

# **Publication Draft Planning Obligations Supplementary Planning Document**

**Consultation Statement 2021**

# **Publication Draft Planning Obligations SPD**

## **Consultation Statement**

In addition to a seven-week public consultation on the Revised Draft Planning Obligations Supplementary Planning Document (SPD) between 9 December and 27 January 2021, the council undertook a further 4-week public consultation on the Publication Draft Planning Obligations SPD between 25 June and 23 July 2021.

### **Consultation**

The council promoted consultation by:

- Sending an email/letter to the Planning Policy consultation database, this includes statutory bodies, ward councillors, key stakeholders and residents who have requested to be informed of policy documents. This email/letter provided a link to the document and details of how to make comments.
- Sending an email/letter to individuals and stakeholders who had commented on the Revised Draft Planning Obligations SPD.
- Publishing the Revised Draft Planning Obligations SPD on the council's planning policy website.

### **Summary of Consultation Responses**

Overall a total of 14 responses have been received on the Publication Draft Planning Obligations SPD this includes representations from individuals and the following stakeholders:

- Homes England
- Taylor Wimpey
- Highways England
- Bellway Homes
- Natural England
- The Coal Authority
- Sport England
- Persimmon Homes
- Historic England
- Nexus
- NHS Property Services

<b>Reference</b>	<b>Summary of Comments</b>	<b>Council Response</b>
Individual	Should there not be a reference to all housing and buildings to be accessible giving guideline references?	Policies CS1, CS14, DM6 and DM7 all cover the need for developments to be designed to be accessible. In particular DM7 require all new homes to be built to Nationally Described Space Standard and DM6 requires major housing developments to be built to Accessible and Adaptable Standards. For this reason it is not necessary to have a planning obligation to cover these matters, as they would be secured by means of a planning condition.
	Should there not be a reference to maximising sustainability of buildings with guideline references?	The Council is currently reviewing Sustainability Guidance which will address issues of building sustainability.
	Access to health care facilities guidelines?	The SPD sets out in section 16 that provision of additional healthcare capacity will be sought to mitigate the impact of new development
	Landscaping and planting to be in harmony with the location and seasons?	The Council are currently preparing a draft Landscape, Trees and Biodiversity SPD which will be subject to public consultation in the Autumn. This SPD will cover landscape, trees and biodiversity guidance in more detail.
	Provision for public and sustainable transport modes?	Securing provision of public transport and other sustainable modes are covered by existing policies in both the Core Strategy and Development Allocations Plan.
	On road parking to be avoided?	Parking is covered in specific detail in an existing developer guidance document. Parking is not a 'one size fits all' approach, and there may be situations where on street parking is appropriate and acceptable.
	Avoidance of all sterile dense building developments - housing and commercial.	The Council's Local Plan design polices CS15, DM20 require developments to deliver high quality and sustainable designs. In the case of Policy DM20 twelve criteria are identified in defining what is required to deliver a high quality design. It would not be necessary to secure this matter through a planning obligation.
	Link housing with employment and service availability.	Housing sites are assessed for accessibility to employment areas and facilities/services.
Stakeholder	Section 9.0 (Monitoring and Reporting of Obligations)	Our monitoring fee schedule will be published as a stand alone document and will be approved by way of a delegated decision on the Councils website as per previous iterations. It is considered that monitoring fees will not create any

	<p>We have considered your comments in that monitoring charges are to be included in a separate document, however our comments remain unchanged: Persimmon Homes consider that a monitoring fee on things such as SUDS pond drainage represents a lack of trust in the planning, consultee and development process. If the Council are concerned about the building of SUDS ponds or alike, then a condition should be placed on the scheme to provide “as-built” drawings of the ponds once they are completed. The drainage design is scrutinised through the determination process, and therefore there is sufficient technical information as to how they will work. Furthermore, there is generally already a request for information on the management of these structures during their lifetime. It is therefore not known why there is a need for this monitoring fee. If the Council are looking to introduce such monitoring charges then evidence will need to be provided as to what these costs will be and what service will be provided for each monitoring task. The costs need to be incorporated into this document so that they are visible from the start, introducing these costs at a</p>	<p>unnecessary burdens on either developers or the planning process. We as an authority can only seek a fee on an obligation which requires extensive officer time as per the High Court ruling.</p> <p>With regards to the SuDS monitoring fee this is a separate fee which has been costed by colleagues in the LFA and is publicly available on the Councils website – <a href="https://democracy.newcastle.gov.uk/documents/s145273/Report.pdf">https://democracy.newcastle.gov.uk/documents/s145273/Report.pdf</a></p>
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	<p>later stage in the planning process could have an impact on the viability of a development if they are unknown. There should be at the very least an option, such as an 'as built plan', to negate the need for this unnecessary fee.</p>	
	<p>Section 10.0 (Viability)  We have noted your comments in regards to overage clauses being considered necessary, however our comments still remain unchanged in that the introduction of an overage clause in Persimmon Homes' opinion adds a further element of unnecessary complication, uncertainty to developers, landowners and the Council and that a firm decision needs to be made at an early stage to avoid uncertainty. Comments have also been noted on different application types and the 3 year timescales, however it is still considered that if an overage clause is necessary then it should only be considered on Outline planning permissions – further details and comments on our position on this were submitted in our first consultation response and still stand.</p>	<p>Overage clauses are appropriate to secure the potential for financial contributions to infrastructure associated with a development where viability appraisals submitted at application stage identify that upfront payments would impact upon delivery of the development. Maintaining the potential for securing contributions when actual development costs and income arising from a development is fully understood and therefore allowing the development to contribute towards the delivery of necessary infrastructure works is an appropriate mechanism. Often full developments costs can change in the time period between the completion of the viability appraisal and completion of development. If profits from a development increase to an extent that would allow contributions to be made it is appropriate that this is secured through a planning obligation to comply with the relevant Local Plan Policies.</p> <p>The overage agreement will need to be undertaken when costs and income are available. This will often only be available at reserved matters stage for an outline application and is therefore appropriate for the above reasons.</p>

	<p>Section 12.0 (Highways and Transport Obligations)  Monitoring costs need to be incorporated into this document so that they are visible from the start, the whole point of the obligations SPD is to evidence what the payments from a development will be.  Persimmon Homes consider that the introduction of a monitoring fee payable to the Council for costs of approving and on-going monitoring of a travel plan is another unnecessary burden upon the developer. The developer is already required to provide an external travel co-ordinator who currently produce travel literature and travel monitoring for a development site for a set period of time. This is submitted to the Council for their information and comment, the Council do not monitor this. The Council have not provided evidence for the need for this fee and the service it will provide for it within this SPD.</p>	<p>The Council considers that the submission and monitoring of a travel plan can be an essential part of a development in terms of movement and accordingly a fee is required to monitor such an obligation.</p> <p>Newcastle City Council has declared a climate emergency, and as such, will proactively be pushing the sustainable travel agenda, including working more proactively with developers to ensure Travel Plans are more rigorously followed.</p>
	<p>Section 13.0 (Green Infrastructure, Open Space, Trees and Biodiversity)  This section is generally not in dispute, however the introduction of a contribution towards landscaping</p>	<p>The Council consider that the contribution to landscaping planting and off-site planting is an appropriate requirement in line with mitigation as part of the DAP Policy. The financial contributions have been based on average costs of schemes implemented.</p>

	<p>planting and off-site planting are not underpinned by an appropriate evidence base and evidence has not been provided as to how the financial sum has been derived.</p>	
	<p>Section 15.0 (Education Provision Obligations) The cost per pupil place is not in dispute and is based on the DFE guidance which is supported, however the additional figure for furniture/fittings contribution is not underpinned by an appropriate evidence base. Additionally, there is nothing within the document which states that these figures have been viability tested and will be deliverable by development in Newcastle.</p>	<p>The DFE guidance indicates that ICT, furniture and fittings should be included as part of the construction cost. The additional £940 cost has been amended to £914 to reflect the average cost the recent delivery of Brunton First School and the ongoing build of Broadway East First School at Great Park. This is considered a justified and robust basis for this element of the school construction cost. All contributions set out in the SPD have been viability tested and are considered deliverable in Newcastle.</p>
	<p>Section 16.0 (Other Site-Specific Measures Obligations) The costs of a unit for off-site contributions to comply with DAP Policy DM6 and Building Regulation M42 is not underpinned by an appropriate evidence base. It is still considered that there is a significant lack of evidence within the document which supports the figures and calculations.</p>	<p>The evidence justifying Policy DAP Policy DM6 and the Building Regulation M4 (2) accessibility requirements on a proportion of new homes was examined in public by the independent Local Plan Inspector and found 'sound'. The costs evidence set out in the local plan evidence base is derived from the Government's impact assessment on accessibility standards in new homes.</p>

<p>Stakeholder</p>	<p>We advised back in January that it would be beneficial if the SPD linked to Sport England’s Playing Pitch Calculator (PPC) and offered to provide guidance on the how the calculator worked. To date this offer has not been taken up, so the SPD is caught between two stools as to where its intentions lie in respect of playing pitches.</p> <p>At present the last sentence to para 13.16 simply says “Sport England’s Playing Pitch Calculator may also be used to estimate sport and recreation needs” but doesn’t elaborate on the pointers as to what determines whether the PPC would be used.</p> <p>Ideally Newcastle would have been registered now to use the PPC and would have been able to link the SPD document to a live calculator with Newcastle’s Team Generation Rates pre-loaded in order to allow a ready reckoner for developers as to how much they would be expected to contribute to off-site playing pitches if they elected not to make on-site provision.</p>	<p>Newcastle City Council will register to use Sport England’s PPC. The Council’s Lead Specialist for Community Sports and Parks liaises with Sport England on a regular basis, including on requirements for playing pitches.</p>
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	<p>The wording of para 13.12 where it states:</p> <p><i>“If a development would cause a detrimental impact on or loss of existing open space, sports and recreational buildings, a developer contribution may be sought to provide or improve one or more types of open space”</i> needs to be given further consideration.</p> <p>To us, this sentence seems to introduce a policy interpretation that is at odds with para 99 of the NPPF. If the proposal results in the loss of a sports facility (which is not surplus to requirements) then the policy should be to seek a like for like replacement. The loss of an artificial grass pitch or sports hall would not be compensated for by some investment in open space.</p>	<p>Comment noted. Paragraph 13.12 has been revised.</p>
Stakeholder	<p>Should the SPD make a clearer reference to funding of local transport measures according to the size or type of development?</p>	<p>Size or type of development is irrelevant, rather personal trip generations are the important factor. A development could be “large”, but generate few trips and therefore not justify additional PT measures; while something far smaller, could generate significant trips and therefore trigger a requirement for funding towards additional PT. This would be determined by the Transport Statement/Assessment submitted to accompany any planning application.</p>
	<p>Would different obligations be sought regarding transport according to</p>	<p>This would be determined on a site by site basis depending on forecast demand. Some uses may require additional services to be provide due to demand, others</p>

	whether the development was residential, commercial, or mixed use?	may not generate enough additional demand to justify this. Any development which generates significant new trips, whether that be vehicular or via more sustainable modes, would require both a Transport Statement/Assessment, and a Travel Plan.
	Obligation for transport may include funding or subsidising of new bus route where applicable.	Noted – both additional funding, and additional routes have previously successfully been secured on sites such as Callerton/Throckley/NGP Cell A
	Contributions should be sought for the upkeep or modernisation of bus stops and/or public transport infrastructure where appropriate.	Under a separate non-planning related agreement, the Council has a contract for bus shelter provision/maintenance, with a commuted sum being secured through planning as per the costs set out in the contract.
	Contributions should be sought where necessary for appropriate measures to generate an awareness of public transport where applicable – such as signage etc.	Noted
Stakeholder	The topic of the SPD does not appear to relate to our remit. We therefore do not wish to comment.	Noted.
Stakeholder	No comments	Noted.
Stakeholder	No comments	Noted.
Stakeholder	Section 5.0 (City Council Approach to Location of Provision Through Obligations). In our previous consultation response, we highlighted that the SPD as drafted did not explicitly recognise the potential for amended planning permissions to either increase, decrease or completely remove	The Council recognised in response to the previous consultation that planning obligations are negotiable and its noted that monetary contributions may be either increased, decreased or removed following discussions between the Planning Authority and the applicant. Paragraph 5.2 recognises that there will be negotiation over the level of contributions sought, which will include consideration of viability. It is not considered that further clarification is required in the SPD.

	<p>obligations on the developer. We recognise in the Council's response that they accept obligation costs can go down as well as up (Consultation Statement, page 42). Whilst we appreciate the recognition of this point in the Council's response, this should be explicitly recognised in the SPD to provide developers with greater confidence and transparency on this matter.</p>	
	<p>Section 8.0 (Financial Contributions). Regarding the time period for obligations to be spent and / or returned, in our last representation we stated that, to streamline the negotiation process relating to timescales, upfront guidance from the Council should be set out in this SPD. The Council recognise that monetary obligations within S106 agreements always have clawbacks and reiterate that these are negotiated during discussions as part of the pre-application and determination stages of the planning process (Consultation Statement, page 42). Whilst Taylor Wimpey accept the need for these discussions during the planning process, it is still considered that the inclusion of indicative timescales</p>	<p>Given the potentially complex nature of planning obligations and timeframes/triggers of instalments it is considered that there shouldnt be set clawback provisions contained in the SPD. As previously stated these are negotiated as a part of the planning process and it is considered necessary for these to remain as negotiable positions. As a rule clawbacks tend be over 5, 7 or 10 year periods.</p>

	<p>within the SPD would provide some degree of confidence to developers at the earliest stage of pre-planning discussions. Therefore, we would still request that upfront guidance on timescales from the Council should be set out in this SPD.</p>	
	<p>Section 9.0 (Monitoring and Reporting of Obligations)  In our previous consultation response, Taylor Wimpey stated that the Council should set out the required monitoring fees within the SPD, as currently the requirement to cover any costs in the SPD has the potential to be open ended and therefore unreasonable. The Council set out in their response to this point that they are currently in the process of updating their monitoring charges and that this will be separate stand-alone document. The preparation of this schedule of fees needs to be quantified and published within, or alongside, the SPD with detail of how future changes will be adopted following the adoption of the SPD.</p>	<p>Our monitoring fee schedule will be published as a stand alone document and will be approved by way of a delegated decision on the Councils website as per previous iterations. It is considered that monitoring fees will not create any unnecessary burdens on either developers or the planning process. We as an authority can only seek a fee on an obligation which requires extensive officer time as per the High Court ruling.</p>
	<p>Section 10.0 (Viability)  In previous representations submitted, we queried the Council regarding their</p>	<p>The Council has met with the stakeholder to discuss the issues raised.</p>

	<p>“updated viability evidence” used as the latest available information we understood was from 2019. The Council’s response has not provided further clarity on what information has been used in this instance. Taylor Wimpey would like to take this opportunity to reiterate their willingness to share information on this matter with the Council, subject to protecting the commercial sensitivity of this data. We would expect this consultation process to go alongside the production of this document and welcome any further discussions with the Council to inform the SPD. A previous point made which does not appear to have been addressed is from Paragraph 10.3 which states that “it is recognised that in parts of the city, where demand viability is low, delivery can be challenging”. It must be recognised that not just ‘demand viability’ (i.e. low values) makes delivery challenging. Site specific issues such as ground conditions, infrastructure and site abnormalities can result in significant increases in costs which can undermine delivery of both greenfield and brownfield sites. Many of these issues, unlike demand viability, are only apparent once</p>	<p>The Council follows the national policy and guidance on viability and undertakes periodic consultation with developers. Stakeholder inputs are helpful in helping to test robustness of the assumptions.</p> <p>The Council’s approach to viability is intended to provide both guidance of approach and flexibility to facilitate acceptable development.</p> <p>The assumptions that fluctuate, such as costs and values, are indexed linked with other assumptions reviewed on a pragmatic basis. Updates to Guidance Note for Developers on Viability Appraisal in Newcastle upon Tyne and the AMR made available on the Council’s website. Emerging costs will be assessed</p> <p>It is recognised that low demand is not the only factor that impacts on viability of development and this is reflected in the recognition of site-specific circumstances and factors taken into consideration as set out in paragraph 10.7</p>
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	<p>detailed investigations have been undertaken (during and after the planning application process). Furthermore, increasing policy and wider planning requirements can similarly make delivery challenging. Examples of this are increasingly exacting highways standards, Local Lead Flood Authority design requirements (the need for permeable paving; filter drains etc...) and the emerging Environment Bill and its commitment to providing Biodiversity Net Gains. This emerging bill is expected to be granted royal assent and is already influencing emerging Local Plan Policies and live planning applications nationally. Some of these standards are brought in with no consultation and can have significant cost implications. They are not taken into account in the Council's viability work because build costs are calculated using BCIS which is a historic measure of build costs and doesn't take into account changes in standards and policies. This is why viability evidence needs to be kept up to date and why all costs must be taken into account. We would therefore reiterate our suggestion to undertake further consultation,</p>	
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	<p>specifically with developers and Registered Providers to understand current “on-the ground” viability constraints. In our previous representation, concerns were raised regarding the use of “average assumptions” within the SPD which did not duly consider the effect of abnormal costs. Whilst Taylor Wimpey welcome the recognition from the Council that benchmark land values need to reflect abnormal costs, the guidance set out within the PPG is clearly not sufficient for reflecting up-to-date benchmark land values, as land. However, the assumptions used when establishing the benchmark land values may not sufficiently reflect those which end up being emerging through the plan determination process. As such, whilst we welcome acknowledgement of abnormal as a factor in establishing benchmark land values, we consider that additional flexibility should be included within the SPD to account for factors which come out of the planning process.</p>	
	<p>Section 11.0 (Affordable Housing Obligations) Paragraph 11.2 still refers to the considerations that the Council will</p>	<p>Comments noted</p>

	<p>give when deciding on the appropriate mix of affordable housing sought on sites including national planning policy, guidance and the Council's Strategic Housing Market Assessment (2017). Taylor Wimpey's experience is that Registered Providers of affordable housing need to be part of the conversation, given they have direct and more up-to-date experience of dealing with the customers of affordable housing, local people, and understand the local demand and its fluctuations. Furthermore, they understand the logistical and practical implications of affordable housing delivery which can be important. We appreciate that the Council have acknowledged the need for exemptions to the tenure mix requirements subject to evidence of housing need, however, we consider that the base assumptions used to establish tenure mix should be based upon up-to-date evidence and understanding gained from RP's in addition to the Council's evolving evidence base.</p> <p>In our previous representation, we raised concerns with the paragraph 11.8 of the previous draft version which referred to an affordable</p>	
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	<p>housing payment / delivery profile with the following: <i>“the first phase to be delivered no later than completion of a third of the overall scheme and remainder to be delivered no later than completion of 90% of the open market units”</i>. We noted that this point as drafted lacked evidence or justification and did not allow for any flexibility. Taylor Wimpey welcomes the change included by the Council to this section, specifically supporting the requirement for flexibility the delivery programme on the basis of site-specific circumstances</p>	
	<p>Section 12.0 (Highways and Transport Obligations)  It was requested as part of our previous comments that evidence justifying cumulative infrastructure provision (transport) is kept up to date. In the Council’s response (Consultation Statement, page 43) they state that the review of strategic Viability and Delivery Reports published by the Council <i>“will take into account any changes in circumstances regarding the need for infrastructure and related funding.”</i> Whilst this clarification is welcomed, direct</p>	<p>There would be no overlap between CIL and collection of monies through other mechanisms for Transport. Contributions would not be sought through S106 for any Transport scheme already identified on the CIL123 list.</p>

	<p>reference to this evidence should be made within the SPD.</p> <p>Following our previous representation, there continues to be no reference in the transportation chapter to the community infrastructure levy (CIL) in Newcastle which does identify (in the Regulation 123 list) a number of items of transportation infrastructure which will be, or may be, wholly or partially funded by the CIL. Whilst we appreciate the clarification from the Council within their consultation statement that there will be no overlap between contributions sought and items identified on the CIL123 list, we consider that explicit recognition of this should be included within the SPD to ensure this is clear to developers.</p>	
	<p>Section 13.0 (Open Space, Outdoor Sports, Built Facilities, Play Spaces and Allotment Obligations)</p> <p>In our previous comments we stated that greater clarity was required in Table 4 regarding the phrase <i>“to be combined with Amenity Green Space”</i>. The Council have updated Table 4 within this representation to provide clarity regarding how “Natural Green Space” is considered. This amendment effectively ties Table 4’s</p>	<p>It is considered that there is enough detail on open space requirements in the Planning Obligations SPD to allow an applicant to work out maximum contributions based on their proposal i.e. by assuming all open space contributions are required. Open space contributions are negotiable depending on the residential scheme, existing provision and accessibility to the different typologies of open space in the area.</p>

	<p>figures in line with table 7.7 of the August 2018 Delivery and Viability Report. We therefore welcome this clarification.</p> <p>In our previous consultation response, we raised concerns regarding lack of clarity in the language used in then paragraph 13.13 regarding the expected levels of contributions towards open space facilities pre different house types. The Council have responded to this point with the following:</p> <p>Open space requirements will be assessed on a case by case basis depending on the nature and location of the application, this is set out in Policy DM30 of the DAP. The SPD identifies off-site sport and recreation contribution figures to give the industry certainty on likely costs to be required to meet open space and sports provision when not available on a development site. Whilst we accept that some degree of flexibility will be needed within this table to allow for sufficient flexibility, a greater degree of confidence needs to be given to the figures provided in this table, potentially by presenting maximum figures. This will allow developers to have a clear picture of the viability</p>	
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	<p>implications of these figures for potential development sites before entering the planning process.</p>	
	<p>Section 14.0 (Training and Employment Management Provision Obligations). As a large employer nationally and within the Tyne and Wear area, Taylor Wimpey has its own training and apprenticeship schemes which are run to full government and industry standards and contribute towards Taylor Wimpey's corporate and social responsibility objectives. As stated within our last representation, the Draft SPD should recognise the ability of high-quality schemes ran by applicants to serve as adequate replacement for Council ran or endorsed schemes.</p>	<p>Employment and training provision will be discussed at both pre-app and application stage. The council welcomes developer led schemes and notes the high quality of such schemes. Where applicable and in agreement such schemes can off set the requirement. However, this will still form part of the overall discussion on such provision.</p>
	<p>Section 15.0 (Education Provision Obligations) In our previous representations, we raised questions regarding the ambiguity around what would be collected by CIL and what will be collected by S106 contributions in terms of education provisions. We note that the Council have amended the text within paragraph 15.9 to</p>	<p>Comment noted</p>

	<p>clearly refer to the sites in which S106 contributions for primary education facilities would be expected. Taylor Wimpey welcome this change. Additionally we note in paragraph 15.10 that the Council have now provided further clarity regarding the timescales for the review of whether contributions will be required for secondary school provision, citing that this position will be kept under review “with any change reported through the Council’s annual Infrastructure Funding Statement.”. Taylor Wimpey welcome this clarification, on the basis that any change made following these reviews are clearly communicated to developers as part of preapplication discussions.</p>	
	<p>Section 16.0 (Other Site-specific Measures Obligations) The Draft SPD ends with a ‘non-exhaustive’ list of contributions which may be sought on the basis of policies in the CSUCP or DAP. Some of these contributions would be site specific on the basis of an evidenced impact such as air quality. Whilst the recognition of these items is appreciated as part of the SPD, there is a greater degree of clarity required on some of these</p>	<p>The CCG, and in due course the Integrated Care System (ICS), will be the key consultee to inform decision makers of required mitigation for any development’s impact on the local primary healthcare system. The form and amount of mitigation through additional practice floorspace will depend on a range of factors to be determined at the point of application such as the capacity in existing practices. Guidance will be sought from the CCG/ICS on the amount of additional practice capacity required as a result of the development’s expected population growth, the best option to provide this and where (e.g. extension, branch surgery, new practice etc), and the expected costs per square metre to deliver the necessary floorspace. It is considered that this information can be most up to date if provided to the applicant at the point of application. However, wording has been added to advise pre-application engagement.</p>

	<p>potential contributions as some of those listed have been of notable importance on historic developments in the authority. In our previous representation, we queried the Council regarding their expectations in terms of contributions towards facilities, and what capacity and infrastructure requirements are identified across the city. In response the Council have amended the wording in paragraph 16.1 now stating that “Contributions to provide additional capacity to mitigate for the additional patient demand for primary health care services will be based on consultation with the CCG at the time of application.”.</p> <p>Whilst we acknowledge that the final contribution is expected to be confirmed by the CCG during the application stage based on up-to-date evidence, initial guidance should still be contained within the SPD which sets out the methodology for calculating the contribution, ideally providing a maximum figure which can feed into viability considerations.</p> <p>As this is an open list it doesn't provide the development industry with certainty about what will be required and in what circumstances. In terms of public art, in what circumstances will</p>	<p>The requirement for public art as part of developments is set out in Policy UC17 of the Urban Core Plan where developments on Key Sites and Development Opportunity Sites are required to include public art. To ensure its delivery and long-term management and maintenance it is necessary for public art to be secured through a planning obligation. Likewise, on other major development sites where public art is required to be secured as part of a site wide masterplan or development framework the its long-term maintenance should be secured and this should be through a planning obligation on the developer.</p>
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	<p>the provision of public art be considered “necessary to make a planning application acceptable in planning terms” as is required by the National Planning Policy Framework and CIL Regulations.</p>	
	<p>The Deliverability and Viability Report (August 2018), which has informed the Council’s development plan and spatial strategy, makes a S106 assumption of £4,000 per unit for non-urban sites (£2,000 for urban sites). On the basis of the comprehensive list above, we consider this figure is likely to be significantly greater and therefore pose a genuine risk to the delivery of the Council’s ambitious housing targets.</p> <p>All this points to greater flexibility in terms of variable costs such as abnormals. Given the importance of these matters, Taylor Wimpey would like to reiterate its offer of continuing engagement with the Council on the matters raised in these representations before this SPD is adopted.</p>	<p>The Council has met to discuss this matter with the stakeholder and will continue to engage with the housebuilder as necessary to support the build out of residential development in the city.</p> <p>The Deliverability and Viability Report (August 2018) justifies the assumed average s106 costs for development in chapter 7 of the report post adoption of CIL charging schedule and the Council has responded to correspondence regarding the flexibility in viability appraisals.</p>
Stakeholder	<p>Education With regards to education provision, Homes England would like to</p>	<p>As stated in response to the previous draft of the SPD, if there are not opportunities to expand the capacity of existing schools</p>

	<p>comment on several changes which have been made to the document and would like to reaffirm some of their previous comments with regard to build cost.</p> <p>Gifting of Land and Overprovision - Homes England would like to repeat their previous comments requesting that provision be made in the wording of paragraph 5.16 to take into account the land value which is gifted to the local authority when considering their overall contributions towards the provision of education, for example at Newburn Riverside. Additionally, Homes England would request that provision is included which allows for a reduction in the size than is required by the development. For example, in instances where the development would generate a need for a 1.5 form entry primary school and a 2-form entry primary school is sought (to future proof the size of new school), the additional land value required to provide the larger school should be offset against the other education contributions.</p>	<p>to meet increased demand for school places then land needs to be provided by the developer, otherwise the impact of the development cannot be mitigated. The DfE's guidance 'Securing Developer Contributions for Education, stresses in paragraph 5 that "Given that basic need allocations do not explicitly factor in funding for land acquisition, it is particularly important that education land required within larger development sites is provided at no cost to the local authority wherever possible". The contribution sought is based on the cost per pupil from the projected pupil yield from a development so even if land is required for a school larger than this, the financial contribution would be unchanged. However, paragraph 15.16 has been amended to reflect the wording in the DfE guidance.</p> <p>The difference in cost is attributable to the application of regional weighting and inflation.</p> <p>The £21,685 contribution per pupil is based on the methodology detailed in the PPG and DfE guidance 'Securing Developer Contributions from Developers' (para 15) using national averages in the DfE school scorecards, adjusted for regional weighting and inflation (please see the technical notes section of the 2019 scorecards), with additional local based costs added for FFE.</p> <p>In relation to the most recent DfE scorecard the national average cost of delivering a new build primary school is £20,508, therefore the requested contribution is only marginally higher than the national average. The cost per pupil is also comparable to recent school delivery in the city.</p> <p>Therefore it is considered that the contribution being sought is reasonable in relation to benchmarking costings.</p>
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	<p>Increase in contribution per primary school pupil when comparing Table 8 'Pupil yield by dwelling size for primary age years' in the November 2020 version and the June 2021 version, there is a discrepancy of £237 between the cost per pupil of a New Build Primary School. Homes England would be obliged if the Council could clarify the difference.</p> <p>In terms of the build costs, Homes England wish to reiterate the comments provided in the representations dated 26th January 2021 regarding build costs. It is not clear why Newcastle's build costs for a new primary school are higher than the national average, given the location in the North East of England. We note that reference is made to a 'location factor' in the draft Planning Obligations SPD Consultation Statement 2021 and we would be obliged if this 'location factor' could be clarified. By contrast, the costs per primary school place within other North East authorities are substantially lower, being as follows:</p> <ul style="list-style-type: none"> <li>• Sunderland - £13,115 (SPD adopted June 2020)</li> </ul>	<p>This is not inferred by this paragraph. This relates to the Council agreeing that the land offered as part of a development is an acceptable condition. No abnormal costs have been factored into the cost per pupil, given that abnormal costs will be site specific.</p> <p>It is not considered that the construction cost is inflated which is broadly in line with national averages. The DfE guidance 'Securing Developer Contributions from Developers' makes clear that ICT and the costing of furniture and fittings should be part of the construction costs. These costs are not factored in DfE Scorecard construction costs and therefore an additional contribution is sought.</p> <p>The FFE contribution has been revised to £914 to reflect the average cost per pupil for two primary / first school builds in the city. This is considered a sound basis for a contribution.</p>
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	<ul style="list-style-type: none"><li>• Gateshead - £14,360 (SPD adopted September 2015)</li><li>• Durham - £14,703 (SPD adopted Sept 2015)</li><li>• Redcar and Cleveland - £13,212 (SPD adopted Dec 2014)</li><li>• Hartlepool - £9,165 (SDP adopted Nov 2015)</li><li>• Stockton - £8,000 (SPD adopted 2008)</li></ul> <p>It is recognised that these costs are subject to inflation.</p> <p>Within this context Homes England considers that the application of national average per pupil cost data will not accurately reflect localised factors in the North East. If set at too high a level it could threaten the viability of new residential schemes across Newcastle and Homes England recommends that further consideration is given to this.</p>	
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	<p>We recognise that paragraph 15.16 of the draft SPD advises that site investigations and site constraints would need to be considered, with any abnormal costs and actual costs being taken into account. This infers that the level of contribution could be higher. At the moment, it is not clear the level of abnormal costs that have already been factored into the cost per primary school place and we would be grateful if this could be clarified.</p> <p>In response to the Council's response to a comment regarding the £940 furniture and fittings cost per pupil figure, the Council references a recently delivered school at Newcastle Great Park and footnote 2 on p7 of the DfE guidance 'Securing developer contributions for education'. Footnote 2 states 'Construction costs include ICT and furniture and equipment required for the delivery of the school'. When using the DfE's School Places Scorecard, the cost of a single new mainstream school place is £20,508. The guidance document makes no cost of other education provision contributions where the land to be gifted to the local authority is greater in</p>	
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	<p>reference to additional costs relating to infrastructure such as furniture and fittings and it is assumed that this would be included within the overall construction costs. Homes England would therefore ask that further justification is provided for the inclusion of an additional cost on top of what we consider is an already inflated construction cost.</p> <p>In terms of the figure £940, the Council have based this on a recently delivered school at Newcastle Great Park. Homes England consider that the figure should be based on a sample size greater than 1 to instil greater confidence in the figure, as a cost based on a sample size/data set of 1 school is not considered to be necessarily representative of likely costs across the City area.</p>	
	<p>Health Provision has been included within paragraph 16.1 of the Publication Draft to require funding towards providing additional capacity at practices in the form of additional clinical floorspace by providing an</p>	<p>Advice will be sought at the point of application from the CCG and in due course the Integrated Care System as to what is the most appropriate form of investment to increase the capacity of primary care services to mitigate the impact of a development. It may be that additional floorspace could be required to provide a dedicated digital consultation facility, but this would not be in addition to providing additional floorspace for in person consultations and the space required for a digital consultation facility would be generally less.</p>

	<p>extension to an existing facility or the development of a new facility. This is consistent with the November 2020 version of the document.</p> <p>Provision has been included within paragraph 16.1 which states: “the digitisation of some patient consultation services means that contributions may also be used to provide for increased capacity and efficiency of this type of healthcare provision.”</p> <p>Homes England would ask that the wording of paragraph 16.1 be amended to clarify whether the digitisation of services would require additional contributions from developers or whether a proportion of the health infrastructure contribution would be re-directed towards digitisation rather than built development. Homes England trust’s that requiring a separate contribution towards both would not constitute doubling down on creating additional capacity at the developer’s expense. Whilst Homes England accepts that digital health services provide an important contribution to the healthcare service, no information of the likely cost has been provided. It is important to provide certainty for</p>	
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	<p>developers, particularly for large-scale schemes such as the Newburn Riverside development.</p>	
	<p><b>Highways</b>  Provision has been included within paragraph 12.3(6) for obligations towards managing the operation of new car parks within the Urban Core. Homes England query whether this measure would conflict with aspects of the CSUCP which support public transport improvements over private car use. Furthermore, Homes England would reiterate the requirement to comply with the tests set out within Regulation 122(2) of The Community Infrastructure Levy Regulations 2010 and paragraph 57 of the revised NPPF which both require planning obligations to be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. If there were a requirement for non-related schemes to provide for car parking in the urban core it is not clear how such an obligation would comply with these statutory tests. Homes England would</p>	<p>The provision to manage the operation of car parking relates to Policy UC10 and the need for the location and supply of car parking in the Urban Core to be managed by: 3. Managing the pricing of new car parks to promote short stay car parking over long stay car parking. This policy demonstrates that car parking in the urban Core will need to be minimised to reflect the areas highly accessible location and promote alternative sustainable means of transport. The management of pricing of car parking charges will require agreement with the car park owners on how parking tariff charges will promote shorter parking times over longer commuter parking. This would need to be secured over the life time of the development which would meet the tests set out in paragraph 57 of the Framework.</p>

	<p>be grateful if this matter could be clarified.</p>	
	<p><b>Other Matters</b>          Finally, Homes England would like to raise an additional two points unrelated to the infrastructure specific points raised above. These relate to monitoring fees and the risk of challenge and the provision of a transitional period.  <b>Monitoring Fees -</b> Homes England wishes to flag to the Council the potential for challenge on this matter. Paragraph 57 of the NPPF (July 2021) requires that planning obligations are necessary to make development acceptable in planning terms and hence it is not considered that a contribution towards monitoring fees can be justified. This matter has been considered in the high court and more recently at appeal (Crawhall Road, 2017) where it was concluded that the costs associated with the monitoring of planning obligations are part of the Council's statutory function. Unless justified these costs should not be sought from development.</p>	<p>Our monitoring fee schedule will be published as a stand alone document and will be approved by way of a delegated decision on the Councils website as per previous iterations. It is considered that monitoring fees will not create any unnecessary burdens on either developers or the planning process. We as an authority can only seek a fee on an obligation which requires extensive officer time as per the High Court ruling.</p>

	<p><b>Transitional Period</b>  The final point Homes England would like to seek clarity on, and this is of particular relevance to their ongoing involvement at Newburn Riverside, is the inclusion of a transitional period for developments which are currently under consideration. Where significant work has already been undertaken relating to site viability and housing mix, the introduction of a significantly increased range of s106 contributions could have a sizeable detrimental impact on site viability.  Homes England would ask that, in line with best practice, a transitional period is provided to allow schemes which are currently working their way through the planning system can be determined in line with previous guidance on s106 contributions to prevent significant delay.</p>	<p>The contributions set out in the SPD will be sought from the point of adoption. Advice on S106 contributions flagged the content of this SPD and the likely timescales for adoption.</p>
<p>Stakeholder</p>	<p><b>Section 4.0 – Thresholds</b>  Our previous representations in January 2021 queried the discrepancies between the requirements for when planning obligations would be required as set out in Section 4 and paragraph 16.2 of the SPD. We note that the Council’s</p>	<p>Noted – Para 16.1 (previously 16.2) has been amended to reiterate that this would be discussed at pre-application and application stage whereby these would be negotiated between all parties.</p>



	<p>response to our representations states that the 'Wording of paragraph 16.2 has been reviewed and edited to provide clarity on for [sic] obligations.' However, having reviewed the revised SPD there do not appear to have been any amendments to paragraph 16.2 and therefore there remains a lack of clarity as to when planning obligations will be likely to be required. As financial contributions could be liable in respect of some of the items listed in Section 16 the provisions of paragraph 16.2 located at the very end of the SPD appear contradictory to Section 4 which is the specific section in the SPD setting out the principle approach to thresholds. It is recommended that clarity on the circumstances where obligations and contributions will be sought are more clearly and unambiguously set out up front in the document in Section 4 and paragraph 16.2 amended accordingly. Notwithstanding the above, we also note the inclusion of the word 'normally' in paragraph 4.1. This does not give any indication of the circumstances where the Council might seek contributions through</p>	
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	<p>planning obligations below the threshold. Greater clarity is needed on these potential circumstances to provide clarity to applicants bringing forward development proposals.</p>	
	<p><b>Section 6.0 – Drafting of Agreements</b>  We note the Council’s response in respect of our representations regarding paragraph 6.1 of the draft SPD on the drafting of legal agreements. Whilst we appreciate that the paragraph states that obligations are ‘normally’ drafted by the Council it should be more explicit that applicants can take a lead on drafting legal agreements.  This is beneficial as it removes a burden of work from the Council’s Legal Services Team in drafting obligations spreading this wider within the legal sector and avoids potential bottle necks in the preparation of documentation. An applicant’s legal advisors will often also be more likely to be familiar with details relating to their clients and their sites such as land ownership and other site specific matters such as the requirements of a Registered Provider which could affect the progress of drafting of obligations. We would</p>	<p>Noted. It is considered that the wording is sufficient to allow for either the City Councils solicitors or a developers solicitor to undertake drafting of a s106 agreement.</p>

	<p>therefore reiterate our recommendation that the Council amends paragraph 6.1 of the SPD to explicitly recognise applicant led drafting of legal agreements as an acceptable approach as follows: ‘Planning obligations <del>will normally</del> can either be drafted by legal advisors appointed by applicants or <del>drafted</del> by the City Council’s Legal Services Team, or by solicitors acting on the City Council’s behalf. Applicants will be required to pay the Council’s reasonable costs incurred in <u>any</u> drafting and completing the agreement. An undertaking to cover costs associated with <u>any</u> drafting of an agreement will be required to be secured ahead of any drafting work being undertaken.’</p>	
	<p>Section 8.0 – Financial Contributions We note the Council’s response to our representations in respect of paragraph 8.2 regarding the return of financial contributions remaining unspent at the end of a time period specified in the obligation to the payee in accordance with the terms of the agreement. Whilst we</p>	<p>Noted and amended in para 8.2.</p>

	<p>recognise that this forms part of all the legal agreements and clawback is discussed and negotiated when agreements are drawn up there is still merit in adding clarity to the SPD. We would recommend that the wording of paragraph 8.2 is amended as follows: 'Following receipt by the City Council, financial contributions are held in interest bearing accounts and are individually identifiable due to each contribution being allocated a unique finance code. Contributions remaining unspent at the end of a <u>reasonable</u> time period specified in the obligation can be returned to the payee in accordance with the terms of the agreement, <u>normally with any interest accrued by the Council.</u>'</p> <p>The Council's response to our representations to paragraph 8.3 of the SPD states that the Council needs to ensure that correctly indexed contributions are available and that it can take many years from planning permission being issued to trigger points being met. We agree that this is correct. However, our representation was specifically related to whether there was a need for all contributions to be index linked.</p>	<p>RPI indices are updated every month and as such can fluctuate throughout the year. Therefore, the City Council considers that it is justified in seeking an index calculation in the first year as the rate at January, from when potentially an agreement is made, could be different from December when a development could potentially commence.</p>
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	<p>The specific example provided was where the triggers for the payment of contributions are required within the first year following the agreement of the obligation where it is debatable about whether there is need for payments to be index linked. Similarly, it will be important to be clear that any contribution amounts requested and set out in agreements do not already have allowances included for contingencies or inflation as this would result in double counting. We would therefore request that the Council takes a pragmatic approach to the application of index linking subject to the nature of the contributions and the timing of the triggers. We recommend that paragraph 8.3 is amended to provide appropriate clarity and flexibility in respect of indexation as follows:</p> <p>‘All financial contributions contained in this SPD are index linked from the date of the obligation to the date when the contribution is received. <u>The exceptions will be where inflation is already allowed for in contribution amounts, payments are due in the first year post the date of the agreement, and is where commuted maintenance payments are required and in these</u></p>	
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	<p>instances the payment is index linked from the point at which the maintenance costs are agreed. The indexation will be in accordance with the retail price index.'</p>	
	<p>Section 9.0 – Monitoring and Reporting of Obligations  We note that a number of parties along with ourselves made similar representations on the draft SPD requesting that the Council provides details about the potential scope of costs that might be involved in respect of monitoring legal agreements. Whilst we appreciate the Council's response that it is still updating monitoring costs associated with different types of obligations and that these will be published online it is disappointing that as a key component of the planning obligations approach for the City that these are not available for inclusion in the SPD itself. Comments were provided in representations in late January 2021 requesting that the details should be included in the SPD and yet the latest version of the document released almost five months later does not</p>	<p>Our monitoring fee schedule will be published as a stand alone document and will be approved by way of a delegated decision on the Councils website as per previous iterations. It is considered that monitoring fees will not create any unnecessary burdens on either developers or the planning process. We as an authority can only seek a fee on an obligation which requires extensive officer time as per the High Court ruling.</p> <p>With regards issuing of drawdown of funds for providing infrastructure, we must do this through a delegated decision which is published on the Councils website. We can issue a link to developers once this is published and it can be viewed online.</p>

	<p>contain any details of monitoring costs. It would have been hoped that given the various requests for information by several parties that this would have provided sufficient time for the review to be completed and details included in the revised SPD for formal comment or scrutiny. As this has not been possible we would be grateful if the Council would provide assurances that when the proposed monitoring costs are released online that they will be subject to appropriate consultation and scrutiny to ensure that they are fair and reasonable to the level of monitoring that will be required for different types of obligations. We would expect that the costs will be fully evidenced based on historic monitoring requirements in order to assess their proportionality and appropriateness. We note the Council's reiteration of its mechanisms for reporting on planning obligations through the bi-annual reports to Planning Committee and the annual Infrastructure Funding Statement as set out at paragraph 9.3 of the SPD. However, it would still be useful if once funding has been drawn down and spent by the Council in relation to planning obligations made by</p>	
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	<p>developers that confirmation is issued to them at that time. This will enable developers to monitor if the delivery of infrastructure in relation to their development is being delivered in a timely manner.</p>	
	<p><b>Section 10.0 – Viability</b>  Our representations to paragraph 10.4 of the draft SPD sought the addition of a reference to exemptions to uploading viability information to the Council’s website and including information in reports to the Planning Committee. We note that the Council’s consultation response advises that guidance on such matters is published on the Council’s website and aligns with national guidance. Whilst we appreciate that this is the case paragraph 10.4 would still benefit from amendment to be consistent with local and national guidance as follows:  ‘Where a site viability assessment is submitted by an applicant for an allocated site in the Local Plan for the use proposed, then indexed viability assumptions from the published assumptions in the Local Plan viability report or site-specific data should be used. Variation from those assumptions should be justified.</p>	<p>The Council’s approach to viability is intended to provide both guidance of approach and flexibility to facilitate acceptable development.</p> <p>Updates to Guidance Note for Developers on Viability Appraisal in Newcastle upon Tyne will be made available on the Council’s website including additional guidance on process and transparency of viability appraisals submitted to support planning applications.</p> <p>The need for developer engagement on relevant viability assumptions (other than standard indexation) is accepted and has been part of the processes to date. Stakeholder engagement is also a useful option to developers if changes to development viability become a matter of concern.</p> <p>The Deliverability and Viability Report (August 2018) justifies the assumed average s106 costs for development in chapter 7 of the report post adoption of CIL charging schedule and the Council has responded to correspondence regarding the potential for exemptions in viability appraisals..</p> <p>In relation to overage, it is accepted that such clauses are not always invoked. A minor change to the text can be made to ensure that is clear.</p>



	<p>Viability assessment documents will be made publicly available on the Council website as part of the supporting planning application documents and included in a report to the Planning Committee <u>unless any appropriate exemptions apply.</u>'</p> <p>With regards to our previous representations on paragraph 10.6 in relation to overage we note the Council's response. However, we would reiterate that it is not always the case of 'when' economic circumstances change but rather 'if and when' they change. There is no guarantee that circumstances will improve sufficiently to generate overage on certain sites. Indeed, it is arguable that such clauses should be two way in that should circumstances deteriorate, and that this can be clearly evidenced, that there is a mechanism for the further reduction in planning obligations to ensure schemes continue to remain viable, do not stall, and continue to deliver much needed development. Therefore, we recommend that paragraph 10.6 is amended as follows:</p> <p>'Where developer contributions are reduced on viability grounds, then overage clauses will be applied to</p>	
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	<p>ensure appropriate financial contributions to comply with development plan policies are secured if and when economic circumstances change in the future. Should economic conditions deteriorate and there is a risk of development on sites stalling then the Council will consider requests to reappraise schemes and the potential to make appropriate amendments to existing planning obligations to ensure continued delivery.'</p> <p>We note the Council's response to our representations with regards to the provisions of paragraph 10.8 of the draft SPD. Whilst we appreciate the Council's statement that viability assumptions are comprehensively updated periodically to support local and CIL rate setting and are indexed there is no indication of the frequency with which this is carried out. We note that the Council states in response to other representations made as part of the previous consultation that 'The assumptions that fluctuate, such as costs and values, are indexed linked with other assumptions reviewed on a pragmatic basis. Updates to Guidance Note for Developers on Viability Appraisal in Newcastle upon Tyne and</p>	
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	<p>the AMR made available on the Council's website.' However, the two updates referred to were last updated in January 2020 and for the period 2018/19 respectively and so assumptions are snapshots in time and not necessarily reflective of current market conditions. We therefore would maintain our comments from January 2021 and highlight that there is a risk that if viability assumptions are not regularly reviewed and updated they will not accurately reflect current circumstances. It is critical that a structured update and review process is put in place, ideally in regular consultation with the development industry, to ensure that all assumptions are accurate and appropriate to reflect prevailing market conditions. This is particularly important given that the Council states at paragraph 10.7 that it will not normally accept benchmarked land values at levels higher than the relevant average assumptions by the Council. Therefore, it is important that relevant assumptions are regularly reviewed and updated to ensure that benchmark land values and other</p>	
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	<p>assumptions are accurate to avoid disagreements during site specific viability assessment work. We would also note the query raised in another parties representations and the Council's response in respect of the benchmark estimate for s.106 requirements on a per plot basis set out in the Council's 'Deliverability and Viability Report' (2018). The assumption of allowances of £4,000 per plot on non-urban sites and £2,000 per plot was considered to still be robust. However, from our experience of delivering strategic non-urban sites in the City these assumed s.106 figures are conservative to say the least. We would request that the Council provides evidence of average s.106 contributions on a per plot basis for sites, particularly since the above report was published in 2018.</p>	
	<p>Section 11.0 – Affordable Housing Obligations We note the Council's response to our representations querying the appropriateness of requiring a 15% affordable requirement for 100% affordable housing schemes in Table 2. Whilst this could be considered to be an operational point for discussion</p>	<p>The Council's approach to delivery of affordable housing is intended to provide both guidance of approach and flexibility to facilitate acceptable development.</p> <p>Comments are noted on the alterations to the SPD. The principles of tenure blind design and pepper potting of affordable units within housing schemes is accepted good practice as part of planning for sustainable communities. Site circumstances and evidence of housing needs may lead to changes to the layout and/ or residential mix and these can be discussed during the consideration of schemes at planning application stage.</p>

	<p>at development management stage it is important that the policy context is clear on where flexibility lies in considering this matter. This will ensure that development management officers will have clear guidance on how the policy could be applied flexibly. With regards to our representations made in relation to the location and size of affordable housing in schemes in respect of paragraph 11.5 in the draft SPD we acknowledge the need for tenure blind delivery but would note that as affordable dwellings should be indistinguishable from market dwellings that there is less need to 'pepper pot' them in smaller clusters if this is not what Registered Providers would desire from management perspectives.</p> <p>In addition, we consider that the size and type of provision of affordable plots should also be reflective of what Registered Providers are seeking. It is critical for the delivery and retention of affordable dwellings that the product being provided will be attractive to Registered Providers who take on the dwellings. We therefore propose that the new paragraph 11.6 is amended to read as follows: 'As part of the</p>	
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	<p>planning application, the affordable units to be delivered must be identified on a site plan and should be designed to appear tenure blind and <u>appropriately</u> distributed within the layout and residential mix of a scheme. As such, affordable dwellings should be built to the same quality and design as equivalent open market dwellings. Dwellings should be provided in <del>small</del> <u>appropriately sized</u> clusters <del>pepper-potted</del> <u>wherever possible</u>. The size of affordable units should take into account the range of sizes across the scheme, <del>and</del> reflect housing needs, <u>and take into the requirements of Registered Providers</u>. The planning obligation will secure the retention of the identified units as affordable housing, the form of tenure, rental agreement and tenancy qualification criteria on rental accommodation'. The amendments to the new paragraph 11.8 in the SPD to reference how Open Market and Affordable Values will be expected to be derived are generally welcomed although they will need to be continually monitored and revised as necessary as part of the updates to viability assumptions</p>	
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	<p>carried out by the Council. We welcome the Council's response with regards to the timing of the phased delivery of onsite affordable homes or payments in lieu of on-site provision. The addition of new text at the end of paragraph 11.9 will provide greater flexibility for delivering affordable housing on sites.</p>	
	<p>Section 12.0 Highways and Transport Obligations  We would be grateful if the Council could confirm that shared private drives, which are not classed as public highway and only serve a number of private dwellings that there will not be a requirement for long-term management and maintenance details to be provided for such roads. With regard to paragraph 12.3, sub section 2, we would be grateful if the Council could explicitly reference s.38 and s.278 agreements as set out below:  'Commuted maintenance sums payable to the Council are necessary when transportation infrastructure associated with a development results in increased Council maintenance liability. <u>These will be more likely to be included for in s.38 and s.278</u></p>	<p>How private drives are maintained in perpetuity can differ from site to site. On some they are conveyed to the individual property owners, but on some they are put into a management company. Therefore we can not say that there will not be a requirement for the details to be provided as the Highway Authority have to ensure how these private drives will be maintained long term given they are not suitable for adoption.</p>

	<p><u>agreements in relation to adopting new highways and amending existing highways respectively. Typical circumstances where this may occur are:</u></p>	
	<p>We note that the Council’s response on our comments on paragraph 12.3 sub section 4 on ‘Travel Plans’ and the need for approving and monitoring of a Travel Plan. As with our comments on Section 9 of the SPD whilst we appreciate that Council is currently revising monitoring fees and that the cost is dependent on the scale of development it would be extremely beneficial if details of costs were included in the SPD for completeness, transparency and ease of reference.</p>	<p>Our monitoring fee schedule will be published as a stand alone document and will be approved by way of a delegated decision on the Councils website as per previous iterations. It is considered that monitoring fees will not create any unnecessary burdens on either developers or the planning process. We as an authority can only seek a fee on an obligation which requires extensive officer time as per the High Court ruling.</p>
	<p>Section 13.0 – Green Infrastructure, Trees and Biodiversity We previously did not comment on Section 13 of the draft SPD but note that the Publication Draft has been expanded to include specific reference to trees and biodiversity. We therefore have the following comments to make on the new additions to the latest version of</p>	<p>The first principle is for the developer to replace the trees on site within their red-line boundary. Where this is not possible a S106 agreement will be sought.</p> <p>The replacement planting table is an extract from the councils adopted Tree Strategy. All trees need to be replaced as per the table irrespective of quality. This aligns with canopy cover targets within the Tree Strategy.</p> <p>Landscape, Trees and Biodiversity SPD will be subject to public consultation in the Autumn.</p>



	<p>the document. With regards to the potential need for s.106 contributions towards replacing trees removed from Council owned land e.g. highways land we would be grateful if it could be clarified as to whether replacement planting could be provided on-site instead of making contributions to replace provision. This appears to be somewhat unclear at present. In addition, we would appreciate it if the Council could advise how it arrived at the guidance on the number of trees that would need to be re-provided to mitigate the loss of trees of differing sizes. Will there also be flexibility in applying the guidance including considering the relative health and quality of trees in calculating mitigation requirements? With regards to the references to biodiversity net gain we note the Council's responses to a number of representations from the previous consultation which refer to further detail on these matters being contained in the forthcoming 'Landscape, Trees and Biodiversity SPD' and also being driven by the requirements of the Environment Bill. Please could the Council advise what its anticipated</p>	
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	<p>timescales are for the preparation and release of the 'Landscape, Trees and Biodiversity SPD' and confirm whether it intends to issue a draft version for consultation initially in the same manner as the Planning Obligations SPD.</p>	
	<p>Section 14.0 – Training and Employment Management Provisions  We welcome the Council's response to our previous representations in respect of potential s.106 financial contributions in relation to Training and Employment Management provisions. However, we would recommend that if contributions in lieu of a Training and Employment Management Plan would be discussed at the preapplication and planning application stage that this should be referenced in paragraph 14.6 as below:  'It may also be the case that the Council would seek a contribution towards employment and skills training, as part of the S106 agreement, so that we can provide the right support for people to access jobs and further training, which is crucial to promote a growing and inclusive economy. <u>Any such contributions would be discussed at the pre-</u></p>	<p>Noted and amended.</p>

	<p><u>application or planning application stage.'</u></p>	
	<p>Section 15.0 – Education Provision Obligations  Further to our representations in January 2021 querying the provisions of paragraph 15.14 of the draft SPD which stated that there would be no minimum dwelling threshold for when a contribution would be required, contrary to paragraph 4.1, we welcome the deletion of the previous paragraph 15.14. This provides a more consistent position in respect of where planning obligations will be expected to be required.</p> <p>Our representations on the draft SPD cautioned against stating that land required for the construction of a new school or expansion and associated open spaces, should also be 'gifted' to the local authority (paragraph 5.16). We acknowledge the Council's response referring to the Department for Education (DfE) guidance 'Securing Developer Contributions for Education' that it is expected that land is transferred to the Council at no cost to the authority. We are aware of this</p>	<p>Comment noted</p> <p>Noted. Wording in 15.16 has been amended to reflect the DfE guidance.</p>

	<p>provision included at paragraph 5 of the guidance but would also note that it also states 'wherever possible'. We would therefore recommend that paragraph 5.16 is amended to accurately reflect the wording of the DfE guidance as follows:</p> <p>'Where a location for a new school provision is established arising from a development, site investigations and site constraints would need to be considered, with any site abnormal and actual costs being taken into account, as necessary, to ensure the ground is suitable for school use. Land required for the construction of a new school or expansion and associated open spaces, should also be <del>gifted</del> <u>provided at no cost to the local authority, wherever possible</u>, as part of a s106 agreement or other mechanism.'</p> <p>We note the Council's response to the query in our representations about the additional charge of £940 per pupil for furniture, fixtures, equipment and project management being above the Scorecard figures. We acknowledge that the Council's response that this is based on</p>	<p>The FFE contribution has been revised to reflect the average cost per pupil for two primary / first school builds in the city. This is considered a sound basis for a contribution. The wording of 15.18 has been amended to reflect the wording on p7 of the The DfE's guidance 'Securing Developer Contributions for Education'. Project management constitutes a small part the overall school delivery cost. Circa 0.83% based on the recent school delivery.</p> <p>Comment noted</p>
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	<p>evidence from the completion of the school at Great Park but would caution relying on just one example where it is shown to be above Scorecard figures. This lacks any sensitivity testing to show whether it is a robust benchmark to be using. We also note that the Council has also not provided any details of the proportion of 'project management' costs as a component of the £940 cost. We would note that there is still no reference to 'project management' costs in relation to the £940 sum in Table 7.</p> <p>The Council's amendment to paragraph 15.8 to clarify that a needs assessment would only be sought from a developer where there is disagreement with the Council's assessment of need, capacity, and required mitigation is welcomed. This adequately responds to our previous representations seeking further clarity on when an assessment of education need would be required.</p>	
	Section 16.0 – Other Site-Specific Measures Obligations	Section 16 lists examples of other occasions when it may be necessary to require a planning obligation as part of a planning permission. The examples

	<p>Our representations in January 2021 highlighted that the provisions in Section 16 were generic and lacked sufficient detail on expected requirements to provide sufficient certainty for developers in bringing sites forwards. The Council's response that the needs will be on a site by site basis as to what is needed and that the examples are not exhaustive unfortunately does not provide any greater certainty for applicants to assess what planning obligation burdens might be considered in relation to proposals. We consider that there is still a lack of detail about when and what contributions might be sought relying solely on the provisions of paragraph 16.2 which implies the key consideration will be if there is an impact that needs mitigating. The detail on the scope of what might be required, when and how is also vague and has implications for how the development industry plans for future delivery. For example, the potential requirements involved in respect of providing health care provision mitigation or contributing to district energy supply networks could be a significant obligation costs if the</p>	<p>provided a general and will only be relevant where the tests as set out in paragraph 57 of the Framework are met. This list is therefore not applicable in all cases ,but only where it is necessary, directly related to the development and fairly and reasonably related in scale and kind. In most cases the need for specific measures, such as public art, connection to district energy networks and air quality mitigation will have been identified in a site wide masterplan, SPD or local development framework. Alternatively it will have been required as mitigation to an impact identified as part of the application assessment and supporting documents,</p> <p>The suggested additional wording has been considered. It is recognised that it would assist in providing greater certainty and clarity in this section of the SPD and therefore has been added to Chapter 16.</p> <p>In terms of health care provision, as set out above, the CCG, and in due course the Integrated Care System (ICS), will be the key consultee to inform decision makers of required mitigation for any development's impact on the local primary healthcare system. The form and amount of mitigation through additional practice floorspace will depend on a range of factors to be determined at the point of application such as the capacity in existing practices. Guidance will be sought from the CCG/ICS on the amount of additional practice capacity required as a result of the development's expected population growth, the best option to provide this and where (e.g. extension, branch surgery, new practice etc), and the expected costs per square metres to deliver the necessary floorspace. It is considered that this information can be most up to date if provided to the applicant at the point of application. However, wording has been added to advise pre-application engagement.</p>
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	<p>Council considered there to be an impacts at the application stage. We note that the Council's response to our representations advises that individual cases where planning obligations will be required will be identified through pre-application discussions, masterplans and local development framework documents. We would be grateful if the Council could update Section 16 to explicitly confirm this approach will be adopted and that sufficient detail of the type and quantum of planning obligations will be available through it. This will also help to encourage pre-application discussions to identify all potential planning obligations more broadly as the SPD currently only encourages preapplication discussions in respect of education planning obligations (see paragraph 15.8).</p> <p>This will help ensure that potential planning obligations for development can be identified early in the process to provide greater certainty to applicants. We would therefore recommend that a new paragraph 16.3 is added to the SPD as follows: 'Individual cases where planning obligations will be required will be identified as part of pre-application</p>	
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	<p>discussions and/or during the determination of applications on a case by case basis, or through site masterplans and local development framework documents.'</p> <p>With regards to specific other measures that may be required through planning obligations which we commented on in our representations in January 2021:</p> <p>We welcome the Council's clarification on LLFA monitoring costs being separate to development management costs. We note the Council's response that further guidance on potential air quality improvement measures are provided in the Council's Air Quality Management Area Action Plans but would stress that measures will need to be deliverable by developers to meet planning obligations requirements.</p> <p>We acknowledge the Council's comments on public art and the aspirations in the Core Strategy; however, we would reiterate that care is needed in determining if it is fundamentally needed to make a development acceptable in planning terms.</p>	
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Stakeholder	<p>NHSPS looks to take a proactive roll and work with local planning authorities to ensure their planning policies support the delivery of NHS facilities and development projects. As such, NHSPS welcomes the Council's further guidance on the use of S106 planning obligations in Newcastle alongside CIL. NHSPS supports the inclusion of additional information regarding the approach to healthcare funding. However, we maintain that this guidance would better support the health care needs of Newcastle if health was included as a detailed section, rather than included within the 'Other Site-Specific Measures' section. Paragraph 34 of the National Planning Policy Framework (Feb 2019) sets out the types of infrastructure for which development contributions should be sought; "Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should</p>	<p>It is not considered that a standalone section is required. Additional wording has been added to advise of the benefit of pre-application engagement with the CCG / ICS -</p> <p><i>It is strongly advised that pre-application engagement is sought with the CCG/ ICS to establish the need for mitigation and how additional capacity will be provided.</i></p>
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	<p>not undermine the deliverability of the plan.” (emphasis added)  Therefore, a detailed section on health care requirements is justified, and would enable a greater level of certainty of the developer contributions that may be sought. The NHS would be happy to assist the council in producing this guidance.</p>	
Stakeholder	<p>In January 2021 Highways England responded to the Newcastle City Council’s consultation on the Draft Revised Planning Obligations SPD, November 2020. At that time we noted no concerns with any of the guidance outlined. Having considered the Publication draft we consider it to be consistent with National policy and the provisions within the adopted Plan, represented by the Core Strategy and Urban Core Plan (CS&amp;UCP) for Gateshead and Newcastle upon Tyne, 2015, and the Development and Allocations Plan (DAP), 2020. Similarly, we identify no consequence of the SPD that would adversely impact upon the capacity, operation or safety of the Strategic Road Network (SRN) and, accordingly, we similarly offer no further comment regarding the draft revised SPD.</p>	Noted.

Stakeholder	No comments	Noted.
Stakeholder	I would like to comment that planning policy should always consider & seek to protect the existing cultural assets of the city & region, including galleries, nightclubs, live music venues etc. New projects should integrate & sit alongside our existing cultural assets. The city's & region's existing cultural community should not be destroyed by new development.	The Council recognises the value of cultural assets in its planning policies and the need to protect their operation when new development takes place. Policy DM24 (2) requires development to assess the impact of existing noise generating uses on the proposed development and implement mitigation schemes where appropriate on the proposed use. This will ensure there is no unreasonable restrictions placed on an existing noise generating use arising from development. This will normally be secured by way of a planning condition rather than by means of a planning obligation.

## **Consultation Summary**

Overall a total of 14 responses have been received on the Publication Draft Planning Obligations SPD. Consultation was carried out between 25 June and 23 July 2021, responses were received from individuals, organisations, and statutory consultees.

A summary of the main comments raised include:

- Application of monitoring fees
- Viability implications
- Landscaping charges evidence
- Education costs
- Other site-specific costs
- Open space wording and costs
- Transport funding queries
- Affordable housing considerations
- Employment and skills training contributions

## **Conclusions following Consultation**

Taking all the comments received at both the revised draft and publication draft consultation stages into consideration, a final version of the Planning Obligations SPD has been prepared and will be reported to Cabinet for adoption.