

**Bath and North East Somerset Council  
Focused amendments to the Planning Obligations Supplementary  
Planning Document (SPD) with particular reference to Green  
Infrastructure,**

**Amendment to the Community Infrastructure Levy (CIL)  
Infrastructure List (CIL Regulation 123 list)**

**Consultation Report**

**May 2019**

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Annex 1 - Representations to the Developer Contributions Consultation March 2019 and Council Response

**1.0 Statement of Compliance of overall consultation with the Neighbourhood Planning Protocol**

1.1 In line with the “My Neighbourhood” document (incorporating Statement of Community Involvement), a formal six week consultation was undertaken for the focused amendments to the Planning Obligations SPD, and a full schedule of comments together with a consultation report and statement of compliance is included here.

1.2 In addition the related proposed amendment to the Community Infrastructure Levy Regulation 123 list was consulted on at the same time. (The Regulation 123 list sets out the types of infrastructure that the Council may apply Strategic CIL revenues to). In this case the amendment is to clarify that green space mitigation works on, or directly related to, a development site are to be secured via planning obligations. The My Neighbourhood document does not specifically refer to the CIL Regulation 123 list consultation, however this is complementary to the Planning Obligations SPD.

## **2.0 Earlier Consultation**

2.1 The amendments were prepared in conjunction with the Parks and Green Spaces Department and the Cabinet Member for Development and Neighbourhoods was consulted.

## **3.0 Public Consultation**

3.1 The consultation documents were approved for publication, by the Cabinet Member for Development and Neighbourhoods, on 4<sup>th</sup> March 2019.

3.2 The Planning Obligations Supplementary Planning Document (SPD) focused amendments and the related Community Infrastructure Levy Regulation 123 List amendment relating to new development green space requirements was published for consultation for a 6 week period between 14 March 2019 to 25th April 2019.

The Consultation documents and links to the supporting material and other information were made publicly available at the usual 'Deposit Stations' across the District (see below). The Council's website was the main means by which the consultation documents could be accessed. A shortcut website address was created for ease of reference [www.bathnes.gov.uk/developercontributions](http://www.bathnes.gov.uk/developercontributions) Whilst consultees were encouraged to view documents and submit comments electronically, and a specific email account was set up:

[developercontributions\\_consultation@bathnes.gov.uk](mailto:developercontributions_consultation@bathnes.gov.uk); paper copies were also made available if requested to ensure inclusivity. A bespoke form was made available for lodging responses.

3.2 The consultation documents were deposited at the following locations:

- Council offices:
  - The One Stop Shop, Lewis House, Manvers Street, Bath, BA1 1JG
  - Midsomer Norton Library & Information Service, The Hollies, Midsomer Norton, BA3 2DP
  - Keynsham Library & Information Service, Civic Centre, Temple Street, Keynsham, BS31 1LA
- All public and community libraries in the District, including the mobile library

3.3 Notification of the consultation was sent to all those on Planning Policy mailing list (who had requested to be kept informed of planning policy consultations) including statutory consultees and a range of other stakeholders on 13<sup>th</sup> March 2019. This was sent by email or post according to the mailing list database which records chosen methods of communication.

#### **4. Summary of feedback to the consultation and Council response to key issues raised**

4.1 A schedule of the full representations and responses is attached at Appendix 1. Eleven respondents made comments on either one or both of the documents.

4.2 Key Issues relating to the Focused Amendments to the Planning Obligations SPD were as follows:

- There was broad support for the proposed amendments from Dunkerton & Tunley Parish Council, Salford Parish Council, Freshford Parish Council and Widcombe Association
- Westfield Parish Council referred to the need for enforcement of planning obligations.
- One stressed the benefits of green space, and its particular importance for schools. It requested that the Council's planning policies be strengthened, to make it clear that the loss of green infrastructure in the vicinity of schools is to be particularly carefully considered, and that compensating for such loss by securing off-site provision under section 106 will only in the rarest of circumstances be acceptable. There was also comment on the allocation of local CIL in the unparished Bath area.
- One queried the open space standards and asked whether a historic national standard for open space in urban areas was being met. Other specific points were made on text changes.
- Sport England supports the use of planning obligations (s106)/community infrastructure levy (CIL) as a way of securing the provision of new or enhanced sports facilities and a contribution towards their future maintenance, to meet the needs arising from new development. This includes indoor sports facilities (swimming pools, sports halls, etc) as well as playing fields and multi-use games courts. Sport England indicates off site mitigation/ planning obligations will be necessary where new development is built on existing sports provision in line with paragraph 97 of the NPPF.
- The Canal and River Trust are concerned that it is not clear if all types of green infrastructure can be funded by s106 where appropriate in this policy or whether it relates only to recreational open space. The Trust indicates that works to towpaths may be necessary to address the extra traffic resulting from a nearby development, or upgrades to or replacement of bridges, which constrain the development potential of an area may be required. It notes that waterway infrastructure provides a public resource for walking and cycling and is recognised as Green infrastructure.
- B&NES Allotment Association welcomes the principle of securing new green spaces, in particular allotments, on development sites through Section 106 obligations, rather than through Strategic CIL, however had some detailed

objections regarding the delivery /design of allotments and to the text relating to the adoption of allotments.

- Persimmon Homes Severn Valley (PHSV) and Persimmon Homes Wessex (PHW) support the amendments to the Planning Obligations SPD but advise that the Council should revise the Green Space Strategy as a priority and on a regular basis to ensure that a full, robust and up to date audit of the capacities of the open spaces and recreation facilities across the Council area is available to enable an assessment of the impacts of new development on green space.

### **Key issues relating to the CIL Regulation 123 List Amendment**

- Dunkerton & Tunley Parish Council and Saltford Parish Council support the amendment.
- Sport England highlight that the inclusion of 'sport' including playing fields as a generic term on the Reg 123 of CIL could preclude the use of s106 to secure mitigation when say a sports facility or playing field is affected by a planning application and under para 97 of the NPPF the mitigation is needed to make the development acceptable. It also requires flexibility to allow for mitigation of new development by way of S106.

4.3 Having regard to the issues raised and the response within Appendix 1, the following recommendations are made:

### **Planning Obligations SPD Focused Amendments:**

4.4 The following text changes are recommended (double underline) to take into account issues relating to the adoption of allotments as distinct to the adoption of public open space and recreational facilities.

*Proposed Amendments recommended to amended text (bold and double underline)*

### Proposed Amendments recommended

In cases where provision **of green space and landscaping schemes** comes forward as part of a development, ~~Such~~ such facilities may be offered to the Council or its nominee (usually a Town or Parish Council) by a developer for adoption as Council owned and maintained provision. ~~In principle the~~ The Council will consider adopting these facilities subject to a number of conditions, which are set out below.

### New paragraphs

- **“In cases where provision of allotments comes forward as part of a development the allotment site will be offered to the Council or its nominee (usually a Town or Parish Council) by a developer for adoption as Council owned and maintained provision.**”

- **There is no obligation on the Council to accept an offer to adopt Green Space, Allotments and Landscaping Schemes”**

Also minor text updates are proposed in relation to the contacts section.

3.6.65 For further information please contact the Council’s Parks and ~~Estates~~  
~~Team~~ **Parks and Green Spaces department** or ~~Environment~~ Planning Policy  
Team

## **CIL Regulation 123 List amendment**

For consistency it is recommended that social infrastructure category of the Regulation 123 list (which includes sports and play areas) should follow the same approach as green infrastructure. The text change is as follows:

- *Social Infrastructure, including social and community facilities, sports, recreational, play infrastructure and youth provision, and cultural facilities* ~~(excluding on-site provisions~~ **(excluding development specific mitigation works on, or directly related to, a development site)**

## **5.0 What Happens Next?**

5.1 The above changes will be recommended for incorporation within the final amended documents. Subject to approval by the relevant Council’s Cabinet Member, final documents incorporating the amendments will be issued for adoption.