within an acceptable timescale, the Council will seek to fund the balance of costs from other sources such as grant aid, other external funding, from its own resources or, for sites that it does not own, the site owner.

### Large and Phased Developments

- 4.20 Large developments may require several planning applications because they are to be phased or undertaken by more than one developer. In these cases, the Council will

seek to ensure that contributions to infrastructure are apportioned as fairly as possible between the various phases and or developers.

### **Large and Phased Developments – Payment of Contributions**

4.21 The need for infrastructure provision or enhancements funded by developer contributions arises as developments are built out and the new dwellings occupied. This means that it would be unreasonable to require all contributions to be paid to the Council before commencement of large or phased developments on site. For developments of over 100 dwellings, or where the construction of a development is to be separated into clearly identified phases, the Council will be willing in principle to negotiate arrangements in the planning agreement to allow the payment of contributions in a way that matches the rate at which the need for the infrastructure will arise. It will normally do this by agreeing suitable and clearly identified trigger points, for example before the start of works on site and when 33% and 67% of the dwellings are complete. These percentages are purely illustrative and other triggers may be appropriate in relation to specific developments. The Council may also require the developer to provide a bond to guarantee payment of all phased contributions. This arrangement will comply with paragraph B17 of DCLG Circular 5/20005, *Planning Obligations*.

### **Indexation**

4.22 Where contributions are to be phased the Council will require them to be index-linked from the date of the grant of planning permission to the date of payment. There are several published cost indices that the Council could use when indexing contributions. However, it will normally use is the Department of Trade and Industry Tender Price Index of Public Sector Non-Housing (PUBSEC) Smoothed All-in Index

### **The Viability of Developments**

4.23 The District Council is well aware that there is potentially a long list of forms of community infrastructure provision towards which it and the County Council will wish to seek contributions. In some instances, there may be a need for the District Council to negotiate with developers to ensure that the contributions requested do not destroy the viability of a desirable proposed development. However, it will be very difficult for the Council to do this in a way that is fair to both the developer and the local community unless developers are open with the Council about the land and construction costs of their developments and the anticipated sales receipts. Accordingly, if a developer believes that the level of contributions sought by the Council will destroy the viability of a proposed development the onus will be on the developer to prove that this is the case. The Council will if necessary employ an independent third party to assess the case. The Council will be happy to give a written guarantee of confidentiality in relation to information on the viability of proposed developments and to minimise the number of officials who are party to the information. The County Council will give a similar undertaking if it is party to the

viability information as a result of having a significant infrastructure requirement that the developer regards as unaffordable.

#### **On-site or Off-site Provision?**

- 4.24 Once the need for additional or enhanced infrastructure has been established, the flow chart above will act as a guide as to whether the Council should require on-site or off-site provision. In most instances the need for the best and most sustainable long term use of land will dictate that one or the other is preferable.
- 4.25 The Council is aware that, in some cases there can be more benefits to be gained from enhancing existing off-site provision than in making additional on-site provision, provided that there is not a serious shortfall in the quantity of provision, within the appropriate distance thresholds of the development. In these circumstances development can help to deliver important benefits for existing communities and make proposals more acceptable to them as a result. This will clearly benefit developers as well as local communities. Enhanced off-site provision can also minimise the amount of additional land needed for open space, sport and recreation provision; make better use of existing facilities; make the best use of land; minimise the long term revenue costs associated with community infrastructure and therefore enhance financial sustainability; and help the Council and developers achieve acceptable residential densities.
- 4.26 This said, however, the Council's general presumption will be that:
- New provision required as a result of proposed developments should normally be on-site. However, if the amount of provision justified by the application of the appropriate quantity standard is below the minimum size thresholds set out in the Council's adopted quality standard, its preference will be for a contribution to off-site provision.
  - For off-site provision, where either the enhancement of existing provision or new provision is justified, the Council's preference will normally be the former. This should also result in lower contributions from developers because upgrading or enhancing existing provision will often have lower capital costs than new provision and help to make the best use of land by allowing and supporting higher densities of development.
- 4.27 In cases where the Council requires developers to contribute to the enhancement of existing spaces or facilities rather than make or fund new provision, the need for speedy determination of planning applications will not allow the development of costed design proposals. Accordingly the Council will assess the unit cost of enhancing existing provision as three quarters (75%) of the cost of new provision of the same kind, excluding land cost.

#### **Standard Planning Agreement/Unilateral Undertaking**



4.28 In order to aid transparency, reduce legal costs and speed up their preparation, the Council has prepared a standard form of draft planning agreement and unilateral undertaking relating to greenspace, sport and recreation provision. Copies are available from the Council's Offices or can be downloaded from its website [www.whitehorsedc.gov.uk](http://www.whitehorsedc.gov.uk). In addition, and in order to help the Council determine planning applications as quickly as possible, it will require draft heads of terms for a planning agreement or unilateral undertaking alongside any planning application for developments of 10 or more dwellings before it will validate the application. This new requirement is specified in the guidance notes relating to the Validation Checklists which are required to accompany the new national standard planning application forms which became statutory on 6th April 2008.