

Oadby and Wigston Borough Council

Draft Developer Contributions Supplementary Planning Document

Consultation Document

October 2018



*Oadby and Wigston
Borough Council*

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1. Introduction

Purpose of the document

- 1.1 The purpose of this Developer Contributions Supplementary Planning Document (SPD) is to set out Oadby and Wigston Borough Council's approach to seeking Section 106 planning obligations in the absence of a Community Infrastructure Levy (CIL) Charging Schedule within the Borough.
- 1.2 Once finalised and published, this document will replace Oadby and Wigston Borough Council's Developer Contributions SPD (2011) and its supporting Developer Contributions Evidence Base for Open Space, Sport and Recreation (incorporating Green Infrastructure) (2011).
- 1.3 This guidance does not present every possible circumstance and / or obligation that may be sought or taken into account, although it does provide a clear indication of the Borough Council's essential requirements from new developments in respect of planning obligation requirements and costs that will be sought at an early stage in the development process. The Borough Council will seek to engage with the applicant and / or developer on all qualifying applications¹ at an early stage so that appropriate provision when formulating costs and undertaking financial appraisals can be made and taken into account.
- 1.4 Since the introduction of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regulations²), applicants and / or developers are expected to contribute towards the provision of infrastructure on qualifying developments through any or a combination of the following mechanisms:
 - Paying a Levy through CIL (if adopted at a local level);
 - S106 obligations;
 - Unilateral undertakings;
 - Planning conditions; and,
 - S278 highway contributions.
- 1.5 The CIL Regulations mean that since 6 April 2015, the use of Section 106 planning obligations has become more restricted. All service providers are only able to seek planning obligations that satisfy the three tests as per CIL Regulation 122(2)² and deliver a specific infrastructure project or type of infrastructure. CIL Regulation 123(3)³ places a limit of a maximum of 5 separate planning obligations that can be pooled to deliver a scheme (entered into on or after 6 April 2010).

¹ In accordance with National Planning Practice Guidance (Paragraph: 031 Reference ID: 23b-031-20161116), contributions should not be sought from developments of 10-units or less (eg. 11+ dwellings), and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area). The most up to date threshold will be used.

² <https://www.legislation.gov.uk/ukdsi/2010/9780111492390/regulation/122>

³ <https://www.legislation.gov.uk/ukdsi/2010/9780111492390/regulation/123>

- 1.6 In recent years, the CIL Regulations have been subject to a series of reviews by Central Government. Indeed, in Spring 2018, the Government consulted on a document titled '*Supporting housing delivery through developer contributions*'. It is anticipated that an announcement on the Government's response to these consultations will be made in due course, although the timing and scope of those announcements is outside of the control of the Borough Council.
- 1.7 The guidance in this document is therefore provided within the parameters of the existing CIL Regulations and National Planning Policy and Guidance, together with the Council's Local Plan policies. The guidance set out within this SPD must always primarily seek to accord with the appropriate nationally set, statutory, legislation. Should Government make future changes to the Regulations that impact upon the way the Council seeks developer contributions in the Borough, the Council must always refer to nationally set policy.

What are Planning Obligations?

- 1.8 A planning obligation is secured by either a deed of agreement or a unilateral undertaking made under planning legislation (Section 106 of the Town and Country Planning Act 1990 (as amended)) in association with a planning permission for new development. It is normally applied to aspects of development that cannot be controlled by imposing a planning condition or by the use of other statutory controls. Planning obligations are legally binding, enforceable if planning permission is granted and run with the land, rather than the named applicant. They can cover almost any relevant issue such as types of infrastructure or services, as well as future maintenance.
- 1.9 Planning obligations should only be used where it is not possible to address the unacceptable impact of the new development through a planning condition (NPPF).
- 1.10 In addition to this, CIL Regulation 122(2) states that the use of planning obligations should only be sought where they meet all of the following three tests:
- They are necessary to make a development acceptable in planning terms
 - They are directly related to a development
 - They are fairly and reasonably related in scale and kind to the development.

What is Community Infrastructure Levy (CIL)?

- 1.11 The Community Infrastructure Levy (CIL) came into force on 6 April 2010 and it is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. Development would be liable for a charge under CIL if a Local Planning Authority has chosen to set a charge in its area. Once adopted, CIL is a fixed, non-negotiable, enforceable charge placed upon all qualifying new developments in the relevant administrative area.

- 1.12 The Council assessed the option of developing a Community Infrastructure Levy charging schedule in 2013 and 2017. On both occasions, the assessments deemed that negotiating planning obligations through the use of Section 106 Agreements would still be the most appropriate and viable method for delivering infrastructure in the Borough of Oadby and Wigston. The Council will continue to assess the viability of adopting a Community Infrastructure Levy charging schedule and will update the Developer Contributions Supplementary Planning Document accordingly, should circumstances change.

Relationship between CIL and Planning Obligations

- 1.13 The Government currently intends CIL to provide infrastructure to support development, rather than to specifically make individual development proposals acceptable in planning terms. Government guidance indicates that site specific mitigation will still be sought through the negotiation and use of planning obligations.
- 1.14 CIL Regulations 122 and 123 place limitations on the use of planning obligations and makes the planning obligations policy tests (paragraph 1.10 above) a statutory requirement. These two regulations seek to avoid overlaps between CIL and planning obligations and to limit the pooling of planning obligations (up to a maximum of five separate obligations to any identified project) towards infrastructure provision that could be funded by CIL. The Government's intention is for local authorities to operate CIL and planning obligations in a complementary way.

Planning Conditions

- 1.15 As set out within National Planning Practice Guidance (NPPG), when used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.
- 1.16 The National Planning Policy Framework (NPPF) suggests that planning conditions cannot require the transfer of land ownership or the payment of monies. They are attached to individual planning permissions where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.
- 1.17 Planning conditions tend to set out details or required standards, timeframes, and works which must be carried out at prescribed stages in the development process. They may also require further details to be submitted at a specific stage in order to make a proposal acceptable.

Section 278 Agreements

- 1.18 Where a development requires works to be carried out on the existing adopted highway, an Agreement will need to be completed between the developer and

Leicestershire County Council (the Highways Authority) under Section 278 of the Highways Act 1980. Examples of such works could include the construction of a new access; junction improvements on the highway; or, safety related works such as traffic calming or improved facilities for pedestrians and cyclists.

- 1.19 The pooling restrictions on planning obligations do not apply to Section 278 agreements. However, should CIL be charged in an area, the CIL Regulations prohibit CIL being spent on a highway scheme where a Section 278 agreement has already been entered into.

2. Policy Framework

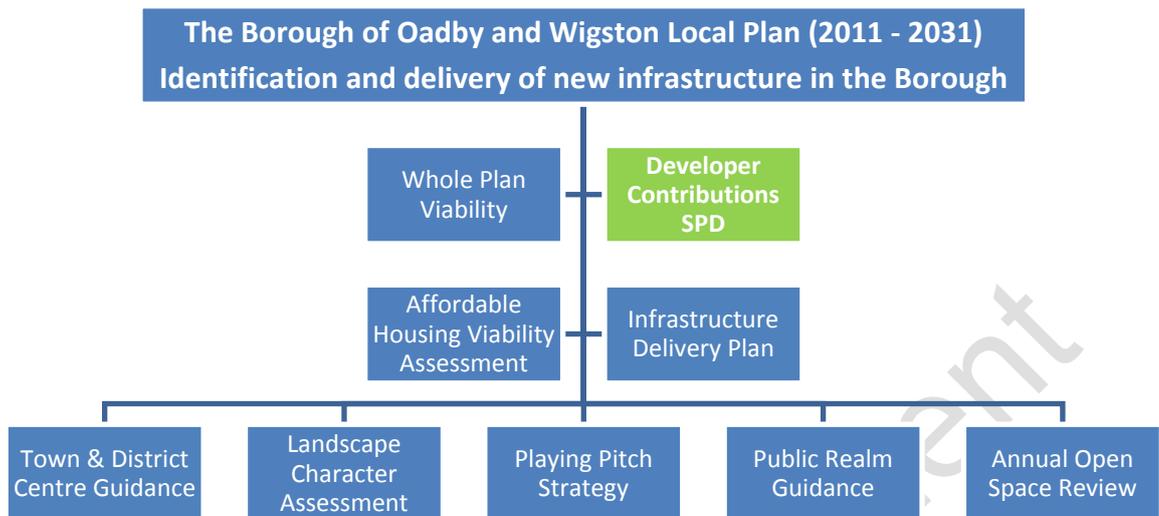
National Level

- 2.1 The statutory framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990 (as amended); Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended). The Council will also have regard to the Policy and guidance set out within the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

Local Level

- 2.2 The statutory Development Plan for the Borough currently comprises of the Oadby and Wigston Local Plan.
- 2.3 The Local Plan contains both strategic and development management based policies for the Borough, and includes allocations, including those for housing and employment land. The Local Plan's Spatial Strategy sets out how the Council will deliver its Objectively Assessed Need (OAN) for both housing and employment, as established by the Leicester and Leicestershire Housing and Economic Development Needs Assessment (January 2017).
- 2.4 Other key planning policy and supporting evidence base documents include:
- Supplementary Planning Documents (SPDs). SPDs expand upon and / or provide further detail in relation to policies contained within Development Plan Documents.
 - The Infrastructure Delivery Plan (IDP). The IDP is a 'live' document adjusted over time and contains projects required to support Local Plan Policy including that related to Infrastructure and Developer Contributions.
 - The Playing Pitch Strategy (PPS). The PPS is an evidence based document, developed by the Council in partnership with key service providers with an active interest in sport and leisure in the Borough.
 - A number of other evidence based documents, enabling the effective delivery of infrastructure in the Borough.

Figure 1. Local policy approach to delivering new infrastructure in the Borough.



- 2.5 The Council's Local Development Scheme (LDS)⁴ sets out the latest programme for the preparation of all of the key local planning policy documents.

3. Procedures

General Approach

- 3.1 Once adopted, this Developer Contributions SPD will comprise the Council's approach to seeking developer contributions from qualifying new developments in the Borough. It also sets out details of how external service providers will also have the opportunity to seek planning obligations in accordance with the Regulations from new qualifying development.

Planning Obligations

- 3.2 Although the scope for securing planning obligations via Section 106 Agreements has been reduced since April 2015 due to the pooling restrictions, it is expected that planning obligations for infrastructure needs will still be sought from qualifying developments that will mitigate the direct impact of the proposal (on a case by case basis), provided the obligations sought satisfy the statutory tests as set out by CIL Regulation 122 (2).
- 3.3 In order to ensure that developer contribution requests via Section 106 Agreements satisfy the three statutory tests, all planning obligation requests sought by non-signatory providers will be submitted in a timely manner and subsequently discussed at the Council's internal Section 106 Working Group that meets on a regular basis. It is important to note that all submitted planning obligation requests sought by non-signatory providers to be included within the relevant Section 106 Agreement must be accompanied by a completed 'CIL Compliance Checklist Form', as included in Appendix 1 of this SPD.

⁴ A copy of the latest LDS can be viewed on the Council's website at www.oadby-wigston.gov.uk

- 3.4 Should it be necessary, the Council's Section 106 Working Group may request further evidence to ensure that the Council is satisfied that the planning obligation(s) sought by signatory or non-signatory service providers comply with the three statutory CIL tests, as per CIL regulation 122(2). In such circumstances, the designated Case Officer for the relevant planning application will liaise directly with the relevant agency, before it is determined by the Council whether an obligation satisfies the three tests and can therefore be put forward for inclusion within the Section 106 Agreement.
- 3.5 The Council and all other key agencies will use planning obligations to:
- Secure general planning requirements that are necessary to allow the development to be permitted and where this cannot be achieved by way of planning conditions;
 - Ensure that there is satisfactory infrastructure to allow the development to proceed and that the infrastructure provided will be maintained for a prolonged period; and
 - Offset relevant adverse impacts from the development where the proposal might otherwise have been refused because of those adverse impacts.

Pre-Application Discussions

- 3.6 For all new developments, applicants and / or developers are encouraged to engage with the Council at the earliest opportunity. It is the Council's strong preference, particularly when applications and associated planning obligations of a larger scale and / or more complex, that negotiations occur and agreement on Heads of Terms is achieved, prior to the submission of a planning application. Pre-application discussions can help to resolve potential problems and issues which may otherwise delay the determination of a planning application once validated.

Unilateral Undertakings

- 3.7 In cases where a planning obligation is only required to deal with financial contributions, an alternative option available is to make a Unilateral Undertaking.
- 3.8 A Unilateral Undertaking is a simplified version of a Section 106 planning agreement, which is relatively quick and straightforward to complete, and is entered into by the landowner and any other party with a legal interest in the development site. They can assist in ensuring that planning permissions are granted speedily, which benefits both the applicants and the Council.
- 3.9 A Unilateral Undertaking will consist solely of the payment of financial contributions, to be paid at agreed stages, but usually on the granting of planning permission and / or prior to or at different stages of development completion.
- 3.10 This approach allows applicants for small schemes to reduce the legal costs and avoid potential delays often associated with S106 legal agreements.

Cross Boundary Applications

- 3.11 Where an application site falls partly within another neighbouring local planning authority area, the Council will, as far as possible, seek to coordinate proportionate planning obligation requirements with that authority. However, should an agreement not be reached, the Council will seek obligations from the portion of the site that falls within the Council's administrative boundary, only.

Viability

- 3.12 One of the key objectives of this SPD is to alert applicants of the likely level of planning obligations that can be expected from proposed developments, well in advance of any planning application being submitted. Applicants and / or developers can then factor these requirements into potential scheme costs at an early stage.
- 3.13 In accordance with the National Planning Practice Guidance (NPPG), the Council will ensure that when seeking planning obligations, the combined total impact will not threaten the overall viability of the sites and scale of development identified in the Development Plan.
- 3.14 In the event of a disagreement arising about the financial viability and the level of planning obligations sought for a scheme, the applicant would be expected to provide the Council with clear, transparent, and, robust evidence to support their case. In most instances, this would involve the Council reaching an understanding based upon the submission of a detailed open-book financial appraisal, undertaken by an independent assessor. For situations where there are significant financial contribution requests from other public bodies responsible for providing infrastructure (including Leicestershire County Council), the Borough Council will expect that body to be actively involved in this assessment process and its conclusions. In all cases, the Council will require this evidence to be submitted and agreed in a timely manner, prior to the determination of the planning application in question.
- 3.15 If deemed appropriate by the Council, S106 Agreements can take account of the viability lifecycle of a development. Should exceptional circumstances warrant its inclusion, a developer may be requested to set out their 'predicted profitability levels' for the lifecycle of the development proposal. In such circumstances and on the basis of an agreed open book appraisal prior to the determination of an application, it can be a requirement of the initial S106 Agreement for there to be a second viability appraisal (and subsequent amended S106 Agreement) at some point during the course of the development, for example, after three years. If the results of the second viability appraisal show:
- That the predicted profitability levels have increased, then the Council will have a right to an overage, i.e. a further payment/provision of infrastructure or affordable housing to that already secured in the S106 Agreement;
 - That the predicted profitability levels have stayed the same, then there will be nothing further to do with the S106 Agreement;
 - That the predicted profitability levels have decreased, then the Council will negotiate further with the applicant concerning planning obligations.

- 3.16 All costs incurred by the Council in financial appraisals and viability assessments are to be met in full by the applicant, developer, and / or landowner(s) specified on the S106 Agreement.

Security and Timing of Payments

- 3.17 Financial contributions (apart from fixed legal costs and standard administrative fees which are usually paid prior to the completion of the agreement) will need to be paid prior to the implementation of the planning permission or in accordance with the agreed programme of staged payments, as per the 'triggers' set out within the signed Section 106 Agreement.
- 3.18 The applicant should make a note of all of the corresponding triggers or payment dates for all of the planning obligations included within the S106 Agreement, prior to the signing of that legally binding contract.
- 3.19 Approximately 15 working days (Monday to Friday, excluding Bank Holidays) prior to reaching a trigger or scheduled payment date, the applicant or developer should notify the Council of their intention to pay the financial contribution. If the developer notifies the Council of their intention to pay the financial contribution after the trigger or payment date has elapsed, then late payment interest will be charged at a rate of 4% above the standard base rate or as otherwise stated in the legal agreement for each planning obligation. In such circumstances, the applicant or developer may also become liable for additional monitoring or enforcement costs.
- 3.20 The Council will then calculate the total financial contribution payable, including any interest and/or indexation due, and will provide a copy of this calculation to the applicant or developer. This calculation will be valid for a period of 15 working days (Monday to Friday, excluding Bank Holidays) from the date of issue unless otherwise agreed in writing. If the calculation has not been agreed within 15 working days and is shown to be arithmetically correct following the resolution of any dispute, then late payment interest will be charged as per paragraph 3.19 above.
- 3.21 Once the applicant or developer has agreed the calculation, the Council will issue an invoice for the agreed sum. The invoice issued will be subject to the Council's standard payment terms.
- 3.22 Upon receipt of the financial contribution, it will be held in a specific account by the Council before being transferred to the relevant internal departments or third parties (e.g. other public sector body, external service provider etc.) responsible for spending the contribution.
- 3.23 The S106 Agreement will include a clause detailing how and when any unspent funds will be refunded. In the case of a unilateral undertaking, there cannot be any requirement on the Council to return any unspent monies in such circumstances.
- 3.24 All receipts and spending of financial contributions will be recorded and monitored by the Council's Senior Management Team, via the Council's Section 106 Working Group.

- 3.25 An appropriate mechanism is needed to ensure that any facilities that are funded by developer contributions remain in use for their intended community benefit for at least 15 years. As such, any funds secured towards the provision of extensions to; improvements of; or, development of new facilities will be subject of an agreement with the relevant service delivery provider(s). All service delivery providers that benefit under these circumstances would be required to repay funds (on a pro rata basis) if the facility does not continue for 15 years after completion. For example, if a facility ceases after 5 years of having been completed, 10 years' worth of contributions will be repaid to the developer, with interest.
- 3.26 Please note that financial contributions payable to Leicestershire County Council (i.e. those relating to highways, education, relevant administrative and / or monitoring fees etc) will be subject to the County Councils own process and applicants or developers are advised to refer to Leicestershire County Council's Planning Obligations Policy (available online) or to contact the Leicestershire County Council's Development Contributions Officer for further information. For further details, please refer to paragraphs 4.42 to 4.44 of this SPD.

Fees

- 3.27 The Council's legal costs of preparing legal agreements will be borne by the applicant or developer. These costs will be based on an hourly rate and will depend upon the complexity of the agreement and the length of time taken to settle the draft and proceed to completion. The Council will therefore require the applicant or developer to provide a 'cost undertaking' to pay for the Council's reasonable fees, even in the event that the agreement is not completed.
- 3.28 Standard Unilateral Undertakings will be subject to an administration charge covering the Council's legal costs and if necessary, the transfer of money to third parties.

Monitoring and Enforcement

- 3.29 The Council monitors all of its own Planning Obligations and will work with developers to ensure that financial contributions and non-financial obligations are delivered on-time. Therefore, the Council will seek a flat rate payment of £500.00 per legal agreement or 4% of the total value (whichever is the greater) of the planning obligation(s) payable to Oadby and Wigston Borough Council. Where there is no quantifiable monetary value to the planning obligations owed to the Borough Council, a flat rate of £500.00 will be payable.
- 3.30 Where there is evidence of non-compliance with a Planning Obligation (such as the non-payment of financial contributions, failure to comply with an obligation, or failure to notify the Council of a due payment or event as required), the Council will seek to recover all reasonable administration and enforcement costs incurred. This could include, for example, costs incurred during site visits, the recovery of any unpaid monies and/or correspondence.
- 3.31 If it is clear to the Council's Section 106 Working Group that obligations within an agreement are not being complied with, the Council's Senior Management Team will instruct the Council's Legal Team to take appropriate action to secure compliance.

Indexation

- 3.32 Financial contributions are based upon the costs of infrastructure. Financial contributions will therefore be indexed (i.e. index-linked to inflation) to ensure that they retain their original 'real value'. The base date and appropriate index for the planning obligation(s) to be applied will be set out in the legal agreement.
- 3.33 Where a formula has been set for the calculation of contribution levels, any cost figures used will be updated regularly to take account of inflation (often BCIS, RPI or CPI). The cost figures are the sums required at the time of negotiation. The County Council may also adjust payments, but these might be subject to different measures of inflation.

4. Specific Planning Obligation Guidance by Typology

- 4.1 This section gives specific advice for various types of infrastructure commonly required by the Council to support new development.
- 4.2 As stated previously, this document does not cover every circumstance and / or planning obligation that may be needed to make a new development acceptable in planning terms. In all cases the Council will ensure that the infrastructure sought complies with the three statutory tests as contained within CIL Regulation 122 (2):
- “A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:*
- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development”.*
- 4.3 As necessary, the Council may give consideration to the cumulative impact of a proposal, particularly if a proposed new development is likely to come forward in staged phases or if it is adjacent to or near another proposed new development.
- 4.4 Applicants are always encouraged to engage with the Council at the soonest of opportunities to understand what the likely infrastructure requirements for a proposed scheme may be and how these will be sought.

AFFORDABLE HOUSING

- 4.5 The Borough of Oadby and Wigston has an identified affordable housing need. The Local Plan, together with its supporting evidence, recognises the need for affordable homes, and aims to ensure that the Council is well placed to maximise investment by registered providers and to respond to opportunities as they arise.
- 4.6 In addition, the provision of affordable homes, specifically those for affordable rent, is a priority for the Council as it recognises the important role that such provision plays in providing homes for all within its local communities.

- 4.7 The NPPF defines affordable housing^[1] as housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the definitions set out in Annex 2 of the NPPF.

Local Requirements and Thresholds

- 4.8 Chapter Six of the Local Plan deals with Housing Delivery. The Local Plan Policy covering Affordable Housing gives a full explanation of the Council's requirements. Affordable housing will be required at the following minimum targets which have been informed by the Council's current Whole Plan Viability Assessment and Affordable Housing Viability Assessment. It should be noted that all decimals will be rounded up to the nearest whole number of affordable dwellings required from each qualifying development scheme (as a 'portion' of a dwelling cannot be built):
- Oadby – 30 per cent of the total number of units
 - Wigston (including Kilby Bridge) – 20 per cent of the total number of units
 - South Wigston – 10 per cent of the total number of units
- 4.9 Of the affordable homes provided as per the percentages illustrated above, the Council will generally seek 80 per cent affordable rent and 20 per cent shared ownership, however, will respond to local housing need at the time of consideration of a relevant planning proposal.
- 4.10 In accordance with the NPPF, to support the re-use of brownfield land and where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount^[2]. For further guidance on qualifying developments, applicants are advised to refer to relevant advice within National Planning Practice Guidance (NPPG).

Housing Choices

- 4.11 Refer to Local Plan Policy covering Housing Choices for a full explanation of the Council's objectives regarding the delivery of an appropriate housing mix in the Borough. In summary, all residential development should contribute towards delivering a mix of dwelling types, tenures and sizes that meet the identified needs (and / or demand) of the communities within the Borough. For example, the provision of bungalows will be encouraged to meet demands of the Borough's ageing population. It is expected that all new residential development proposals demonstrate how they contribute to achieving the identified needs as set out within Chapter 12 of the Housing and Economic Development Needs Assessment, as well as the Council's Housing Strategy (2018). In addition, on all new large scale residential developments (11 dwellings and more) the proposal shall contain an appropriate housing mix having regard to the nature of the development site, character of the

^[1] Annex 2 of the National Planning Policy Framework (NPPF) – Affordable Housing definition:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733637/National_Planning_Policy_Framework_web_accessible_version.pdf

^[2] Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.

surrounding area, the most up-to-date evidence of need, as well as the existing housing mix of the immediate area.

- 4.12 In some cases the Council may also seek to secure a small number of more specialist housing units which will provide accommodation for those with support needs. These will be sought in areas which are deemed to be appropriate and in discussions with applicants at an early stage.

Affordable Housing Standards

- 4.13 The Council's Local Plan does not set out detailed policies on affordable housing standards, however, it is expected that all affordable housing provided under a rented tenure will be built to the Governments 'Technical Housing Standards - Nationally Described Space Standards'. Intermediate housing which is deemed to be low cost home ownership should be built to the same or better space standards, including garden sizes as the equivalent market housing on the site.
- 4.14 With all development sites that provide affordable homes, the Council will require 'tenure blind' provision. For example, there should be no discernible difference between affordable housing tenures and / or market housing. It is expected that where appropriate, affordable housing should not be clustered in any more than 10 units of one tenure and 15 units of multiple affordable tenures with no immediate boundary of other clusters nearby. The Council will be flexible and pragmatic on this clustering approach when considering certain site constraints or scheme densities if there is robust and justified reasoning for doing so. Applicants are encouraged to engage in pre-application or early discussions with the Council as part of a full planning application to reach agreement over the most appropriate approach for a scheme.

Viability

- 4.15 The Council will seek the provision of affordable housing on all qualifying developments in accordance with criteria as per the Local Plan Policy covering Affordable Housing. Further detail of how the Council will assess viability is set out in Section 3 of this SPD.

Commuted Sum Calculations

- 4.16 In the event that the Council accepts that there are exceptional circumstances that merit the payment of a commuted sum in lieu of on-site affordable housing provision, it will be calculated on the basis of the mix of tenures and sizes that the Council considers would have been appropriate for the site. The sum should be of a 'broadly equivalent value' of the developer contribution, if the affordable housing was provided on site. The commuted payment will be calculated by an independent viability assessor, at the cost of the applicant.

AIR QUALITY

- 4.17 Promoting sustainable development is a key focus of National planning policy and has been addressed by a number of Local Plan policies including those relating to

Sustainable Transport and Initiatives; Climate Change, Flood Risk and Renewable Low Carbon Energy; and, Infrastructure and Developer Contributions.

- 4.18 The Council is aware of the need to consider the effects of development on air quality, and how it can contribute towards improvements to mitigate adverse impacts. The Borough's geographical location means that reducing travel by car and managing traffic congestion is a major challenge. Maximising the opportunity to shift from dependency on cars to more sustainable modes of transport is also identified as a priority for the Council.
- 4.19 The Local Plan seeks to ensure that where it is reasonable to do so, all new development proposals should be designed to facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement will be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
- 4.20 For new major developments of 11 or more dwellings (net increase) and 1,000 sqm of floor area and above (gross internal area), when the Council has a justified reason to be concerned about the potential level of harmful emissions or pollutants that will be created as a result of a proposed development, the Council will expect measures that offset any potential increase and will either seek an appropriate on or off site mitigating project or a financial contribution towards any of the following types of schemes:
- Measures during the construction of new development including dust control; site monitoring and plant emissions;
 - Improved access to public transport;
 - The provision of on and / or off site facilities for cycling and walking;
 - The management of car parking;
 - Traffic management;
 - Road infrastructure;
 - Green Travel Plans;
 - On or off site equipment for the monitoring of air pollution.
- 4.21 The Council will discuss these concerns with the applicant during the application process, and if a financial or in-kind contribution is deemed necessary, on a case-by-case basis a project or sum will be identified and agreed to mitigate the scale, trip generation for different uses and the anticipated effect on air quality from the development.

COMMUNITY FACILITIES

- 4.22 Community Facilities (sometimes referred to as Community Assets) are defined as buildings or spaces where community led activities for community benefit are the primary use and the facility is managed, occupied or used primarily by the voluntary and community sector. Community facilities can be located in a wide range of venues and can include purpose-built structures such as:
- Community halls and village halls;
 - Places of worship;

- Health centres;
 - Schools; and,
 - Cultural and heritage assets such as museums, libraries, theatres, post offices, nationally or locally listed buildings, and, public houses.
- 4.23 These can also include converted houses, flats, shops, scout and / or guide huts and rooms or halls attached to faith buildings.
- 4.24 To plan for sustainable communities successfully, there should ideally be good access to a choice of social, cultural, youth and sporting activity. Such opportunities are often provided by community or voluntary organisations and the Council actively encourages a wide range of providers within the area. New development can often have a direct and considerable impact upon these activities, placing additional demand on the existing facilities and often creating a need for new facilities.

Contributions and Thresholds

- 4.25 In accordance with the Community Facilities Policy in the Local Plan, the Council will expect all new major developments of 11 or more dwellings (net increase) and 1,000 sqm of floor area and above (gross internal area) to contribute towards the provision of new community facilities or the improvement / expansion of existing facilities where there is not enough existing spare capacity to meet the needs generated by the new development. This may include financial contributions and / or the provision of land and buildings to enable new community facilities to be provided, or, for existing facilities to be extended or improved.
- 4.26 Developments of, for example over 300 dwellings, may generate the need for a new community facility as a resource to meet the needs of the new community. In this circumstance, a developer would be expected to make a contribution which may take the form of a suitable site and meet the construction costs of a new building to a specification agreed at the time of determining the application.
- 4.27 Adequate provision of and existing capacity within local facilities (e.g. community halls of a size to accommodate activities for all community members which include children & young people, families, adults and older people) is important in order to meet the additional demands arising from new developments. Off-site financial contributions will be sought and pooled (up to five obligations per infrastructure scheme) to deliver the following types of projects which increase the capacity and access to community facilities, including:
- Upgrading of current community facilities, to increase their use;
 - New community facilities;
 - Extensions of existing community facilities;
 - Feasibility studies (associated with identified and evidenced CIL compliant capital projects);
 - Professional costs (associated with identified and evidenced CIL compliant capital projects);
 - Refurbishment of community facilities to increase their use and capacity;
 - Provision of facilities for people with disabilities; and

- Improvement of access to community facilities.
- 4.28 Much of the new development that comes forward in the Borough of Oadby and Wigston is at a smaller scale, yet all qualifying sites should still be expected to similarly contribute to community needs generated by additional development, by helping to expand capacity or develop existing levels of provision. At the time of a planning application being received, the Borough Council will engage with the key Officers and refer to the Infrastructure Delivery Plan (IDP) for evidence of required identified infrastructure projects.
- 4.29 Contributions will be sought towards the creation of new and / or enhancement of existing community facilities in the vicinity of new development(s) where the proposed development will have a direct relationship with a community facility scheme identified within the Council's Infrastructure Delivery Plan (IDP).
- 4.30 In exceptional circumstances, contributions arising from non-residential developments may also be sought should it be evident that the scale and type of the development proposed is likely to place an additional demand upon the existing community facilities. For example, specialist residential or day care institutions may be required to provide on-site facilities or off-site contributions as appropriate.
- 4.31 The level of financial contributions sought will reflect the character and context of the projects required, the scale of the new proposed development that requires mitigation, and, will be negotiated on a case-by-case basis. If the Council requires the assistance of an independent party during negotiations, this will be done at the applicants cost.
- 4.32 Depending on the overall scale of the new development, including the potential cumulative impact if located adjacent or near to other new development(s), greater financial contributions may be sought to meet the identified needs of the new population.

COMMUNITY SAFETY AND POLICING

- 4.33 The East Midlands Ambulance Service NHS Trust (EMAS), Leicestershire Fire and Rescue Service and Leicestershire Police may request developer contributions from qualifying developments to meet the additional costs to deliver their respective additional emergency service provision required as a result of any qualifying development.
- 4.34 In accordance with the High Quality Design and Materials Policy in the Local Plan, the Council will expect all new developments and major refurbishments to create inclusive places that design out opportunities for anti-social behaviour and crime, as well as create connected places by ensuring that developments fit well with existing routes by avoiding dead ends and convoluted routes, allow integration with the wider settlement, and, link to existing services and facilities. Therefore, developers will be expected to contribute to creating safer communities through investing in positive design that minimises potential negative impacts upon community safety and the fear of crime.

- 4.35 The emergency services will be required to robustly demonstrate to the Council through sufficient evidence that there is a need for additional community safety and policing infrastructure in order to make a new development acceptable.
- 4.36 Contributions may be sought from qualifying residential schemes of all new major developments of 11 or more dwellings (net increase) and 1,000 sqm floor area and above (gross internal area), provided there is a justified need to seek contributions and that the proposed infrastructure scheme(s) to be funded are CIL compliant and in accordance with the Infrastructure and Developer Contributions Policy in the Local Plan. Contributions may also be sought from non-residential schemes of 1,000 sqm floor area and above, depending upon the likely impact of the new development. The level of financial contributions sought will reflect the character and context of the works required and will be negotiated on a case-by-case basis. All submitted planning obligation requests sought by non-signatory providers to be included within the relevant Section 106 Agreement must be accompanied by a completed 'CIL Compliance Checklist Form', as included in Appendix 1 of this SPD

HEALTH AND WELLBEING

- 4.37 Improving public health and wellbeing is one of the principle overarching objectives for any growing community and delivering wellbeing for all is included as one of the Council's key objectives for the Borough of Oadby and Wigston. Therefore, the Improving Health and Wellbeing Policy, together with the Sustainable Transport and Initiatives Policy in the Local Plan, both seek to meet this objective by increasing levels of walking and cycling, encouraging more active lifestyles, reducing harmful transport emissions and by improving access to local healthcare provision.
- 4.38 To ensure this objective is deliverable, the Council will consult and seek to work in partnership with NHS England and East Leicestershire and Rutland Clinical Commissioning Group (ELR CCG) on future development plans in order to continually assess long term health planning within the Borough.
- 4.39 Where it can be clearly demonstrated that there is not enough existing spare capacity to serve the population of a new residential development, developers will be expected to contribute towards the provision of additional health care infrastructure to meet that need. This may include financial contributions and / or the provision of land and buildings, or, the upgrading or extension of existing facilities that will serve that development and therefore enable the greater accessibility to CIL compliant health infrastructure facilities that will serve the new development(s) population.
- 4.40 For all qualifying residential development(s) of 11 or more dwellings (net increase) and 1,000 sqm floor area and above (gross internal area) or non-residential developments of a combined gross internal floorspace of more than 1,000 sqm, where appropriate infrastructure schemes have been identified, financial or in-kind contribution(s) may be sought towards the delivery of new, improved, and / or, the extension of existing healthcare facilities. All submitted planning obligation requests sought by non-signatory providers to be included within the relevant Section 106 Agreement must be accompanied by a completed 'CIL Compliance Checklist Form', as included in Appendix 1 of this SPD

- 4.41 Many primary care practices are run as independent businesses and therefore, an appropriate mechanism is needed to ensure that any healthcare facilities that are funded by developer contributions remain in community use for at least 15 years. As such, any funds secured towards the provision of extensions / improvements or new facilities will be subject of an agreement with the individual practices. Any practice that benefits under these circumstances would be required to repay funds (on a pro rata basis) if the practice does not continue for 15 years after the facilities have been provided. For example, if a practice ceases after 5 years of the facilities being provided, 10 years' worth of contributions will be repaid to the developer, with interest.

LEICESTERSHIRE COUNTY COUNCIL SERVICES

- 4.42 Leicestershire County Council (LCC) is legally entitled to be a signatory to all Section 106 Agreements that are negotiated in the Borough of Oadby and Wigston, as well as enforce all relevant planning obligations as part of those relevant agreements.
- 4.43 The County Council is responsible for the delivery of a number of crucial services throughout the County of Leicestershire. Therefore, for all new major developments of 11 or more dwellings (net increase) and 1,000 sqm floor area and above (gross internal area), or non-residential developments of a combined gross internal floorspace of more than 1,000 sqm, when the Leicestershire County Council has a justified reason to seek contributions towards CIL compliant infrastructure projects, requests for planning obligations towards the following services may be submitted:
- Adult Social Care and Health;
 - Civic Amenity / Waste Management;
 - Education;
 - Economic Growth;
 - Highways and Transportation;
 - Library Services;
 - Sports and Recreation;
 - Community Safety; and,
 - Public Health.
- 4.44 The County Council's [Leicestershire Planning Obligation Policy](#) was adopted in December 2014 and sets out the approach for seeking planning obligations in Leicestershire. This document explains the level and types of infrastructure which may be sought to address the impacts of a new development.

OPEN SPACE, SPORT AND RECREATION FACILITIES (INCORPORATING GREEN INFRASTRUCTURE)

- 4.45 Proposals for all new major developments of 11 or more dwellings (net increase) and 1,000 sqm floor area and above (gross internal area) will be expected to contribute towards open space, sport and recreation facilities in accordance with all relevant Local Plan Policy.
- 4.46 Proposals for new residential development should contribute to the provision and / or enhancement of open space in areas where there is a deficiency in provision, or poor

quality of open spaces. This provision could be either on or off-site depending on the scale and nature of development and the level and quality of existing facilities in the local area. On-site provision of open space should provide at least the requirements as set out below in Table 2 and off-site contributions towards open space provision should be consistent with the Council's approach, as set out in this section of the SPD.

- 4.47 Locally based open space requirements have been developed by the Council and have been very successful in maintaining (and increasing) the levels of open space within the Borough. With this success, it is felt that it would not be appropriate to deviate from the current requirements, however through close discussion with Sport England, the requirement and provision of Outdoor Sport Space will be achieved through linking contributions sought to the requirements set out in the Council's Playing Pitch Strategy (PPS) and / or the Infrastructure Delivery Plan (IDP), rather than through the use of the Council's quantity requirement approach (as per Table 2) in isolation. Therefore, contributions for Outdoor Sport Space will only be sought where there is a deficiency in provision, and a suitable CIL compliant infrastructure project identified within the Borough, as per the Council's PPS and / or IDP.
- 4.48 The Council's PPG17 – Open Space, Sport and Recreational Facilities Study (2009), formed the basis for the Council's Annual Open Space Audit (updated regularly, most recently in 2018). This Open Space Audit assesses the provision of open spaces in the Borough, identifying where differing typologies are deficient and / or in surplus supply. All areas of open space, sports and recreational facilities will be protected, retained and enhanced, including those set out within the New Local Plan. The Borough's Annual Open Space Audit is used to inform where on or off-site developer contributions are required and are to be focused to meet identified deficiencies and to deliver relevant infrastructure projects, as highlighted in the Council's PPS and IDP.
- 4.49 As illustrated below in Table 2, the Borough's formula for seeking open space contributions will be sought from all new major developments of 11 or more dwellings (net increase) and 1,000 sqm floor area and above (gross internal area) to address open space quantity and access requirements moving forward.

Table 2: Typologies of open spaces in the Borough

Typology of Open Space	Local Quantity Requirement	Provision per dwelling (sqm)
<p>Outdoor Sports Space These include seasonal and fixed sports spaces that are openly accessible to the public including sports pitches for cricket, football and rugby. They also include fixed sports spaces such as tennis courts and bowling greens. Very often these facilities are located within Parks or Recreation Grounds, and as such, many of the facilities, especially sports pitches are multi-functional. This means they can be used for sport one day, and for the rest of the week function as a space to walk and play.</p>	<p>1.0 ha / 1,000 ppl</p> <p>Projects in the Borough identified in the PPS and / or IDP</p>	23.86
<p>Children and Young People's Space Equipped children's space (for pre-teens); and, provision for teenagers. The latter comprises informal</p>	0.3 ha / 1,000 ppl	7.16

Typology of Open Space	Local Quantity Requirement	Provision per dwelling (sqm)
recreation opportunities for, broadly, the 13 to 16/17 age group, which might include facilities like skateboard parks, basketball courts and 'free access' Multi Use Games Areas (MUGAs). In practice, there will always be some blurring around the edges in terms of younger children using equipment aimed for older persons and vice-versa. Fields in Trust, formerly the National Playing Fields Association (NPFA), break down children and young person's playing space into three categories: Local Areas for Play (LAPs); Local Equipped Areas for Play (LEAPs); and Neighbourhood Equipped Areas for Play (NEAPs).		
<p>Parks and Recreation Grounds</p> <p>All sites including recreation grounds, parks and formal gardens have been placed under a single classification called Parks and Recreation Grounds. They take on many forms and may embrace a wide range of functions including: informal recreation and outdoor space; play space of many kinds (including for sport and children's play); providing attractive walks to work; offering landscape and amenity features; areas of formal planting; providing areas for 'events'; and, providing habitats for wildlife.</p>	0.5 ha / 1,000 ppl	11.93

Delivering well designed open spaces

- 4.50 In accordance with the Open Space, Sport and Recreation Facilities Policy in the New Local Plan, good landscaping and design as part of an area of open space, sport and recreation can significantly enhance the experience of those using the facility. Appropriate landscaping can also contribute to the nature and biodiversity value of the Borough if new facilities are designed sensitively. It should be noted that for developments situated within the town centre boundary of Wigston and district centre boundaries of Oadby and / or South Wigston, contributions sought for Open Space, Sport and Recreation Facilities (incorporating Green Infrastructure) will be directed towards relevant, CIL compliant Public Realm schemes that have been identified within the Council's Infrastructure Delivery Plan (IDP).
- 4.51 Landscaping schemes should be considered as part of the overall design of the area of play and open space to ensure planning becomes an integral part of the scheme. A range of species should be chosen to provide interest throughout the year. Consideration should be given to providing a mix of colour, texture and smell. Planting should be designed so as to provide adequate shelter, but also allow good surveillance of the facility from neighbouring pedestrian routes and buildings. For open space that will be delivered on-site, details of planting schemes should be submitted to the Borough Council for approval prior to development commencing.

Play and Sporting Equipment

- 4.52 The design of all signage, street furniture (and other associated public realm) and play equipment within open spaces should be approved by the Council in all

instances. Other hard landscaping features and materials should be sourced by the applicant or developer, but details should be submitted and approved to the Borough Council prior to development commencing. The Council's Public Realm Guidance provides a useful insight into the detail of the requirements, but in the first instance, developers are also encouraged to liaise directly with the Case Officer.

- 4.53 Any play equipment and associated landscaping must comply with the relevant regulations current at the time of installation e.g. BS EN 1176 and BS EN 1177 and to provide an exciting, challenging and safe environment for the appropriate age group it is intended for. The Borough Council must agree the design and equipment which should be robust and easy to maintain.
- 4.54 The area will then be put onto a 12 month period of maintenance during which time the developer will be responsible for all maintenance including inspection of play equipment, litter and graffiti removal etc to the Borough Council's standard. After 12 months and before handing over to the Council, an independent post installation inspection should be carried out by a registered play inspector at the expense of the applicant or developer. Any defects should be remedied at the expense of the developer. Risk assessment for the play equipment will be required.
- 4.55 The Borough Council will be guided by the Fields in Trust, formerly National Playing Fields Association (NPFA), requirements for equipped play provision, as included in Table 3 below.

Table 3: LAP's, LEAP's and NEAP's

Equipped provision type	Age-group	Minimum size of activity area	Buffer Zones
Local Area for Play (LAP) (fencing, furniture, path surfacing and signage)	Children	Minimum activity zone = 100 m ² (0.01 ha)	5 metres minimum separation between activity zone and the boundary of dwellings.
Local Equipped Area for Play (LEAP) (play equipment, fencing, furniture, path surfacing and signage)	Pre-teens	Minimum activity zone = 400 m ² (0.04 ha)	20 metres minimum separation between activity zone and the habitable room façade of dwellings.
Neighbourhood Equipped Area for Play (NEAP) (play equipment, MUGA, fencing, furniture, path surfacing and signage)	Older pre-teens and teens	Minimum activity zone = 1,000 m ² (0.1 ha) comprising of an area for play equipment and structures and a hard surfaced area of at least 465 sqm	30 metres minimum separation between activity zone and the boundary of dwellings.

Level of contributions

- 4.56 All schemes that necessitate open space provision will require the developer to maintain the area or pay for the maintenance costs incurred by the scheme for the first 20 years. Any contributions will be in the form of a commuted sum payment,

which relates to the size and context of the site. In line with the Community Infrastructure Levy Regulations (2010), the open space provision must fairly relate to the scale of development and specifically relate to the growth that each new development creates.

- 4.57 The Council's method for calculating contributions takes into account the existing provision and future need for open space and a detailed breakdown of this calculation is included below.

Unit costs for off-site financial contributions

- 4.58 The costs of provision have been established by and are based upon the Borough Council's own information relating to providing and maintaining relevant typologies of open spaces.
- 4.59 The costs included in the Council's previously published Developer Contributions Supplementary Planning Document (2011) have not been reviewed since Quarter 4 in 2011. Since that time, the BCIS All-In Tender Price Index has risen by approximately 40.80 per cent from 223 (Q4, 2011) to 314 (Q2, 2018). Therefore, the increase in contributions to be sought from new development in this Borough will now be based upon up to date costs, in accordance with the Council's Grounds Maintenance Supervisor's records of capital and maintenance costs, together with the Building Cost Information Service (BCIS) All-In Tender Price Index Rate, to ensure the costs included fairly reflect the local and national picture.
- 4.60 Table 4 details capital and maintenance costs for the three typologies illustrated in Table 2. These have been identified to ensure that a comprehensive approach to identifying necessary costs is taken to deliver quality open spaces in the Borough of Oadby and Wigston in circumstances where off-site developer contributions are being sought from qualifying developments. (All figures are in £'s unless otherwise stated):

A – Outdoor Sports Space

B – Children and Young People's Space

C – Parks and Recreation Grounds Space

D – Maintenance of Outdoor Sports Space

E – Maintenance of Children and Young People's Space

F – Maintenance of Parks and Recreation Grounds Space

Table 4: Off-Site Financial Contribution Unit Costs

	2018
A – Outdoor Sports Space Requirement – Cost per hectare for establishment	
<i>Please note that should land drainage measures be deemed appropriate then the cost for doing this would need to be calculated on a site by site basis.</i>	
1 Football pitch including cultivation (7200m ²)	11,264
1 Multi Use Games Area (MUGA) (800m ²)	84,480
1 Supply and install youth shelter Inc. hard standing	12,249.60
Grass surround (2,000m ²)	3,872
Supply and install Litter Bin x 3	1,406.59
Total per hectare	113,272.19
Cost per m²	11.32
B – Children and Young People’s Space Requirement – establishment of 400m² play area (LEAP standard)	
LEAP Standard 400m ² Play Space (including minimum of 5 items of play equipment, safety surfacing, grassed area and safety surfacing)	84,480
Dog proof fencing and gates 100lm	11,968
Supply and install Litter Bin x 1	468.86
Supply and install Dog Bin x 1	268.93
Supply and install (OWBC) Bench x1	915.20
Total for 400m²	98,100.99
Cost per m²	245.25
C – Parks and Recreation Grounds Space Requirement – establishment of 1 hectare	
Hard surface/pathways 800, x 1.2m = 960 linear m	68,710.40
Establishment of grass 9,000m ²	9,504
Plant trees - 10 heavy standards	1,689.60
Plant trees - 50 whips	119.68
Shrub planting 100m ²	2,189.44
Supply and install OWBC Benches x 3	2,745.60
Supply and install Litter Bin x 3	1,406.59
Supply and install Dog Bin x 1	1,075.71
Total per hectare	87,441.02
Cost per m²	8.74
D – Maintenance of Outdoor Sports Space Requirement – cost per hectare	
Cutting of pitch	422.40
Additional maintenance (e.g. Fertilizer, harrow etc)	844.80
Multi Use Games Area (MUGA)	704
Teenage shelter	70.80
Grass surround – cutting	281.60
Litter collection and emptying (3 bins)	506.88

	2018
Weekly litter picking	563.20
Sweeping of hard surfaces	352
Total per annum	3,745.68
Total over 20 years	74,913.60
Total over 20 years per m ²	7.49
E – Maintenance of Children and Young People’s Space Requirement – cost per 400m²	
Grass cutting	704
Risk Assessment Annual	211.20
Quarterly Check	211.20
Weekly inspection of LEAP	844.80
Maintenance of equipment – 5 pieces at £250 each	1,760
Fence / bench / bin maintenance	211.20
Litter / Dog bin collection and emptying (2 bins)	337.92
Weekly litter picking	281.60
Total per annum (400m ²)	4,561.92
Total over 20 years (400m ²)	91,238.40
Total over 20 years per m ²	228.09
F – Maintenance of Parks and Recreation Grounds Space Requirement – cost per hectare	
Hard surface cleaning	140.80
Grass cutting - 7,000 gang	394.24
Grass cutting - 2,000 pedestrian	2,252.80
Litter / Dog bin collection and emptying (4 bins)	675.84
Weekly litter picking	563.30
Sweeping of hard surfaces	352
Shrub bed maintenance	528
Bench / bin maintenance	168.96
Total per annum	5,075.94
Total over 20 years	101,518.80
Total over 20 years per m ²	10.15

Calculation of financial contribution in lieu of on-site provision

- 4.61 The following formula indicates how financial contributions in lieu of on-site open space are calculated. If an element of open space is provided on site, this is discounted from the overall sum.
- 4.62 For qualifying new major developments of 11 or more dwellings (net increase) and 1,000 sqm floor area and above (gross internal area), developers will be required to meet the following:

- Each dwelling requires the equivalent provision of 23.86m² of Outdoor Sports Space.
- Each dwelling requires the equivalent provision of 7.16m² of Children and Young People's Space.
- Each dwelling requires the equivalent provision of 11.93m² of Park and Recreation Ground Space.

4.63 Refer to paragraph 4.73 under Open Space Quantity per Dwelling for an explanation of the above square metre provisions.

4.64 The categories of financial contributions listed below (A-F) correspond with those indicated in the costs shown in Table 4 above:

A Number of proposed dwellings x 23.86 (total square metre area of Outdoor Sports Space required per dwelling) x 11.32 (area cost per square metre) = total Outdoor Sports Space contributions

B Number of proposed dwellings x 7.16 (area of Children and Young People's Space per dwelling) x 245.25 (area cost per square metre) = total contribution towards Children and Young People's Space

C Number of proposed dwellings x 11.93 (area of Parks and Recreation Grounds Space per dwelling) x 8.74 (area cost per square metre) = total contribution towards Parks and Recreation Grounds Space

D Number of proposed dwellings x 23.86 (total square metre area of Outdoor Sports Space required per dwelling) x 7.49 (20 year maintenance cost per square metre) = total maintenance contribution for Outdoor Sports Space

E Number of proposed dwellings x 7.16 (area of Children and Young People's Space per dwelling) x 228.09 (20 year maintenance cost per square metre) = total maintenance contribution for Children and Young People's Space

F Number of proposed dwellings x 11.93 (area of Parks and Recreation Grounds Space per dwelling) x 10.15 (20 year maintenance cost per square metre) = total maintenance contributions for Parks and Recreation Grounds Space

4.65 Total financial contributions required per dwelling where no on site provision is proposed = **A+B+C+D+E+F**. The maximum sum required is **£4,063.28 per dwelling** in lieu of on-site open space provision.

Circumstances when contributions will be discounted or not sought

4.66 For category B (Children and Young People's Space) and category E (Maintenance of Children and Young Person's Space), there are circumstances where discounts are applied. Table 5 illustrates the discounts. Discounts are applied as the Council is aware that smaller dwellings are (in general) less likely to impact the Children and Young Peoples Space typology.

- 1 Bed / Studio – 100% discount
- 2 Bed – 50% discount
- 3+ Bed – 0% discount

Table 5: Category B and E contribution per new dwelling

	0% Discount (Full Contribution)	50% Contribution for B & E (50% Discount Incorporated)	0% Contribution for B & E (100% Discount Incorporated)
3+ Bed Dwelling	£3,389.11		
2 Bed Dwelling		£1,694.56*	
1 Bed Dwelling			£0.00

** This figure has been subject to rounding*

- 4.67 Contributions for category A and D (Outdoor Sport Space) will only be sought where there is a suitable CIL compliant infrastructure project identified within the Borough, as per the Council’s Playing Pitch Strategy (PPS) and / or Infrastructure Delivery Plan (IDP). In circumstances when there are no CIL compliant Outdoor Sports Space infrastructure projects identified within Borough, category A and D will be discounted from any calculations for off-site contributions.
- 4.68 Therefore, every new dwelling (on developments of 11 or more dwellings and above 1,000 sqm gross internal area) built in the Borough will be expected to contribute (unless discounts apply) the following:
- A – Outdoor Sports Space
 - B – Children and Young People’s Space
 - C – Parks and Recreation Grounds Space
 - D – Maintenance of Outdoor Sports Space
 - E – Maintenance of Children and Young People’s Space
 - F – Maintenance of Parks and Recreation Grounds Space

Table 6: Off-Site Contribution Values per Typology of Open Space, per Dwelling

Open Space Typology	Contribution (£)
	2018
A – 100% Contribution	270.10
A – 0% Contribution	0.00
B – 100% Contribution (3+ Bed Dwellings)	1,755.99
B – 50% Contribution (2 Bed Dwellings)	878.00*
B – 0% Contribution (1 Bed / Studio Dwellings)	0.00
C – 100% Contribution	104.27
C – 0% Contribution	0.00
D – 100% Contribution	178.71
D – 0% Contribution	0.00
E – 100% Contribution (3+ Bed Dwellings)	1,633.12
E – 50% Contribution (2 Bed Dwellings)	816.56
E – 0% Contribution (1 Bed / Studio Dwellings)	0.00
F – 100% Contribution	121.09
F – 0% Contribution	0.00
TOTAL (100% Contribution)	4,063.28
A + D – 100% Contribution	448.81
A + D – 0% Contribution	0.00
B + E – 100% Contribution (3+ Bed Dwellings)	3,389.11
B + E – 50% Contribution (2 Bed Dwellings)	1,694.56*
B + E – 0% Contribution (1 Bed / Studio Dwellings)	0.00
C + F – 100% Contribution	225.36
C + F – 0% Contribution	0.00

* This figure has been subject to rounding

- 4.69 For every new 3+ bedroom dwelling, where no discounts apply, there will be a maximum total contribution of **£4,063.28 per dwelling** sought to contribute towards Open Space, Sport and Recreation Facilities (Incorporating Green Infrastructure) in the Borough.
- 4.70 This contribution reflects the capital and revenue costs to deliver and maintain open space infrastructure, based upon the Borough's estimated population, total number of dwellings and the required open space per dwelling, per typology.

Summary of Provision of Open Space by Ward and Typology

- 4.71 Contributions for each typology of open space will only be sought when there is an identified under supply of that typology of open space in the ward where the new development is taking place. Should there be sufficient supply of a typology of open space, then that typology will be discounted from any calculations for an off-site contribution from a new development.
- 4.72 Table 7 Surplus / Deficient – Ward by Ward, Annual Open Space Audit (2018) reflects the most up to date situation in the Borough for each typology of open space sought.

Table 7: Surplus / Deficient – Ward by Ward, Annual Open Space Audit (2018)

Sufficient supply
Under supply

Ward	Outdoor Sports Space	Children & Young People's Space	Parks & Recreation Grounds
Oadby Grange	Identify project in PPS and / or IDP		
Oadby Uplands	Identify project in PPS and / or IDP		
Oadby St Peters	Identify project in PPS and / or IDP		
Oadby Woodlands	Identify project in PPS and / or IDP		
Oadby Brocks Hill	Identify project in PPS and / or IDP		
Wigston Meadows Court	Identify project in PPS and / or IDP		
Wigston Fields	Identify project in PPS and / or IDP		
Wigston St. Wolstans	Identify project in PPS and / or IDP		
South Wigston	Identify project in PPS and / or IDP		
Wigston All Saints	Identify project in PPS and / or IDP		

Annual Open Space Audit, 2018

Open Space Quantity Requirement per New Dwelling

- 4.73 The open space quantity per new dwelling is calculated using the following formulae and will be kept up to date each time this SPD is reviewed. Since 2011, the required space per dwelling has reduced in all three typologies as a result of National population projections re-basing the Borough's estimated population.

Open Space Quantity Requirement per New Dwelling

$$(A \times B) / C \times D$$

Where:

- A Total Borough population / 1,000
- B PPG17 / Open Space Review requirement (hectares)
- C Total number of dwellings in the Borough
- D 10,000

1,000 is the constant population used when calculating the PPG17 Requirement (hectare) per population (as prescribed within the Borough's PPG17 Play, Open Space, Sport and Recreation Facilities Study). 10,000 is the constant used to convert Hectares to Square Metres.

Outdoor Sports Space

Outdoor Sports Spaces require a provision of 1 hectare per 1,000 population. The Borough has a total population of 55,749⁵, with a total number of 23,368⁶ dwellings.

$$((55,749/1,000) \times 1) / 23,368 \times 10,000$$

$$55.749 / 23,368 \times 10,000 = 23.856$$

= 23.86 square metres of Outdoor Sports Space requirement per dwelling.

Children and Young People's Space

Children and Young People's Space require a provision of 0.3 hectares per 1,000 population. The Borough has a total population of 55,749, with a total number of 23,368 dwellings.

$$((55,749/1,000) \times 1) / 23,368 \times 3,000$$

$$55.749 / 23,368 \times 3,000 = 7.156$$

= 7.16 square metres of Children and Young People's Space requirement per dwelling.

Parks and Recreation Grounds

Parks and Recreation Grounds require a provision of 0.5 hectares per 1,000 population. The Borough has a total population of 55,749, with a total number of 23,368 dwellings.

$$((55,749/1,000) \times 1) / 23,368 \times 5,000$$

$$55.749 / 23,368 \times 5,000 = 11.928$$

= 11.93 square metres of Parks and Recreation Grounds requirement per dwelling.

⁵ ONS, Sub National Population Projections – Local Authorities: SNPP Z1 (released 24th May 2018)

⁶ DELTA, Housing Flows Reconciliation (HFR), 2018

PUBLIC REALM

- 4.74 Public realm relates to both the publicly and privately owned spaces between buildings and structures that are part of the built and/or natural environment that are open and freely accessed by the public. Public realm also provides the context and setting for existing and new development. It includes hard and soft surfacing materials, street furniture (including public art, lighting, benches, litter bins), traffic and pedestrian signage, way finding and control, trees, and landscaping. For a full definition of public realm see the Borough Council's Public Realm Guidance.
- 4.75 Public realm can play an important role in enhancing the quality and character of the built and natural environment, enriching the area and improving the spaces within which people live their lives.
- 4.76 Proposals for all new major developments of 11 or more dwellings (net increase) and 1,000 sqm floor area and above (gross internal area) will be expected to contribute towards public realm in accordance with the Public Realm Policy of the Local Plan. Other relevant policies in the Local Plan include Improving Health and Wellbeing; High Quality Design and Materials; Cultural and Historic Environment Assets; Development in Conservation Areas; Landscape and Character; and, Infrastructure and Developer Contributions.
- 4.75 One of the core principles of the National Planning Policy Framework (NPPF) is to provide healthy, inclusive and safe places which deliver high quality public spaces and encourage active and continual use for all. It also advocates planning policies, decisions and strategies aimed at improving health, social and cultural well-being for all sections of the community.
- 4.76 The Public Realm Policy in the Local Plan states that *'all proposals for large scale development and / or change must incorporate high quality public realm on-site and / or contribute towards public realm improvements off site. All proposals that propose new public realm or impact upon the existing public realm must ensure that the pedestrian is prioritised over other modes of transport and that materials and design are of the highest standards'*.

Level of contributions

- 4.77 Therefore, contributions will be sought towards the creation and / or enhancement of the public realm in the vicinity of all major new developments where the proposed scheme(s) will have a direct relationship with an identified public realm improvement project included within the Council's Infrastructure Delivery Plan, which is a 'live' document and therefore updated regularly.
- 4.78 The scale of the contributions sought will reflect the character and scope of the works required and will therefore be negotiated on a case-by-case basis. It should be noted that for developments situated within the town centre boundary of Wigston and district centre boundaries of Oadby and / or South Wigston, contributions sought for Open Space, Sport and Recreation Facilities (incorporating Green Infrastructure) will be directed towards relevant, CIL compliant Public Realm schemes that have been identified within the Council's Infrastructure Delivery Plan (IDP).

WASTE – HOUSEHOLD AND RECYCLING RECEPTACLES

- 4.79 The Climate Change, Flood Risk and Renewable Low Carbon Energy Policy in the Local Plan sets out the Council's commitment to making use of sustainable resources and seeking to reduce the impact that new development will have upon climate change. At its meeting on 31 July 2018, Councillors for the Borough unanimously approved proposals to keep weekly collections for both refuse and recycling. The Council is taking the initiative to minimise domestic household waste through maximising domestic household recycling and reuse of materials by rolling out a fresh approach to waste and recycling collection in the Borough.
- 4.80 To ensure waste is collected cleanly, safely and efficiently, the Council has specified that it will collect all household waste and recycling from wheeled bins by June 2019, unless properties are unsuitable or it is impractical to use wheeled bins. It can make this legal requirement under section 46 of the Environmental Protection Act 1990.
- 4.81 Where new or redeveloped homes resulting in a net increase in the number of dwellings are built and require new household waste and recycling wheeled bins, the Council will require the developer to purchase these wheeled bins and pay for their delivery. The Council requires a suitable notice period from the developer to ensure that the required bins are in stock and to arrange their delivery. Therefore, for all new developments, the Council requests 4 to 6 weeks' notice, prior to first occupation, to be given.
- 4.82 Applications for planning permission will always be encouraged to include appropriate provision for the storage and collection of household and waste recycling wheeled bin receptacles.
- 4.83 In addition to this, the Council's Garden Waste Service is optional for all households in the Borough and a range of payment options are available to the Borough's residents for a small fee per annum. Therefore, although the Council would not require developer contributions from developers to provide Garden Waste receptacles for new dwellings, it will continue to encourage all new developments to give due consideration to the design and layout of sites to allow for suitable access and storage arrangements for all household, recycling and garden waste wheeled bins.

Thresholds and level of contributions

- 4.84 For all new residential developments where there will be a net increase in the number of dwellings, the Council will secure the cost for the provision and delivery of 1 x household waste wheeled bin (£20.00) and 1 x recycling waste wheeled bin (£20.00) by way of a taking payment of £40.00 per net additional new dwelling. The bins must be provided before the first occupation and the Council would therefore expect a minimum of 4 to 6 weeks' notice from the developer.
- 4.85 Therefore, all applications seeking planning permission for a net increase in the number of dwellings on a site must complete and submit a Unilateral Undertaking Agreement (as per Appendix B) together with the appropriate payment within 14 days

of the occupation of the 1st dwelling, ensuring the planning permission reference number is quoted with the payment.

- 4.86 For very large housing developments, financial contributions may be required to increase the Council's waste collection vehicle fleet. The scale of the contributions sought will reflect the scale and scope of the new development and will therefore be negotiated on a case-by-case basis.

Consultation Document

APPENDIX 1:

COMMUNITY INFRASTRUCTURE LEVY (CIL) COMPLIANCE CHECKLIST FORM

This form is to be completed by any non-signatory Agency, external to Oadby and Wigston Borough Council, to provide an auditable confirmation that the three CIL Tests as detailed below have been met and that asking for each Planning Obligation is justified.

The three CIL Tests that must be satisfied are:

- 1) Is the obligation necessary to make the development acceptable in planning terms?
- 2) Is the obligation directly related to the development?
- 3) Is the obligation fairly and reasonably related in scale and kind to the development?

A separate form must be completed for each individual Planning Obligation sought.

This form should be completed and returned to Oadby and Wigston Borough Council when seeking a Planning Obligation from a qualifying development within the Borough.

Upon receipt of the form, Oadby and Wigston Borough Council's Section 106 Working Group and the Council's Senior Management Team (SMT) must be satisfied that the CIL Tests have been met and that adequate justification has been given.

For any Planning Obligation where Oadby and Wigston Borough Council is not satisfied that all three CIL Tests have been met or where the justification is insufficient, the Case Officer will work with the relevant service provider to see if the request can be made CIL compliant.

Any Planning Obligation sought for that is deemed to not comply with all three of the CIL Tests and evidence cannot be provided to make the obligation sought compliant, will not be included within the Section 106 Agreement.

COMMUNITY INFRASTRUCTURE LEVY (CIL) COMPLIANCE CHECKLIST FORM

Site Address		
Planning Application Number		
Organisation Name		
Obligation Title		
CIL Test	Yes / No	Justification for Meeting CIL Test
1) Is the obligation necessary to make the development acceptable in planning terms?		
2) Is the obligation directly related to the development?		
3) Is the obligation fairly and reasonably related in scale and kind to the development?		
ALL APPROVED OBLIGATIONS SOUGHT MUST BE AGREED AND SIGNED OFF BY OADBY AND WIGSTON BOROUGH COUNCIL'S SECTION 106 WORKING GROUP AND SENIOR MANAGEMENT TEAM		
OWBC S106 Working Group	OWBC Senior Management Team (SMT)	
(Yes / No):	(Yes / No):	
Name:	Name:	
Signature:	Signature	
Date:	Date:	

APPENDIX 2:

HOUSEHOLD AND RECYCLING RECEPTACLES UNILATERAL UNDERTAKING

Note to applicant: If applicable, please request an editable version of this document from the Case Officer processing your application.

Consultation Document

DATED(Insert Day, Month, Year).....

(INSERT DETAILS OF OWNER)

TO

OADBY AND WIGSTON BOROUGH COUNCIL

UNILATERAL UNDERTAKING

Pursuant to Section 106 of the Town and Country Planning Act 1990

Relating to a Household Waste and Recycling Receptacles contribution arising from
proposed residential development at

**(Insert Planning Application Reference Number, Property Site Address and
Description of the Proposed Development)**

THIS UNDERTAKING is made the **...(Insert Date)...** day of **.....(Insert Month).....**Two thousand and **.....(Insert Year).....**

By

1. **Parties**

1.1 **(Insert full name and address of “The Owner”)**

1.2 **(Insert full name and address of “The Mortgagee”)**⁷

And given to

1.3 The Council

2. **Definitions and Interpretation**

2.1 In this deed:

2.1.1 “the Council” means Oadby and Wigston Borough Council of Council Offices, Station Road, Wigston, Leicestershire, LE18 2DR.

2.1.2 “1990 Act” means the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004.

2.1.3 “Deed” means this Deed.

2.1.4 “Application” means the application dated **.....(Insert Day, Month, Year).....** for planning permission (reference number **.....(Insert Planning Application Reference Number).....** for the development of the Site.

2.1.5 “Permission” means planning permission granted pursuant to the Application.

2.1.6 “the Plan” means the plan annexed hereto (**Attach Plan**).

2.1.7 “Site” means the land situated at

.....(Insert Site Property Address).....

The aforesaid site is shown edged red on the attached Plan.

2.1.8 “Wheeled Bin Contribution” means the sum of £ **.....(Insert total contribution in Pounds).....** (or £40.00 per residential dwelling) towards the provision of Household and Recycling Wheeled Receptacle Bin facilities for the Development.

2.2 In this Deed where the context so requires reference:

2.2.1 To Clauses or references to Clauses in this Deed.

⁷ Delete if not applicable.

2.2.2 To any Act of Parliament refers to the Act as it applies at the date of this Deed and any later amendment or re-enactment of it.

3. Recitals

3.1 The Owner is the owner of the freehold of the Site (which is registered with title absolute at HM Land registry under Title number **.....(Insert Title Number).....⁸**) (subject to a legal charge in favour of the Mortgagee⁹).

3.2 The Council is the local planning authority within the meaning of the 1990 Act for the area within which the Site is situate and by whom the obligations on the part of the Owner herein contained will be enforceable.

4. Legal Effect

4.1 This Deed is made pursuant to Section 106 of the 1990 Act to the intent that it shall bind the Owner and its successors in title to each and every part of the Site as herein provided and the covenants contained in Clause 5 hereof are planning obligations for the purposes of Section 106 of the 1990 Act.

4.2 This Deed (except clause 6 which shall have immediate effect) shall come into effect upon the grant of the Planning Permission.

4.3 This Undertaking is a local land charge and will be registered as such.

5. The Owner's Covenants

5.1 The Owner covenants with the Council to make the Wheeled Bin Contribution to the Council within 14 days of the occupation of the 1st dwelling ensuring planning permission (reference number **.....(Insert Planning Application Reference Number).....**) is quoted with the payment.

6. Interest on Late Payments

6.1 In the event of any delay in making the Wheeled Bin Contribution interest shall be payable on the amount payable at the rate of four per cent above the standard base rate.

7. Rights of Third Parties

7.1 For the avoidance of doubt none of the provisions of the Contract (Rights of Third Parties) Act 1999 shall apply to this Deed.

⁸ Insert Title Number if Site registered at HM Land registry. Delete words in brackets if not applicable.

⁹ Delete words in brackets if not applicable.

8. Consent

8.1 The Owner hereby certifies that the Mortgagee has consented to the completion of this Undertaking and acknowledges that from the date hereof the Site shall be bound by the covenants restrictions and stipulations contained herein¹⁰.

(INSERT NAME OF INDIVIDUAL (IF APPLICABLE)¹¹)

SIGNED and delivered as a deed by

The said Owner

(Insert Signature)

In the presence of **(PRINT NAME)**

(Signature)

(Address of witness)

(Occupation of witness)

(INSERT NAME OF COMPANY (IF APPLICABLE)¹²)

Executed and delivered as a Deed

By the Owner Acting by two directors

Or by a Director and its Secretary

(Signature of first director)

(Print name)

(Signature of second director / secretary¹³)

(Print name)

¹⁰ Delete clause if not applicable.

¹¹ Delete as appropriate.

¹² Delete as appropriate.

¹³ Delete as appropriate.

Privacy Notice

Why are we asking for your personal information?

We require your personal data to assess and process your application.

This is in compliance with a legal obligation under section 106 of the Town & Country Planning Act.

You hold the following rights with regard to the personal data you provide us:

You have the right to receive a copy of your personal data. You have the right to have any inaccurate or incomplete personal data rectified, the right to request a restriction of the processing of your personal data in situations where it is inaccurate, unlawful, and no longer needed for the purposes for which it was originally collected.

Sharing your information

We share information within the Council to ensure services are provided appropriately. We may share your personal data within the Council and with other agencies such as the Environment Agency, regulatory authorities, Police, etc if there is a legal reason do so.

We may process the information you provide to prevent and detect fraud in any of our systems and may supply information to government agencies, credit reference agencies, audit or other external bodies for such purposes. We participate in the government's National Fraud Initiative.

If any of the information we have about you is incorrect, please tell us, we are reliant on you assisting us to keep your information accurate and up to date.

Retention of your personal information

We only keep your information as long as necessary, for some items this will be dictated by law. You can find out more by looking at the council's Retention Policy on the website.

We do not routinely process any information about you outside the UK. We will not transfer your personal data outside of the EU.

Oadby and Wigston Borough Council is a registered Data Controller with the Information Commissioner's Office.

For more information regarding how we process and protect your data, please visit our website at <https://www.oadby-wigston.gov.uk/pages/privacy>