Section 106 Planning Obligations

October 2010



Interim Planning Guidance

LDF Local Development Framework

Nottingham City Council

Local Development Framework

Quick guide to the local development framework: Sustainability Appraisal Scoping Report for Nottingham City Land & Planning Policy DPD:

This report will tell you:

- The background information that has been used to develop this Development Plan Document; and
- how economic, social and environmental considerations will be taken into account in producing this DPD.

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1 INTRODUCTION

1.1 The purpose of this Interim Planning Guidance is to set out Nottingham City Council's approach to section 106 planning obligations. The Council recognises that planning obligations have a key part to play in the successful delivery of the City's Sustainable Community Strategy and the effective management of the environmental, social and infrastructure demands of development and continuing economic growth.

1.2 The Guidance has been prepared to clarify the planning policy basis for using obligations to secure necessary community and infrastructure provision and other economic and social initiatives in association with development.

1.3 Planning obligations usually take the form of private agreements, negotiated between local authorities and developers within the context of applications for planning permission, and are intended to 'make acceptable development which would otherwise be unacceptable in planning terms'.

1.4 This Guidance explains both the general policy basis for the use of planning obligations and also draws together more detailed policies applicable to specific types of development. Where there is existing Supplementary Planning Guidance in place that relates to a particular category of development, this is cross referenced and further details are included in the appendix.

1.5 A summary of development types that commonly require an obligation is provided along with details of the mechanism(s) for determining the terms of individual obligations.

1.6 For some types of development, standard thresholds and formulae are applied. Details of these are included in the document, but because they are subject to periodic review to reflect changing circumstances, it is advisable to check the position for any given case with the Development Management Section of the Council at an early stage and preferably within the context of wider pre-application discussions.

1.7 A protocol for dealing with obligations is included that covers pre-application discussions, the formal planning application process and the project implementation stage. The aim is to achieve consistency of approach, greater certainty for all interested parties, increased efficiency and speed, and the delivery of positive project outcomes that meet identified needs.

1.8 The overall objectives of this document are to:

- Provide coherent guidance on section 106 obligations to ensure that they are used consistently and effectively to deliver necessary community and infrastructure provisions arising from development;
- Provide greater transparency and increased certainty to all those involved in the development process; and
- Improve the quality and speed of decisions and project outcomes.

2 STATUS OF THIS INTERIM PLANNING GUIDANCE

2.1 This document has been prepared to provide detailed interim guidance on the application of policies relating to the use of section 106 planning obligations during the transitional period leading to the adoption of the emerging Core Strategy.

2.2 The Guidance takes into account the provisions of the Community Infrastructure Levy (CIL) Regulations that came into force on 6th April 2010. The potential introduction of a levy to fund infrastructure requirements, as enabled by the CIL Regulations, will be considered by the City Council as part of the continuing development of the Core Strategy. This Interim Guidance is based on there being no current levy in place.

2.3 This document should be read in conjunction with the 'saved policies' of the Nottingham Local Plan and the emerging Core Strategy. The relative weight afforded to the Core Strategy compared to the Local Plan will increase as the Core Strategy progresses towards adoption. This Guidance seeks to provide a bridge between the two documents during this transitional period. It is not a statement of new policy but is intended as a framework for applying existing and emerging policy effectively and consistently.

3 SECTION 106 OBLIGATIONS – DEFINITION, LEGAL BASIS AND NATIONAL POLICY BACKGROUND

3.1 The legal basis for planning obligations derives from section 106 of the Town and Country Planning Act 1990 (as substituted by the Planning and Compensation Act 1991 and amended by the CIL Regulations 2010). A planning obligation may be either a planning agreement between the Local Planning Authority and a developer/landowner with legal interest in land associated with a development proposal or a unilateral undertaking made by a developer independently.

3.2 ODPM Circular 05/2005 sets out national policy in relation to Planning Obligations and PPS1 states basic principles for their use. Obligations may be used to:

- restrict the development or use of land;

- require operations to be carried out in, on, under or over land;
- require land to be used in a specified way; and /or
- require payments to be made (either of a specific amount or by reference to a formula) to the Local Planning Authority either in a single sum or periodically.

3.3 The fundamental basis for a planning agreement or unilateral undertaking is that it is 'intended to make acceptable development which would otherwise be unacceptable in planning terms'. This objective may, in some cases, be achieved by the imposition of one or more planning conditions and in such cases the use of conditions is preferred as discussed in section 4.20 below.

3.4 The CIL Regulations 2010 state that a planning obligation may only constitute a reason for granting permission for development if the obligation is:

- necessary to make the development acceptable in planning terms;
- directly related to the development; **and**
- fairly and reasonably related in scale and kind to the proposed development.

3.5 These requirements were already set out as policy tests in ODPM Circular 05/2005 that also states that a planning obligation must be relevant to planning **and** reasonable in all other respects. The CIL Regulations now make it a **legal requirement** to meet the three tests in paragraph 3.4.

3.6 It is has been indicated that Circular 05/2005 will be replaced with a Policy Annex to a new Planning Policy Statement on planning obligations that would incorporate three policy tests based on the legal tests set out in the CIL Regulations.

3.7 Obligations may involve the direct provision of infrastructure or buildings by a developer such as the construction of a road or playground as part of a development. Alternatively, the obligation may take the form of a financial contribution payable to the Local Planning Authority to be used for a specified purpose such as a new community facility or the commissioning of public artwork. In some cases, the obligation may be required to control the form of development and the way that land is used which could, for example, involve the delivery of on-site affordable homes or the adoption of management arrangements for specialist student accommodation.

3.8 Local and national planning policies, along with other material considerations, form the basis for determining what is necessary to make development acceptable in planning terms and either seeking an agreement or taking account of a unilateral undertaking to fulfill this requirement when it cannot be met by other means such as conditions.

3.9 In the case of projects and infrastructure that are capable of being funded by CIL, under the CIL Regulations, where a levy is not in place, the pooling of financial contributions derived from section 106 obligations connected with different developments is permitted as long as the tests in paragraph 3.4 are met. However, from April 2014, where a specific project or type of infrastructure is capable of being funded by CIL, the pooling of contributions to fund that specific project or type of infrastructure is to be limited to contributions derived from a maximum of five obligations. For projects and infrastructure that cannot be funded by CIL, such as affordable housing, there is no limit on the number of contributions that may be pooled either prior to or after this date.

3.10 The above is a very basic and simplified outline of the legal and policy framework relating to section 106 obligations. It does not constitute legal advice and the detailed legal and policy position will clearly be dependent upon the circumstances of individual cases.

4 DEVELOPMENTS REQUIRING A SECTION 106 OBLIGATION

4.1 Individual planning agreements or unilateral undertakings may include a single key provision or incorporate several terms to cover a number of different requirements. Common types of obligation, relevant planning policies and supplementary guidance are summarised in the table on page 12.

4.2 It important to recognise that the summary is not exhaustive and that the need for planning obligations in individual cases is assessed on the basis of site specific considerations within the context of planning policies.

4.3 Whilst some types of obligation are common in relation to particular categories of development, for example affordable housing provision within housing developments, the appraisal of an individual scheme may result in the identification of unique requirements in order to achieve planning objectives, mitigate the impact of the development and/or compensate for loss or damage caused by the development.

4.4 For some of the more common types of obligation like affordable housing and open space, detailed policy and supplementary guidance exists that provides a clear framework for assessing the precise requirements having regard to site specific considerations. However, there may be some circumstances when a planning obligation is appropriate even though there is no detailed local policy or guidance in place as long as it is consistent with the principles of use set out in paragraph 3.2 and also meets tests referred to above.

Types of Obligation

4.5 Planning obligations may be used to meet identified needs of the following broad types:

- Affordable housing
- Community and cultural facilities (including youth activities, libraries, leisure centres, museums, meeting venues, heritage sites)
- Drainage and flood protection
- Education (including early years provision, schools and community education)
- Environmental improvements/land remediation
- Fire services
- Health and social care facilities
- Heritage protection (including listed building repair, archaeology and control over demolition in Conservation Areas)
- Information and communication technology
- Open space/green infrastructure (including play areas, sports fields, informal recreation areas, green space and linkages, water, geological and archaeological features, allotments, nature conservation, ecology, biodiversity, trees, public art and civic space)
- Police/crime reduction and community safety measures
- Renewable energy, sustainability measures and waste recycling
- Shopping facilities
- Training and employment
- Transport infrastructure, travel plans and their delivery, and transport services/facilities
- Management, use stipulations and mitigation measures required to serve a planning purpose in connection with a range of development types such as management plans for specialist accommodation, habitat protection, travel plans and provision of public access
- Altering the effects of other planning permissions - e.g. revocation of existing permissions or restrictions on implementation

Assessment criteria – policy and site specific priorities

4.6 The precise form of obligation that will be required in association with a particular development is individually assessed on the basis of site and development specific considerations set within a policy context and in the case of competing needs will require an appraisal of relative priorities and scheme viability.

4.7 The policy framework is formed from both broad strategic policies and more detailed policies that relate to specific development types or areas. In some cases, detailed policies and guidance provide a 'standardised' framework in which to assess proposals based on thresholds and formulae. Standard formulae are used alongside site and development specific considerations and do not override them.

4.8 The standardised approach is aimed at providing more certainty to developers and other interested parties about the nature and scale of provision typically required for some of the more common forms of development that usually require an obligation. It also seeks to achieve consistency when appraising schemes, and a fair basis for calculating contributions towards the funding of larger infrastructure projects and delivery strategies that cannot be met from individual obligations.

4.9 Increased certainty also has the potential benefits of helping to speed up the decision making process and improving the overall quality of development by ensuring that the financial implications of the obligations can be fully taken into account at an early stage rather than traded off against quality and viability later in the process.

Strategic Policy

4.10 The Nottingham Sustainable Community Strategy (known as the Nottingham Plan to 2020), the Local Area Agreement for Nottingham 2008-2011 and the Council Plan 2009-2012 form the high level strategic policy framework for Nottingham and establish the broad vision and priorities for the city. The 2020 strategic priorities are to:

- Develop Nottingham's international standing for science and innovation, sports and culture
- Transform Nottingham's Neighbourhoods
- Ensure that all children and young people thrive and achieve
- Tackle poverty and deprivation by getting more local people into good jobs
- Reduce crime, the fear of crime, and anti-social behaviour
- Improve health and well-being

Section 106 obligations have an important part to play in the delivery of the above vision and priorities and in maximising the positive effects of new developments in the interests of creating sustainable communities and supporting the cross-cutting aims of being environmentally sustainable, raising aspirations and achieving fairness and equality of opportunity set out in the Nottingham Plan to 2020.

Planning Policy

4.11 National planning policies, the 'saved policies' of the **Nottingham Local Plan 2005 (Local Plan)** and the draft policies within the emerging **Core Strategy** form the current local planning policy framework for Nottingham. Once adopted, the Core Strategy will replace the Local Plan and become the spatial development plan for Nottingham.

4.12 **Policy ST1 of the Local Plan** and the **Draft Spatial Objectives within the emerging Core Strategy** set out the Council's overarching planning approach to the delivery of sustainable communities and the broad policy basis for section 106 obligations.

4.13 **Draft Policy 18 of the Core Strategy** requires that new development is supported by necessary infrastructure at the appropriate stage and **Draft Policy 19** sets out how planning obligations will be used to achieve the objectives within the Core Strategy. An Infrastructure Capacity Study and Delivery Plan is being produced as part of the progression of the Core Strategy document towards adoption, identifying infrastructure requirements necessary to support new development, indicating where and when it will be provided and the range of funding sources.

4.14 For some types of development there are detailed policies and supplementary planning guidance, including typical thresholds and formulae that provide a basis for assessing the need for and securing planning obligations. A summary of obligation categories, relevant strategic and detailed policy, and typical thresholds/triggers for particular obligations (where applicable) is included in the table on page 12. The table also gives an indication of the 'heads of terms' commonly applicable to specific categories of obligation and any standard formulae or other assessment bases established through detailed policy or guidance.

4.15 A number of terms are common to most obligations and have therefore been omitted from the table to avoid duplication. For example, most obligations will have clauses specifying the following:

- Whether there is to be direct provision or payment of a financial contribution/commuted sum in lieu of direct provision;
- Timescale for direct provision; or

- Timescale for payment of commuted sum, purpose of commuted sum and time limit for expenditure of commuted sum.

4.16 The summary table has been included to assist with clarity by focussing on the most commonly applicable policies relevant to particular types of development and obligation. However, it is emphasised that no policy is applied in isolation and that all policies applicable to a given case, whether included in this summary or not, will be taken into account when appraising the planning merits of proposals and assessing the need for obligations. For larger or more complex schemes, obligations will often span a number of subject and policy areas. Emerging Core Strategy Policies 18 and 19 are applicable to all types of infrastructure provision and so have been omitted from the table to avoid duplication. Topic specific policies from the emerging Core Strategy have been included but these will be subject to modification as progress is made towards adoption.

4.17 In all cases, the details of individual obligations will be determined in the context of policies, standard formulae (where applicable), and site and development specific considerations. The table is intended as a guide only and the precise, detailed requirements for individual schemes will be established as part of a wider pre-application discussion process.

4.18 In some circumstances there may be competing needs and it will be necessary to agree relative priorities when the meeting of all policy and site specific requirements would not be viable for practical or financial reasons. The balancing of priorities will be led by City Planning, who will liaise with stakeholders internal and external to the Council, including neighbouring Local Authorities where appropriate.

4.19 In assessing proposals and the need for planning obligations, reference will also be made to documents and strategies produced in related fields such as the emerging Nottingham Local Transport Plan (LTP3) and the Greater Nottingham and Ashfield Infrastructure Capacity Study. These will form part of a framework of strategic and detailed considerations that inform and support the delivery of the Sustainable Community Strategy (Nottingham Plan 2020).

Use of Planning Conditions

4.20 Measures required to make an application acceptable can often be dealt with either by planning condition or planning obligation. In such cases, duplication should be avoided and conditions used as the preferred method of securing the necessary measures. Conditions are preferred because they can save time and costs by avoiding the need for a legal agreement to accompany a planning decision, maintain an immediate right of appeal for applicants and are straightforward to enforce. Conditions will commonly be possible when necessary measures include the delivery of **on-site** infrastructure as part of the scheme.

Summary of Obligation Types and Policy Basis

Obligation Category	Key Policy Basis / Standard Formula (applied in the context of site specific factors)	Typical Threshold / Reason	Category Specific Heads of Terms
Affordable Housing	- PPS3 - Local Plan Policies ST1 & H5 - SPG - August 2006 (Affordable Housing and Developer Contributions) - 20% on-site provision or where on-site agreed not appropriate financial contribution in lieu based on 25% of average house price in the City (price reviewed annually) - Emerging Core Strategy Policy 8	- 25 dwellings or more or residential sites of 1 hectare or greater	- Proportion of affordable housing - Mix of dwelling type & tenure provided on-site or off-site
Community & Cultural Facilities (including youth activities, libraries, leisure centres, museums, meeting venues, heritage sites)	- Local Plan Policies ST1, CE1, CE2, CE3 and R7 - Emerging Core Strategy Policy 11	- Identified need arising from development - Necessary to mitigate effects of development	- Scale and nature of direct provision - On-site management proposals e.g: . Control of parking . Sound insulation . Maintenance . Security . Lighting . Telephone contact point for neighbours . Heritage protection
Drainage & Flood Protection	- PPS25 - Local Plan Policy NE10	- Necessary to mitigate effects of development/to make development safe	- Scale and nature of direct provision
Education (including community education, schools and early years provision)	- Local Plan Policy ST1 - Emerging Core Strategy Policy 11	- 10 dwellings or more - Identified need arising from development	- Scale and nature of direct provision
Environmental Improvements/ Land Remediation	- Local Plan Policy NE12	- Identified need arising from development - Necessary to mitigate effects of	- Scale and nature of direct provision

		development/to make development safe	
Fire Services	- Emerging Core Strategy Policy 11	- Major developments * - Identified need arising from development	- Scale and nature of direct provision
Health & Social Care Facilities	- Emerging Core Strategy Policy 11	- 10 dwellings or more - Identified need arising from development	- Scale and nature of direct provision
Heritage Protection (including listed building repair, archaeology and control over demolition in Conservation Areas)	- PPS5	- Identified need arising from development - Necessary to mitigate effects of development	- Scale and nature of direct provision - Timescale for demolition and redevelopment
Information / Communication Technology		- Major developments * - Identified need arising from development	- Scale and nature of direct provision
Open Space / Green Infrastructure (including play areas, sports fields, informal recreation areas, green space and linkages, water, geological and archaeological features, allotments, nature conservation, ecology, biodiversity, trees, public art and civic space)	- PPG 17 - Local Plan Policies ST1, R1, R2, R5, R6, BE5, BE6, BE7, NE1, NE2, NE3, NE4 and NE5 - Local Plan Policy R4 (where relating to rivers and waterways) - Local Plan Policy BE6 (where relating to linkages/thoroughfares) - Draft SPG - Oct 1997 (Provision of Local Open Space in New Residential Development) - Direct provision within or outside development based on bed spaces and site specific factors or (where direct provision agreed not appropriate) financial contribution in lieu based on number of bed spaces i.e. graded rates per 2, 3, 4 and 5 bed dwelling (rates	<u>Outside City Centre</u> - Schemes including 12 dwellings or more - Identified need arising from development <u>Within City Centre</u> - As above plus other major developments * including schemes of 10 dwellings or more - To compensate for loss of existing - To mitigate effects of scheme - Identified need arising from development - To achieve biodiversity	- Scale and nature of direct provision - Adopted by Council or retained and managed by developer - Management plan for retained space - Nature and scale of protective measures - Financial contributions towards maintenance

	subject to periodic review) - Emerging Core Strategy Policies 15 and 16		
Police/Crime Reduction Measures	- Local Plan Policy S7 - Emerging Core Strategy Policy 11	- Necessary to deliver sustainable development and mitigate impacts	- Scale and nature of measures - Management Plan
Renewable Energy/ Sustainability Measures/Waste Recycling	- PPS1	- Necessary to ensure sustainable development	- Scale and nature of direct provision
Shopping Facilities	- Emerging Core Strategy Policy 11	- Identified need arising from development	- Scale and nature of direct provision
Training & Employment for Local People	- PPS4 - Local Plan Policy ST1 - Emerging Core Strategy Policy 4	- Necessary to ensure that the development contributes to strengthening the economic base of the city and local employment opportunities	- Details of measures/ procurement strategy - Links with local training/employment organisation(s)
Transport Infrastructure / Public Transport Services & Facilities (including: - On or off-site highway works - Travel Planning - New/improved public transport &/or associated infrastructure or financial support - New/improved pedestrian & cycle access - Management Plan for parking)	- PPG 13 - Local Plan Policies ST1, T2 and T15 - Local Plan Policy BE6 (where relating to linkage/thoroughfares) - Local Plan Policy R8 (where relating to leisure uses outside designated centres) - Draft Interim Planning Statement - Developer Contributions – Nov 2001 - Direct provision within or outside residential development based on bed spaces, site area and other site specific factors or (where direct provision agreed not appropriate) financial contribution in lieu based on location and scale of development - Emerging Core Strategy Policies 13 and 14	- No minimum threshold for any direct provision or commuted sums - Travel plan required for major developments * and for other developments likely to have significant transport implications including extensions to existing uses. - Identified need arising from development - Transport Statement/ Transport Assessment required in accordance with current national and local policy/best practice guidance.	- Scale and nature of direct provision

Regeneration Areas and Key Sites	Any of the above as relevant plus: - Local Plan Policies MU2, MU4, MU6, MU9 & S2 (site & area specific) - Site/area guidance/briefs	- Any of the above as identified by local assessment of need	- Any of the above as relevant
Site specific use restrictions on adjoining land		- Necessary to ensure development is acceptable in planning terms	- Details of measures/ restrictions
Specialist Accommodation Management Agreement	- Local Plan Policy H6 - SPD - March 2007 (Building Balanced Communities) - Site specific considerations	- Necessary to integrate the scheme into the existing community	- On-site management proposals e.g: - Control of parking - Sound insulation - Maintenance - Security - Lighting - Cycle parking - Telephone contact point for neighbours
Altering effects of other permission(s)		- Necessary to ensure development is acceptable in planning terms	- Details of permissions to be altered

* For the purposes of this document 'major development' is defined as any development that includes the creation of 10 or more residential units (or, in the case of unspecified residential numbers, where the site area is equal to or greater than 0.5 of a hectare) and/or non-residential development where 1,000 square metres or more of gross floorspace is created or where the site area is equal to or greater than 1 hectare.

5. PROCEDURES AND COSTS

Pre-application discussions

5.1 Prior to the submission of a formal planning application, full consideration should be given to the impacts of a proposed development and any necessary infrastructure requirements or mitigation measures. Details of draft proposals should be presented for consideration by the Council's Development Management Section before the submission of a formal planning application to allow an assessment of the impacts of the development to be carried out and guidance to be provided about the likely planning obligations that will be required to ensure that the development accords with planning policy and is acceptable in planning terms.

5.2 When (based on the available information), draft proposals are considered to be broadly acceptable in planning terms, subject to the

completion of a planning agreement incorporating specific provisions/obligations, the Development Management Section will provide details of the required provisions and a draft template to form the initial basis for the formal obligations and agreement. In formulating these provisions, the Development Management Section will have regard to all needs arising from the development, the relative priorities in each case, the economic viability of the scheme and its overall contribution to the sustainability of the local area.

5.3 In most cases, guidance will be provided within the framework of formal pre-application discussions led by the Development Management Section using a development team approach and involving pre-application consultations with key internal and external stakeholders to determine the precise needs arising from a proposed development. In the case of large scale proposals, schemes of strategic importance to the locality or those involving complex issues, the guidance may be delivered in accordance with a Planning Performance Agreement.

5.4 In the case of failure to agree 'heads of terms' based on the needs identified by the Development Management Section at pre-application stage, the applicant may provide alternative proposals for consideration, accompanied by a reasoned justification. Such justification is likely to include one or more of the following:

- sufficient information to demonstrate that the provision(s) specified by the Development Management Section are not necessary;
- sufficient information to demonstrate that there are alternative sources of funding or means of delivering the specified measures;
- proposals for different measures to make the development acceptable; and/or
- a financial appraisal demonstrating how the scheme viability is affected by the planning obligation requirements to the extent that it cannot proceed.

Any development appraisal would need to be submitted in an approved standard format, the details of which would be provided by the Council's Development Management Section. The applicant would be required to meet the reasonable costs of carrying out an objective assessment of this appraisal, the particulars of which would be agreed prior to the assessment being carried out.

Application Stage

5.5 In order to be validated, a formal planning application for any major development will need to be accompanied by a statement summarising any provisions to be delivered by section 106 obligation to address policy and site specific requirements. Where a planning obligation is required, a draft agreement will need to be included as part of the application submission that includes the main 'heads of terms', full details provided of the applicant's legal representative responsible for progressing the obligation, proof of title, details of all parties with an

interest in the land and the applicant's agreement to pay the Council's reasonable legal costs incurred in preparing and/or completing the agreement. Standard templates are available to form the basis for some of the more common types of agreement, and are listed in Appendix 2.

5.6 Where pre-application discussions have not taken place, assessment of proposals in line with the approach outlined above in relation to pre-application procedures will be carried out. If it is determined that measures need to be secured by a section 106 obligation in order to make the proposal acceptable in planning terms, the applicant will be advised by the application case officer as soon as possible about the main 'heads of terms' and a draft template will be provided to the applicant to form the basis of the legal agreement if this has not already been included with the application.

5.7 Advice provided by the case officer at the pre-application stage or in the initial stages of processing the application may be subject to alteration during the process as a result of issues that emerge from formal consultations.

5.8 Once there is a draft agreement in place that includes agreed 'heads of terms', the application case officer will instruct the Council's Legal Services Section to progress the agreement with the applicant's legal representative. This will be subject to the applicant agreeing to meet the reasonable legal costs incurred in preparing and/or completing the agreement.

5.9 Where the 'heads of terms' of a planning agreement identified by the case officer as necessary to make a proposal acceptable are agreed in writing by the applicant, and on the basis of this and other planning considerations the development is judged to be acceptable, a report will be prepared recommending that planning permission should be granted subject to the completion of a section 106 obligation for the measures identified as necessary. Such a report will usually be presented to the Development Control Committee for consideration. Once a resolution to grant permission subject to the completion of the specified obligation is in place, the applicant will be required to complete the legal agreement within a reasonable timescale.

5.10 Where 'head of terms' have been agreed, but there is a subsequent failure to complete the agreement within a reasonable timescale, the status of the application and the planning merits of the proposals will be subject to periodic review by the Development Management Section to take account of prevailing planning circumstances, including the absence of the measures required to be delivered through a section 106 obligation to make the application acceptable. Where there has been a material change in planning circumstances and/or there is no reasonable justification for the delay in completing the agreement, this may lead to an amended recommendation and ultimately a refusal of the application.

5.11 In the event of non-agreement to 'heads of terms' that have been identified by the Development Management Section as being necessary to make the application acceptable in planning terms, and in the absence of an accepted justification based on the principles as set out in paragraph 5.4 above, the application may be refused.

Post Decision Monitoring and Implementation

5.12 Planning obligations will include a term or terms setting out the timescale/trigger for the direct delivery of provisions or the payment of a commuted sum.

5.13 The Development Management Section will monitor the implementation of developments to ensure that planning obligations are met. Where a commuted sum is payable to the Local Planning Authority, details of the scheme to which the payment relates (including the application number, site address and obligation term to which it relates), should be submitted to the Local Planning Authority along with the payment in accordance with the timescale specified in the agreement. A receipt for the payment, confirming its purpose, will be provided to the applicant or subsequent landowner of the site to which it relates.

5.14 When a commuted sum is paid to contribute towards or to completely fund a specific project, the monies will be allocated to the appropriate delivery authority responsible for its implementation. Monies will be required to be used in accordance with the terms of the agreement, including any specified timescales.

5.15 When the commuted sum is paid to contribute towards a type of provision such as open space, but not an identified scheme, an evaluation of eligible projects will be carried out by the most appropriate infrastructure/service provider and the decision on allocation of the funds made in conjunction with agreed procedures involving Area Committees, Council Service Areas and external bodies, as necessary. The decision will be made in accordance with the requirements of the CIL Regulations set out in section 3 above.

Legal costs, professional fees and management fees

5.16 The Council's reasonable legal costs in progressing and/or completing an obligation will be required to be met by the applicant. When the obligation provides for the payment of a commuted sum in lieu of direct provision, 3% of the sum up to a maximum of £4,000 will be used to fund administration, co-ordinate delivery and carry out effective monitoring of section 106 obligations. The applicant will be required to meet the reasonable costs of carrying out an objective assessment of any development appraisal submitted with the aim of justifying a reduced or modified obligation.

6. MONITORING AND REVIEW OF INTERIM GUIDANCE

6.1 The application and effectiveness of this Guidance will be monitored and the document will be subject to periodic review to reflect changing circumstances or emerging needs.

6.2 Details of all completed planning obligations are published on the Council's website under the relevant planning application reference number.

7. CONTACTS AND FURTHER INFORMATION

For further information about section 106 obligations, please contact:

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Development.Management@nottinghamcity.gov.uk

APPENDICES

APPENDIX 1

List of Policy Documents and Guidance

- Sustainable Community Strategy - The Nottingham Plan to 2020

The above document is available to view on the Council's website at:

http://www.nottinghamcity.gov.uk/onenottingham/CHttpHandler.ashx?id=13455&p=0

- Nottingham Local Plan, November 2005
- Greater Nottingham Aligned Core Strategies – Option for Consultation, February 2010
- Nottingham Local Plan Supplementary Planning Guidance – Affordable Housing Policy and Developers Contributions, August 2006
- Guidelines for the Provision of Local Open Space in New Residential Development 1997 / Revised Schedule of Development Contributions Supplement 2007/2008
- Interim Transport Planning Statement – Integrated Transport Measures and Developers' Contributions, November 2001
- Building Balanced Communities Supplementary Planning Document, March 2007

The above documents are available to view on the Council's website at:

wwww.nottinghamcity.gov.uk/planning

APPENDIX 2

List of Obligation Templates

- Generic template
- Student accommodation management agreement
- Off-site open space (full planning permission)
- Off-site open space and affordable housing (full planning permission)
- Off-site open space (outline planning permission)
- Off-site open space and affordable housing (outline planning permission)

For further information about section 106 obligation templates, please contact:

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এটি একটি পরিকল্পনা বিষয়ক দলিল, যা তৈরি করেছে নটিংহাম সিটি কাউন্সিল। আপনি যদি এই দলিলটি অন্য কোন ভাষায় অথবা বিকল্প ফরম্যাটে পেতে চান, তাহলে আমরা সর্বতোভাবে আপনাকে সাহায্য করব। অনুগ্রহ করে 0115 915 4475. নম্বরে ফোন করুন

ਇਹ ਪਲੈਨਿੰਗ ਦੇ ਸਾਰੇ ਇਕ ਦਸਤਾਵੇਜ਼ ਹੈ ਜੋ ਕਿ ਨੌਟਿੰਘਮ ਸਿਟੀ ਕੌਂਸਲ ਵੱਲੋਂ ਤਿਆਰ ਕੀਤਾ ਗਿਆ ਹੈ। ਜੇਕਰ ਤੁਸੀਂ ਇਹ ਦਸਤਾਵੇਜ਼ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਜਾਂ ਫਾਰਮੈਟ ਵਿੱਚ ਹਾਸਿਲ ਕਰਨਾ ਚਾਹੁੰਦੇ ਹੋ ਤਾਂ ਅਸੀਂ ਤੁਹਾਡੀ ਇਹ ਮਦਦ ਵੀ ਪੂਰੀ ਪੂਰੀ ਕੋਸ਼ਿਸ਼ ਕਰਾਂਗੇ। ਕ੍ਰਿਪਾ ਕਰਕੇ 0115 915 4475. ਤੇ ਫੋਨ ਕਰੋ।

یہ پلاننگ دستاویز ہے جو نوٹنگھم سٹی کونسل کی جانب سے تیار کی گئی ہے۔ اگر آپ اس دستاویز کو کسی اور زبان یا فارمیٹ میں حاصل کرنا چاہتے ہیں تو ہم آپ کی ضرورت پوری کرنے کی پوری کوشش کریں گے۔ براہ کرم اس نمبر پر ٹیلیفون کریں 0115 915 4475.

यह एक प्लानिंग डाक्यूमैंट है जो कि नाटिंगम सिटी काउनसिल द्वारा तयार किया गया है। यदि आप इस डाक्यूमैंट को किसी अन्य फारमैट या भाषा में चाहते हैं तो हम आपकी माँग पूरी करने की पूरी कोशिश करेंगे। कृपया इस नंबर पर टेलीफोन करें 0115 915 4475.



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