



Wiltshire Community Infrastructure Levy

Revised Wiltshire Planning Obligations Supplementary Planning Document

October 2016

Wiltshire Council

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1. Introduction

- 1.1 The adopted Wiltshire Core Strategy (2015) provides for at least 42,000 homes and approximately 178 ha of employment land in Wiltshire from 2006 to 2026.
- 1.2 Ensuring that the necessary infrastructure is put in place to support this new development requires developer contributions, using the following mechanisms (as discussed in Section 2 below):
 - Planning conditions (*see paragraph 2.2*)
 - Section 278 agreements to deliver highways works (*see paragraph 2.5*)
 - Planning obligations (*see paragraph 2.7*)
 - Community Infrastructure Levy (CIL) (*see paragraph 2.13*)
- 1.3 Supplementary planning documents should be prepared only where necessary and in line with paragraph 153 of the National Planning Policy Framework (NPPF). They should build upon and provide more detailed advice or guidance on the policies in the Local Plan. They should not add unnecessarily to the financial burdens on development.
- 1.4 This Revised Planning Obligations Supplementary Planning Document (SPD) supports policies within the adopted Wiltshire Core Strategy (January 2015), particularly Core Policy 3 Infrastructure Requirements. It should be read in conjunction with the Wiltshire CIL Charging Schedule and the Wiltshire Regulation 123 List (*see paragraph 2.12*). The Council will periodically review and update the Regulation 123 List.
- 1.5 This SPD will identify the planning obligations that will be sought by the Council for development that generates a need for new infrastructure.
- 1.6 While it is not part of the statutory development plan, this SPD will be a material consideration in determining planning applications.
- 1.7 Chapter Two of this SPD sets out the legislative and policy framework that shapes the Council's approach to planning obligations and CIL. Chapters three through to 10 clarify which types of infrastructure will be funded by each mechanism. Chapters 11 and 12 describe the processes for negotiating, implementing and monitoring planning obligations.

2. Legislative and policy framework

2.1 The legislative and policy framework for planning obligations includes the following:

- Town and Country Planning Act 1990 (as amended)
- Planning Act 2008 (as amended)
- The Community Infrastructure Levy Regulations 2010 (as amended)
- The National Planning Policy Framework (NPPF) (2012)
- The Planning Practice Guidance (PPG) (2014)
- The Wiltshire Core Strategy (2015)

Planning conditions

2.2 Planning conditions (under the Town and Country Planning Act 1990) require actions needed in order to make a development acceptable in planning terms. They relate directly to the actual physical development and its construction on-site but cannot be used to request financial contributions.

2.3 Paragraph 206 of the NPPF requires conditions to be necessary, relevant to planning and the development, enforceable, precise, and reasonable in all other respects.

2.4 In Wiltshire, planning conditions are likely to cover, amongst other things, the requirement to:

- undertake archaeological investigations prior to commencement
- remediate contaminated land
- implement necessary local site-related transport improvements
- undertake appropriate flood risk solutions
- submit details of materials to be used in the development, and
- control opening hours of environmentally unfriendly but necessary uses.

Section 278 agreements

2.5 Section 278 agreements (under the Highways Act 1980) are made between a highway authority and a person who agrees to pay all or part of the cost of highways works.

2.6 Regulation 123 of the CIL Regulations 2010 (as amended) prevents section 278 agreements being used to fund items on the Regulation 123 List. The exception is where the section 278 agreement relates to roads that are the responsibility of Highways England. There are no pooling restrictions on section 278 agreements. Pooling is discussed in more detail in paragraph 2.12.

Planning obligations

2.7 A planning obligation may be required by the Council to:

- Control the impact of development, for example, a proportion of the housing must be affordable;
- Compensate for the loss or damage caused by the development, for example, loss of a footpath;
- Mitigate a development's impact, for example, increase public transport provision.

2.8 To mitigate the impacts of development, planning obligations can be:

- Financial obligations requiring monetary contributions to the local authority to fund works or services, and
- In-kind obligations requiring specific actions to be performed by specific parties

2.9 The Council can secure planning obligations through a legal agreement (under section 106 of the Town and Country Planning Act 1990) with an applicant. Or it will expect the applicant to enter into a unilateral undertaking, which is a type of planning obligation where only the applicant need be bound by the obligation. A planning obligation is attached to the land, which means that it will remain enforceable even when the land is sold.

2.10 Regulation 122 of the CIL Regulations 2010 (as amended) sets out three statutory tests for planning obligations, namely that:

“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.”

2.11 Planning obligations cannot be used to deliver projects which will be provided for by CIL. The Wiltshire Regulation 123 List sets out the infrastructure projects that the Council may fund, in whole or in part, through CIL and so cannot be the subject of an obligation.

2.12 Regulation 123 of the CIL Regulations 2010 (as amended) limits the pooling of planning obligations towards infrastructure not on the Regulation 123 List. The pooling limit includes all planning obligations entered into since 6 April 2010. No more than five separate planning obligations may be pooled towards an infrastructure type or project if it is capable of being funded by CIL. This includes planning

obligations attached to applications under section 73 of the Town and Country Planning Act 1990, which vary a planning condition. Phased payments as part of a planning obligation collectively count as a single obligation. There are no pooling limits in relation to affordable housing and for infrastructure that is not capable of being funded by CIL.

Community infrastructure levy

- 2.13 CIL is a fixed, non-negotiable charge on new development. The amount is based upon the size of a development and is charged in pounds per square metre. It varies according to the type of development (e.g. residential, retail or employment uses) and in which area of Wiltshire the development takes place. The Wiltshire CIL Charging Schedule sets out the CIL rates that apply to different types of development in different parts of the county.
- 2.14 CIL applies to development that creates net additional floorspace (measured as Gross Internal Area) of at least 100 square metres. Development of less than 100 square metres is also liable for CIL if it involves the creation of at least one new dwelling. CIL is calculated at the same time as an applicant seeks planning permission. It is payable upon commencement of development in line with the charging authority's proposed instalments policy. There are several types of development that do not pay CIL, by virtue of the rates being £0, and these are listed in the Wiltshire CIL Charging Schedule.
- 2.15 CIL will be used to help fund infrastructure projects on the Wiltshire Regulation 123 List. These projects are taken from the Wiltshire Infrastructure Delivery Plan, which identifies infrastructure necessary to deliver housing and employment development in the Wiltshire Core Strategy. The intention behind CIL is that it will contribute towards the funding of infrastructure to support the cumulative impact of development across the county. Planning obligations will be used to mitigate the site-specific impact of development and deliver affordable housing.
- 2.16 A broad definition of 'infrastructure' for the purposes of CIL funding is set out in section 216(2) of the Planning Act 2008 and includes:
- Roads and other transport facilities
 - Flood defences
 - Schools and other education facilities
 - Medical facilities
 - Sporting and recreational facilities
 - Open spaces

3. The Council's approach to developer contributions

- 3.1 Core Policy 3 Infrastructure Requirements of the Wiltshire Core Strategy outlines the Council's approach to planning obligations, which will be sought to:
- Mitigate the direct impact(s) of a development
 - Secure its implementation
 - Control phasing where necessary, and
 - Secure and contribute to the delivery of infrastructure made necessary by development.
- 3.2 Since the adoption of Wiltshire's CIL Charging Schedule, the scope of planning obligations is reduced. However, planning obligations will still be sought towards affordable housing. The Council may also seek planning obligations, where it is not appropriate to use planning conditions, towards site-specific infrastructure projects not on the Wiltshire Regulation 123 List.
- 3.3 Larger developments, especially residential, typically have greater impacts and may require site-specific infrastructure, such as schools, community facilities and transport/ highways improvements. These can still be secured through planning obligations, even under the tighter restrictions introduced by the CIL Regulations 2010 (as amended).
- 3.4 For large developments, master plans and other planning policy guidance may provide further details. In securing planning obligations on large developments, the Council will apply the statutory tests and avoid duplication with CIL. Where necessary, development viability will be taken into account on a site-by-site basis in assessing planning obligations, in accordance with paragraph 205 of the NPPF.
- 3.5 The following chapters address in more detail the various types of planning obligations that may be necessary for a development to mitigate against its impact on the local area.

4. Affordable housing

General approach

- 4.1 The Council will continue to secure affordable housing through planning obligations. Full details of thresholds, application and requirements will be contained within the forthcoming Affordable Housing SPD. This should be read in conjunction with this SPD.
- 4.2 One of the key issues facing Wiltshire is the provision of new housing to help meet the needs of its communities. Securing the provision of new affordable housing in all developments will be given a high priority in terms of planning obligations.
- 4.3 The NPPF (March 2012) definition for affordable housing includes social, affordable and intermediate housing for rent or sale. Affordable housing is provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. This SPD will apply to any definition of affordable housing in future versions of the NPPF.
- 4.4 Planning obligations used to secure affordable housing should include provisions for the housing to remain affordable for future eligible households.

Policy context and framework

- 4.5 Any requirements for affordable housing will be justified in accordance with the NPPF and the Wiltshire Core Strategy (Core Policies and the development templates), as amended by the provisions of the PPG at the time of writing (see *Table 4.1*).

Policy	Requirement
NPPF	
Paragraph 50	To deliver a wide choice of high quality homes and where local authorities have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified
Wiltshire Core Strategy	
Core Policy 3 <i>Infrastructure requirements</i>	Planning obligations sought to mitigate the direct impact of development, contribute towards delivery of infrastructure made necessary by the development, and provision of local facilities and services.

Policy	Requirement
Core Policy 43 <i>Providing affordable homes</i>	Sites of five or more dwellings: At least 30% (net) affordable housing within the '30% affordable housing zone' on Policies Map ¹ . At least 40% (net) affordable housing within the '40% affordable housing zone' on Policies Map. In exceptional circumstances, the Council will accept a commuted sum.
Core Policy 44 <i>Rural exceptions sites</i>	Only affordable houses for local need. Must follow criteria in CP44. Does not apply to principal settlements or market towns. Only local service centres, large and small villages and other settlements (CP1). The Council will work in a positive way with parish councils and others.
Core Policy 45 <i>Meeting Wiltshire's housing needs</i>	Affordable homes provided should meet identified local needs including the appropriate tenure, size and type of home.
Core Policy 46 <i>Meeting the needs of Wiltshire's vulnerable and older people</i>	New homes should take account of the needs of older and vulnerable people. Affordable housing policies in CP43 will apply to extra care housing/very sheltered housing and any other accommodation for vulnerable people.

Table 4.1 – Summary of affordable housing policies

Thresholds and application

4.6 Core Policy 43 seeks at least 30% or 40% (net) affordable housing provision on-site depending upon the location of development (*see Appendix 1* for a map of the affordable housing zones). In exceptional circumstances, the Council will accept a commuted sum. Provision may vary on a site by site basis, taking into account local need, mix and development viability. In applying the affordable housing policy for developments of 10 units or less, the Council will have regard to the Ministerial Statement of 28 November 2014² and the associated changes to the Planning Practice Guidance. On rural exception sites³, Core Policy 44 allows affordable houses for local need.

¹ See *Appendix 1*.

² Department for Communities and Local Government, the Minister of State for Housing and Planning (Brandon Lewis). (28 November 2014). House of Commons: Written Statement (HCWS50) *Support for small scale developers, custom and self-builders*. Available: <http://www.parliament.uk/documents/commons-vote-office/November%202014/28%20Nov%202014/2.%20DCLG-SupportForSmallScaleDevelopersCustomAndSelf-Builders.pdf>. Last accessed 24th August 2016.

³ The restrictions on seeking affordable housing and tariff style planning obligations introduced by the Ministerial Statement (28 November 2014) do not apply to development on Rural Exception Sites, although they should not be sought from residential annexes or extensions.

- 4.7 Affordable housing requirements apply to houses that fall under Use Class C3 of the Use Classes Order 1987 (as amended). It includes market housing, self-contained student housing, homes for the active elderly, sheltered housing and extra care or very sheltered housing. Affordable housing requirements do not apply to nursing homes, residential care homes, hotels and student accommodation (non self-contained).

5. Education

General approach

- 5.1 Education impacts of development will be addressed through the use of planning conditions, planning obligations and through the application of CIL receipts.
- 5.2 Wiltshire's school population is predicted to increase over the period to 2026 both in the primary and secondary sectors. This is as a result of population growth, economic factors and housing development. There will be a need for a significant increase in school places and in some areas new schools in both sectors. There may also be the need to increase the provision of special school places across the wider catchment area. New development in Wiltshire may also place demands on infrastructure in neighbouring authorities. For example, pupils in Mere and Tisbury attend secondary schools in Gillingham and Shaftesbury respectively. The Department of Education will provide only formula funding where there is a demographic increase in actual numbers. This will not cover the full cost of assembling land and building a school.
- 5.3 Some development schemes in isolation will result in a significant net increase in the number of residents and a cluster of neighbouring developments will often lead to a significant local increase in population. These factors can and will create the need for new schools on sites in the development locality or extensions to existing schools. This will be necessary unless there is local capacity available in schools or capacity is likely to become available at the right time.
- 5.4 A specific local education need may be identified that is linked to development. Therefore, this may be secured through planning obligations. The Council can pool up to five separate planning obligations towards a specific project not on the Regulation 123 List. In some cases, the scale of a development may be sufficient by itself to justify a new school. The developer will then be expected to provide the site free of charge and pay the full construction costs, including all design fees and charges.
- 5.5 Provision of education facilities either on-site or in the vicinity of significant development(s) may be required where justified. To justify any such requirement, the Council will demonstrate that sufficient school age children will be generated to necessitate a new school or an extension to an existing school. The Council will also demonstrate that the additional children could not be provided for within existing schools in the catchment area.
- 5.6 The Council will seek to open new (4-11) schools for primary phase pupils. For secondary phase pupils, the Council will seek to open new (11-16) or (11-18) schools, however all-through (4-16 or 4-18) schools will also be considered where appropriate for school organisation arrangements. For new primary schools the expectation is that a school will be between one (210 places) and three forms of

entry (630 places). Smaller new schools will only be considered if it is not possible to expand existing schools and the cumulative additional demand from development does not require seven classes.

- 5.7 Under the Childcare Act 2006, the Council must provide up to 15 hours free early years funding for all three and four year olds. Since September 2014, the Council must provide free early years funding for 40% of all two year olds. The Council may seek provision of early years facilities through development.

Policy context and framework

- 5.8 Any education requirements will be justified in accordance with the NPPF, the Wiltshire Core Strategy (Core Policies and the development templates) and saved policies (see *Table 5.1*).

Policy	Requirement
NPPF	
Paragraphs 38 and 72	Locate key facilities, such as primary schools, within walking distance of most properties, where practical, and provide a sufficient choice of school places
Wiltshire Core Strategy	
Core Policy 3 <i>Infrastructure requirements</i>	Planning obligations sought to mitigate the direct impact of development, contribute towards delivery of infrastructure made necessary by the development, and provision of local facilities and services.
Saved policies	
Kennet District Local Plan HC37 <i>Demand for Education</i>	Seeks contributions towards schools from new development
West Wiltshire District Plan S1 <i>Education</i>	Seeks contributions towards schools from new development
West Wiltshire District Plan S2 <i>Primary schools</i>	Allocates land for new or extensions to existing primary schools
Salisbury District Local Plan PS4 <i>New school sites at Landford and Shrewton</i>	Safeguards sites for new schools from other forms of development
Salisbury District Local Plan PS5 <i>New education facilities</i>	Seeks contributions from developers for new education facilities

Policy	Requirement
Salisbury District Local Plan PS6 <i>Playgroups, childminding facilities and day nurseries</i>	Supports provision of playgroups, childminding facilities and day nurseries

Table 5.1 – Summary of education policies

5.9 Known site-specific education requirements resulting from strategically important sites are set out in the development templates in Appendix A to the adopted Wiltshire Core Strategy and in subsequent development plan documents, such as the Chippenham Site Allocations Plan and the Wiltshire Housing Site Allocations Plan. They are informed by the Infrastructure Delivery Plan, which will be updated periodically over the plan period. Infrastructure requirements may therefore change. The Council will be flexible and responsive to any changes.

Thresholds and application

5.10 The Council will calculate the number of nursery, primary and secondary aged children likely to come from a new housing development. Several factors are taken into account, including the most current data available on pupil numbers and forecasts, schools' capacities and details of other know housing applied for/ approved within the relevant school catchment area(s).

5.11 The likely number of pupils arising from a development will be calculated using pupil product figures, which have been derived from the number of children arriving in early years settings and schools over a 10 year period. These figures are:

- 0.04 per dwelling for 0-2 year olds (4 per 100 dwellings)
- 0.09 per dwelling for 3-4 year olds (9 per 100 dwellings)
- 0.31 per dwelling for primary aged pupils (31 per 100 dwellings)
- 0.22 per dwelling for secondary aged pupils (22 per 100 dwellings).

5.12 All one bed properties are considered unlikely to generate school age children and so are discounted entirely. A 30% discount is given on the social housing element of applications. This reflects pupils moving within the relevant designated areas (most relevant at secondary level) and so not needing to change their school place.

5.13 It will then be assessed whether the likely number of pupils can be accommodated within the existing capacity of the relevant catchment area school, taking into account other known granted or planning applications in their catchment area. The estimated pupil product calculated for a new housing development, plus the forecast numbers on roll at the appropriate school(s) are compared with their permanent capacities to identify the extent of any deficit that will need to be addressed. The determination of whether or not there is sufficient Early Years provision in the area of the development

will be done via reference to the current [Wiltshire Childcare Sufficiency Report](#) and an assessment of the impact of the development on existing capacity.

- 5.14 Where the proposed housing development would lead to a forecast school and early years population in excess of the permanent capacity, the Council would seek either land and/ or provision of education facilities to meet the shortfall in places.
- 5.15 Development proposals for around 400 to 500 houses may require a significant expansion of existing primary and secondary schools (combined or individually). Proposals for more than around 700 houses may require new nursery and primary schools to serve children generated by the development. In both instances, this will depend upon the extent of any surplus capacity within reasonable (defined) walking distance of the development. Proposals of this size may also require significant expansion of existing secondary schools, taking into account any surplus capacity within the catchment area.
- 5.16 A new secondary school is only likely to be required to serve a major urban expansion scheme. The Council will consider the establishment of a new secondary school where long term demand is likely to lead to a school with 900 11-16 school places. Special schools have a relatively wide catchment area and large development proposals may require the expansion of special school provision serving a wider area.
- 5.17 The Council uses cost multiplier figures (updated annually) to determine the cost per place for nursery, primary and secondary places. These are applied to the pupil product figures when assessing the amount of financial contributions required from developers towards the provision of school places. Cost multiplier figures on which the final contribution will be calculated are those applicable on the date of signature of a legal agreement.

6. Open space/ green infrastructure

General approach

- 6.1 The Council will generally mitigate the site specific impact of development on Wiltshire's open space and green infrastructure through planning obligations. CIL may be used to fund open space and green infrastructure projects.
- 6.2 Population increase from new developments creates increased pressure on the use of open space and green infrastructure. Open space and green infrastructure can include allotments, cemeteries, parks, children's and youth play space, public rights of way, green areas, outdoor fitness and outdoor sports playing fields. It can also include areas of nature conservation, habitat creation and habitat protection, and ecological impacts.
- 6.3 Mitigation of ecological impacts will generally continue to be managed through planning conditions and obligations as these matters are typically site specific. However, in exceptional circumstances off-site compensation, such as habitat creation or enhancement, may be required to offset the effects of development where onsite mitigation is not possible. For example, a financial contribution may be required to fund capital works and ongoing management by the Council or relevant third parties. This would exclude funding of strategic Habitats Regulations Assessment (HRA) mitigation strategies, as identified in the Regulation 123 list, Infrastructure Delivery Plan and/ or paragraph 6.76 of the Wiltshire Core Strategy.
- 6.4 The HRA of the Wiltshire Core Strategy identified that the cumulative effects of planned development has the potential to effect a number of European designations including the Salisbury Plain and the New Forest Special Protection Areas and the River Avon Special Area of Conservation; strategic mitigation strategies for these areas will be funded through CIL receipts. To meet the strict requirements of the Habitat Directive to ensure that these strategies are delivered, funds will be ring-fenced annually from CIL receipts prior to spending on any other infrastructure item.

Policy context and framework

- 6.5 Any open space/ green infrastructure requirements will be justified in accordance with the NPPF, the Wiltshire Core Strategy (Core Policies and the development templates) and saved policies (see *Table 6.1*).

Policy	Requirement
NPPF	
Paragraphs 16, 17, 73, 74, 99 and 114	Supports positive planning; encourages access to high quality open spaces and opportunities for sport and recreation; protects existing open space, sports and recreational buildings and land; takes into account climate change, and plans for a strategic approach to biodiversity and green infrastructure.
Wiltshire Core Strategy	
Core Policy 50 <i>Biodiversity and geodiversity</i>	Requires development to mitigate its ecological impact, enhance biodiversity and, where appropriate, contribute towards management of local sites
Core Policy 51 <i>Landscape</i>	Requires development to mitigate any negative impacts upon landscape character through sensitive design and landscape measures, and to conserve and, where possible, enhance landscape character
Core Policy 52 <i>Green infrastructure</i>	Requires development to retain and enhance existing on-site green infrastructure, make provision for accessible open spaces according to the adopted Wiltshire Open Space Standards, ensure long-term management of directly related green infrastructure, contribute towards the Wiltshire Green Infrastructure Strategy and improve links between the natural and historic landscapes
Core Policy 53 <i>Wiltshire's Canals</i>	Supports in principle the restoration and reconstruction of the Wilts & Berks and Thames and Severn canals as navigable waterways. Safeguards their alignments from new development. Permits proposals that develop the recreational and nature conservation potential.
Core Policy 57 <i>Ensuring high quality design and place-shaping</i>	Requires development to adhere to a high standard of design relating to the natural environment, such as the retention and enhancement of landscaping and natural features, for example trees, hedges, banks and watercourses, in order to take opportunities to enhance biodiversity and create wildlife and recreational corridors.
Core Policies 60, 61 and 62	<i>See Chapter 7 Transport/ highways, Table 7.1</i> for policies applying to rights of way, which may also be classified as open space/ green infrastructure
Core Policy 67	<i>See Chapter 8 Flood risk alleviation and sustainable urban drainage systems, Table 8.1.</i> for policies applying to such schemes that may also be classified as open space/ green infrastructure
Core Policy 68 <i>Water resources</i>	Requires development to contribute towards the delivery of the relevant River Basin or catchment management plan and, for non-residential development, incorporate water efficiency measures
Core Policy 69 <i>Protection of the River Avon SAC</i>	Requires development to mitigate its impact on the River Avon Special Area of Conservation (SAC)

Saved policies	
Kennet District Local Plan HC34 <i>Recreation provision on large housing sites</i>	Contains the adopted open space standards for east Wiltshire
Kennet District Local Plan HC35 <i>Recreation provision on small housing sites</i>	Contains the adopted open space standards for east Wiltshire
North Wiltshire Local Plan CF3 <i>Provisions of open space</i>	Contains the adopted open space standards for north Wiltshire
West Wiltshire Leisure and Recreation Development Plan Document LP4 <i>Providing recreation facilities in new developments</i>	Contains the adopted open space standards for west Wiltshire
Salisbury District Local Plan R2 <i>Open space provision</i>	Contains the adopted open space standards for south Wiltshire
Salisbury District Local Plan R3 <i>Open space provision</i>	Contains the adopted open space standards for south Wiltshire

Table 6.1 - Summary of open space/ green infrastructure policies

- 6.6 The saved Local Plan policies contain the adopted Wiltshire open space standards. These will be replaced by Wiltshire-wide standards, within the Open Spaces Study (2015 – 2026) Part 1. The new standards will be formally adopted as part of the partial review of the Wiltshire Core Strategy programmed in the Council's Local Development Scheme.

Thresholds and application

- 6.7 Thresholds for planning obligations are set out in the adopted Wiltshire open space standards. Four sets of open space standards are currently in operation across Wiltshire, with different standards applying in each of the former district areas. Core Policy 52 requires development to make provision in line with the adopted Wiltshire Open Space standards.
- 6.8 Onsite provision of open space and landscaping schemes may be offered to the Council or its nominee (usually a town or parish council) by a developer for adoption to be managed in perpetuity by a management company on behalf of the Council or town/ parish council. Where new publically accessible open space is proposed as part of a development, the Council will require these facilities to be useable and of high quality. There are currently no specific standards against which the Council will undertake this assessment. It will be guided by the Open Spaces Study, dependent upon individual site characteristics and, as such, in the interim period decisions will be made on a case by case basis. Open space must initially be maintained by the developer to the satisfaction of the Council for at least 12 months after being provided on-site (this may be lengthened or shortened at the Council's discretion). All new public open space must be secured and maintained in perpetuity for the benefit of the public. A commuted maintenance payment to cover a period of 20 years will also be required. The payment will be calculated using either the annual maintenance unit rates in place at the time of completion of the section 106 agreement, index linked to take into account inflations that may occur prior to receipt of payment, or the annual maintenance unit rates in place at the time the open space site is transferred to the Council. These are calculated using rates from the current Spons external works and landscape price book.
- 6.9 Off-site provision of open space will be sought through planning obligations where it is not possible for the provision to be made on-site and the off-site open space is directly related to the proposed development. The off-site contribution will be calculated in line with the adopted Wiltshire Open Space standards and based on rates from the current Spons external works and landscape price book.

7. Transport/ highways

General approach

- 7.1 Transport impacts of development will be addressed through the use of planning conditions, planning obligations and through the application of CIL receipts. Generally and in accordance with national guidance, the Council will first try to address transport and highways issues through planning conditions. This might be for on-site highways infrastructure or off-street parking to ensure the efficacy of the proposed network.
- 7.2 Inevitably, developments generating or attracting significant trips will have an off-site impact. Appropriate mitigation will need to be identified in the supporting transport assessment. It might be possible to directly mitigate the off-site impact of development on the wider transport network. In these situations, mitigation will normally be secured through negatively framed planning conditions, with works carried out under a section 278 (highways) agreement. This agreement can be drafted alongside the section 106 agreement.
- 7.3 However, section 278 agreements cannot be used to mitigate the cumulative impact of developments. Instead, planning obligations (subject to pooling restrictions) would normally be sought towards, for example, highways infrastructure or revenue support for local bus services. Obligations will also be used for traffic regulation orders directly required by development, typically for controlling traffic parking by directional movement or by weight.
- 7.4 The principle settlements in Wiltshire (i.e. Chippenham, Salisbury and Trowbridge) are supported by transport strategies. These identify measures to mitigate the cumulative impacts of development. Consideration of these is a key determinant of the highways authority recommendation on a planning application. Specific proposals could be delivered by planning obligations (subject to pooling restrictions). Such measures include:
- Road improvement schemes
 - Junction capacity improvements
 - Measures to facilitate the shift from car use to more sustainable means of transport, primary bus, cycle or walking schemes but also improvements to rail infrastructure
- 7.5 The accessibility and connectivity of development will be taken into consideration, including local destinations reasonably required by future residents, or vice-versa in the case of non-residential development. For example, measures might include new or upgraded pedestrian and cycle facilities. These may be identified in transport assessments, cycle and footpath route audits and travel plans, or through the local knowledge of officers.

7.6 The provision of sustainable transport measures may be more challenging in rural areas but is likely to reflect those sought in more urban areas of the county.

Policy context and framework

7.7 Any transport/ highways requirements will be justified in accordance with the NPPF, the Wiltshire Core Strategy (Core Policies and the development templates) and saved policies (see *Table 7.1*).

Policy	Requirement
NPPF	
Paragraphs 29 to 41	Promote sustainable transport measures
Wiltshire Core Strategy	
Core Policy 3 <i>Infrastructure requirements</i>	Planning obligations sought to mitigate the direct impact of development, contribute towards delivery of infrastructure made necessary by the development, and provision of local facilities and services.
Core Policy 60 <i>Sustainable transport</i>	Reduce the need to travel and deliver sustainable transport. Planning obligations sought to mitigate the impact of development on transport users, local communities and the environment.
Core Policy 61 <i>Transport and development</i>	Planning obligations sought towards sustainable transport improvements identified in transport assessments.
Core Policy 62 <i>Development impacts on the transport network</i>	Appropriate mitigation measures from development sought to offset any adverse impacts on the transport network at both the construction and operational stages.
Core Policy 63 <i>Transport strategies</i>	Planning obligations sought towards implementing the transport strategies for the principal areas of development in Wiltshire (i.e. Chippenham, Salisbury and Trowbridge) to address the need for integrated transport solutions in these settlements.
Core Policy 64 <i>Demand management</i>	Demand management mitigation measures sought to reduce reliance on the car and encourage the use of sustainable transport alternatives.
Core Policy 66 <i>Strategic transport network</i>	Identifies improvements to the A350 national primary route at Yarnbrook/ West Ashton. Mitigation measures sought to ensure important commuting routes for Annex II species are protected.
Saved policies	
West Wiltshire Leisure and Recreation DPD CR1 <i>Footpaths and rights of way</i>	Protects public rights of way network from development and, where appropriate, seeks improvements as part of development proposals

Other	
Planning Practice Guidance	Provides further guidance, which will be referred to by the Council in seeking transport/ highways contributions, especially around the use of conditions, transport assessments and travel planning.
DfT publications	Further design-related national guidance, e.g. Design Manual for Roads and the Manual for Streets

Table 7.1 – Summary of transport/ highways policies

Thresholds and application

- 7.8 Planning obligations may be sought regardless of the size of the development proposed, depending upon the site related circumstances. However, developments not requiring a transport assessment⁴ are unlikely to need to provide for any off-site works. Those that do can be anticipated to be required to mitigate their impact. Smaller developments will help reduce their limited impacts through the use of CIL receipts.
- 7.9 Where significant infrastructure is included on-site, it will likely need to be of a size to accommodate internal and any external trips it might facilitate. On-site infrastructure may need to be appropriately upgraded to accommodate planned connecting infrastructure. This will be required as a pro bono contribution, as part of the abnormal development costs.
- 7.10 In the principal settlements, planning obligations will have regard to the relevant transport strategy. Off-site measures will primarily be restricted to residential development because they generate trips. Contributions (subject to pooling restrictions) are normally sought on a per dwelling basis but this approach is subject to review.
- 7.11 Employment development attracts trips and is to be encouraged to support the increase in forecast population. It will normally be required only to address immediate and local transport impacts, where they have a deleterious effect on the transport network. Major employment and retail developments may be required to mitigate their impacts away from the immediate area, e.g. congestive impacts at identified junctions.
- 7.12 There will be some transport schemes that cannot be funded through planning obligations and these will be delivered through CIL receipts.

⁴ Guidance on Transport Assessments, March 2007, GCLG/ DfT.

7.13 Any requirements for transport/ highways planning obligations will meet the three statutory tests in CIL Regulation 122 in the following way:

- **Necessary** – acceptability of the transport impacts of the development in the absence of mitigation, which is considered on a site-by-site or cumulative basis.
- **Directly related** – impact of the development on the local transport network resulting from the trips directly associated with the development
- **Scale** – measures that do not exceed only what is necessary to mitigate the development's own impact on the local network. However, negotiated mitigation measures might result in, for example, local improvements to capacity at one junction at the expense of another. At least a five year life would be expected from any works on the highway.

8. Flood alleviation and sustainable drainage systems

General approach

- 8.1 The Council will continue to secure site-specific flood alleviation and sustainable drainage systems (SuDS) mainly through planning conditions but, occasionally, through planning obligations.
- 8.2 The Council is committed to implementing sustainable approaches to surface water drainage, expecting developments to incorporate SuDS. Additionally, several areas in Wiltshire are within Flood Zones 2 and 3. Developments proposed that fall into those zones will require additional evidence that no lower risk alternative sites were available.
- 8.3 All new development will need to include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable drainage), unless site or environmental conditions make these measures unsuitable.
- 8.4 Development will be expected to incorporate SUDs, such as rainwater harvesting, green roofs, permeable paving, ponds, wetlands and swales, wherever possible.
- 8.5 The provision of green infrastructure, including woodland, should also be considered as a measure to reduce surface water run-off. Any opportunities to reinstate or create additional, natural functional floodplain through the development process will be encouraged.

Policy context and framework

- 8.6 Any requirements for flood alleviation and SuDS infrastructure will be justified in accordance with the NPPF, the Wiltshire Core Strategy (Core Policies and the development templates) and saved policies (see *Table 8.1*).

Policy	Requirement
NPPF	
Paragraphs 99 – 104	Meeting the challenge of climate, change, flooding and coastal change
Wiltshire Core Strategy	
Core Policy 3 <i>Infrastructure requirements</i>	Planning obligations sought to mitigate the direct impact of development, contribute towards delivery of infrastructure made necessary by the development, and provision of local facilities and services.
Core Policy 67 <i>Flood risk</i>	Requires all new development to include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable drainage) unless site or environmental conditions make these measures unsuitable

Saved policies	
West Wiltshire District Plan U1a <i>Foul water disposal</i>	Requires development to have adequate foul drainage and connect to mains drainage
Other	
Environment Agency	<i>Sustainable Drainage Systems: An Introduction</i> , which sets out the 'surface water management train' approach recommended by the Environment Agency that developers will be expected to follow
Wiltshire Council	<i>A Developer's Guide to SuDS in Wiltshire</i>

Table 8.1 – Summary of flood alleviation and sustainable drainage systems (SuDS) policies

Thresholds and application

- 8.7 Major flood alleviation and SuDS projects will be delivered by the water companies, or via CIL and other infrastructure funding. Section 106 agreements will not be used to seek funding for these projects.
- 8.8 However, developers may be expected to mitigate the direct impacts of their development on local drainage and flood risk management through planning obligations. Planning obligations may be sought where the development requires:
- Off site management of surface water to ameliorate the impact of the development on the capacity of Sewage Treatment Works
 - Off site management of surface water to ameliorate the impact of the development on the risk of flooding to properties nearby
 - Off site works to manage the impact of the development on the risk of flooding from fluvial sources to properties nearby
- 8.9 The section 106 agreement will require the nature of the works to be undertaken to be agreed by the Council. Appropriate contracts will need to be in place to secure the delivery of off-site work before the development can commence. This will involve securing the agreement of the relevant landowner(s) as well as appropriate agreements from the local drainage company and/ or relevant regulatory bodies.
- 8.10 On-site infrastructure may also be provided to alleviate the risk of flooding, and reduce impacts on drainage infrastructure. Core Policy 3 states that water and sewerage, flood alleviation and sustainable drainage systems are essential infrastructure. This is to be provided by new development, which must be adequately served by on and off-site foul and surface water drainage systems. This will normally form part of the detailed matters submitted and agreed through the planning application process. The delivery can therefore be secured through a planning condition.

- 8.11 However, the ongoing maintenance of on-site infrastructure may need to be subject to a section 106 agreement. Off-site infrastructure will need to be maintained in order to ensure it continues to operate effectively. Additionally, some developments will incorporate on-site flood risk management and drainage infrastructure which will require maintenance beyond the normal timeframe of development.
- 8.12 The developer may be able to get this infrastructure adopted by the local drainage company if it meets their specifications. Where this cannot be achieved, the developer must put in place mechanisms to ensure the ongoing maintenance and effective operation of the infrastructure in perpetuity.
- 8.13 The Council will include clauses within section 106 agreements to secure the ongoing maintenance of flood alleviation and SuDS. This could apply to both off-site and on-site provision. Normally the section 106 agreement will require either:
- the developer to enter into an agreement with the local drainage company to adopt the flood alleviation and SuDS prior to initial occupation/ use, or
 - the developer to prepare a management plan for the flood alleviation and SuDS, agreed by the council, and put in place mechanisms to deliver ongoing management of the infrastructure prior to initial occupation/ use.
- 8.14 Due to the unpredictable nature of flood risk and drainage issues, later implementation of maintenance is unacceptable.
- 8.15 It is necessary to ensure delivery of flood alleviation and SuDS alongside development. Therefore, any financial planning obligations must be paid upon commencement of development to allow sufficient time to deliver the required infrastructure. If the developer is undertaking the physical work themselves then it must be completed prior to initial occupation or use. The section 106 agreement will set out the phasing requirements for planning obligations related to flood alleviation and SuDS.

9. Community and health facilities

General approach

- 9.1 Where there is a direct link to development, the Council will fund community and health facilities through planning obligations. CIL may be used to fund other health facilities and community facilities such as multi-use community facilities, leisure centres and libraries and cultural facilities.

Policy context and framework

- 9.2 Any requirements for community and health facilities will be justified in accordance with the NPPF, the Wiltshire Core Strategy (Core Policies and the development templates) and saved policies (see *Table 9.1*).

Policy	Requirement
NPPF	
Paragraphs 28 and 70	Support economic growth in rural areas, and the delivery of social, recreational and cultural facilities and services
Paragraphs 156, 162 and 171	Supports strategic policies to deliver health, security, community and cultural infrastructure and other local facilities, working with providers to assess the capacity of and the need for strategic infrastructure, and work with health providers to understand and take into account the health needs of the local population
Wiltshire Core Strategy	
Core Policy 3 <i>Infrastructure requirements</i>	Planning obligations sought to mitigate the direct impact of development, contribute towards delivery of infrastructure made necessary by the development, and provision of local facilities and services.
Core Policy 48 <i>Supporting rural life</i>	Supports improving access to services and infrastructure, community ownership and new shops in rural areas
Core Policy 49 <i>Protection of services and community facilities)</i>	Protects existing services and community facilities
Saved policies	
North Wiltshire Local Plan CF2 <i>Leisure facilities and open space</i>	Supports proposals for leisure facilities (and open space) within settlement boundaries

Policy	Requirement
Salisbury District Local Plan PS1 <i>Community facilities</i>	Supports provision of health facilities.
Salisbury District Local Plan R4 <i>Indoor community and leisure provision</i>	Seeks provision of new indoor community and leisure facilities, or contributions towards existing facilities, from development
West Wiltshire Leisure and Recreation DPD Policies LP1, LP2, LP3, LP4 and LP5	Protect and enhance existing open space or leisure and recreation provision. Seek provision of recreation facilities in new development.
West Wiltshire Leisure and Recreation DPD Policies OS1 and OS2	Seek provision of new artificial turf and grass pitch provision from new development
West Wiltshire Leisure and Recreation DPD Policies YP2	Seeks provision of youth facilities from new development

Table 9.1 – Summary of community and health facilities policies

9.3 Known site-specific community and health facilities requirements resulting from strategically important sites are set out in the development templates in Appendix A to the adopted Wiltshire Core Strategy and in subsequent development plan documents, such as the Chippenham Site Allocations Plan and the Wiltshire Housing Site Allocations Plan. They are informed by the Infrastructure Delivery Plan, which will be updated periodically over the plan period. Infrastructure requirements may therefore change. The Council will be flexible and responsive to any changes.

Thresholds and application

9.4 Depending on the size of the residential development it may be possible that community facilities such as a village hall or changing rooms for a sports pitch for example are delivered through planning obligations directly linked to the development and are used in the development.

- 9.5 Large residential developments or a cluster of neighbouring developments will lead to a local increase in population. This can create a need for specific local health facilities if there is no existing local capacity or likely to be in the near future. New development may therefore require a new facility or extensions to existing facilities to be provided.

10. Other planning obligations

- 10.1 The Council reserves the right to seek additional section 106 planning obligations to those listed above; where justified by local circumstance and where such planning obligations can meet the statutory tests set out in CIL Regulation 122.
- 10.2 Examples of section 106 obligations may include but will not be limited to:
- Site-specific air quality, contaminated land and noise monitoring and mitigation measures
 - Fire hydrants (*see paragraph 10.3*)
 - Local employment, skills training and enterprise benefits
 - Waste and recycling containers⁵
 - Art and design in the public realm⁶
 - Site-specific measures to protect and enhance the historic environment
- 10.3 Development may require the provision of fire hydrants and water supplied for firefighting. Where a direct need arising from the development is identified by the Fire Authority, the Council will seek this through a planning condition or, if this is not possible, a planning obligation. The developer is responsible for the cost of the hydrants and water supplies for firefighting. Consultation should be undertaken with the Fire Authority to ensure that the site is provided with adequate water supplies for use by the fire and rescue service in the event of a fire. Arrangements may include a water supply infrastructure, suitable siting of hydrants and/ or access to an appropriate water supply. Consideration should also be given to ensure access to the site, for the purpose of firefighting, is adequate for the size and nature of the development. CIL may be used to fund other emergency services infrastructure projects.
- 10.4 Planning obligations may be secured to ensure that provision is made directly on-site or, as appropriate, off-site.

⁵ Wiltshire Council (2014), *Waste Storage and Collection Guidance for New Developments*. This document is currently under review.

⁶ Wiltshire Council (2011), *Guidance Note for Art and Design in the Public Realm*.

11. Negotiating planning obligations in Wiltshire

- 11.1 The process for negotiating planning obligations is set within the framework of national legislation and guidance, and local policy and guidance, and other material considerations relevant in each particular case. The Council must meet the statutory tests in the CIL Regulations 2010 (as amended) and consider the policy guidance in the NPPF and PPG.

Role of the case officer

- 11.2 The case officer assigned to assess planning proposals will act as one point of contact for the negotiation of planning obligations.

Pre-application stage

- 11.3 The Council provides a pre-application advice service to anyone wanting help with a development proposal before the submission of a planning application. The aim is to provide responsive, consistent and timely advice. This de-risks the application process and reduces the time taken to deal with applications at the formal decision making stage. The charge for pre-application advice is set out on the 'Planning' pages of the council website.
- 11.4 Pre-application advice will identify policies of the development plan which generate a need for planning obligations. Where possible, it will specify expected heads of terms for any legal agreement or unilateral undertaking. The advice will provide details and/or calculations of expected contributions, where relevant and possible. Potentially, this will assist applicants with the drafting of agreements or undertakings to enable them to be submitted before the submission of formal planning applications. Applicants will be encouraged to prepare agreements and undertakings in cooperation with the Council's solicitors, and, wherever possible, use the Council's template legal documents.
- 11.5 Applicants should use this SPD, alongside an analysis of their proposed works, to identify planning obligations necessary to mitigate the impacts of development.

Application stage

- 11.6 The applicant or their agent must ensure that the formal process of applying for planning permission is followed. Guidance is set out on the 'Planning' pages of the Council website.
- 11.7 Applicants are encouraged to submit forms and related documentation electronically (via the Council website or Planning Portal). Paper submissions are also acceptable. Standard application forms are available in packs either on-line or on request.

- 11.8 Planning applications are validated on receipt using 'local validation checklists', available to view on-line or on request. The Council can refuse to register a planning application unless it receives all of the information set out in the checklists. Where applications generate the need for planning obligations the local validation checklists require, as a minimum, the heads of terms of the inevitable legal agreement or unilateral undertaking to be set out in the application documentation. The pre-application enquiry process will inform this process.
- 11.9 In rare situations where an applicant is unwilling to meet any, or all, of the expected planning obligations they should set out their reasons in a separate statement. If necessary, this should be accompanied by a viability appraisal (*see paragraph 11.12*).
- 11.10 The Council is not required to enter into protracted negotiations on the nature and extent of expected planning obligations during the formal application process. For this reason, the Council reserves the right to refuse inadequately justified applications without further explanation. To avoid this scenario, pre-application discussions are encouraged.

Thresholds

- 11.11 Some infrastructure types contain individual minimum thresholds, e.g. affordable housing, below which an obligation of that type will not be sought. In general, whether an obligation is sought will depend upon the nature, type, location and crucially impact of the proposal.

Size of development

- 11.12 Larger developments tend to create a specific need for infrastructure provision and improvements. They may require site specific infrastructure, such as schools, open spaces, community facilities and highway improvements or enabling works, to be secured through planning obligations. This could apply to smaller developments with site specific impacts.

Viability

- 11.13 On rare occasions the cost of obligations may be greater than the proposed development is able to bear. Where the outcome is judged to have a significant impact on residual land values and financial viability is raised as a concern, a financial appraisal of the proposed development by the applicant will be required to substantiate the claim. This appraisal should be submitted alongside the application documentation and where possible will be treated and kept as confidential by the Council. The Council will scrutinise the financial appraisal before confirming or otherwise viability.

- 11.14 A scenario may arise whereby the financial appraisal shows that little or no infrastructure could be provided. The potential for a planning refusal in these circumstances must be balanced against the benefit of bringing a site forward for development.
- 11.15 Paragraph 205 of the NPPF addresses concerns about delivery of development and development viability, stating that '*where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.*'

Input from local communities

- 11.16 The Council would encourage developers to undertake pre-application consultation with local communities prior to submitting development proposals. This will enable them to gain a greater understanding of local concerns and issues, including the relative priority of any identified planning obligations at the local level, and should inform the detail of their planning application.
- 11.17 Parish and town councils are well placed to articulate the needs of the local community. They may identify necessary mitigation measures required from development proposals. In addition, neighbourhood plans may also play a key role in identifying and prioritising local infrastructure that could be delivered via planning obligations or the neighbourhood proportion of CIL receipts.

12. Procedure and management

Post-decision monitoring and implementation

- 12.1 To ensure proper and effective management of planning obligations copies of every agreement and undertaking will be placed on the planning register with the planning decision notice. Thereafter the Council will monitor development sites to ensure obligations are met as and when 'triggers' set out in the agreements and undertakings are reached. On the rare occasions when obligations are not fulfilled the Council will take appropriate enforcement action.
- 12.2 The Council will publish reports setting out details of planning obligations negotiated, details of extant planning obligations where development has not yet commenced, details of works undertaken and/or expenditure from planning obligations where development has commenced, and details of expenditure planned in the future.

Phasing of infrastructure and timing of payments

- 12.3 The phasing of infrastructure provision or the timing of the payment of financial contributions required within a planning obligation will be negotiated separately as part of the agreement or undertaking. The rate of delivery of infrastructure will be in line with the needs of the development.

Indexing and interest payments

- 12.4 The Council will require indexing clauses within agreements and undertakings for all obligations which require financial contributions to be made. These will apply where delays in payment are either built-in to the agreement/ undertaking (for example, phased payment conditions) and/ or driven by external influences (for example, delayed commencement of the development). Contributions will be indexed from the date of the agreement/ undertaking to the date of receipt. The form of indexing will be appropriate to the nature of the obligation.
- 12.5 Interest sums will apply where payments are made later than the date due as set out in the agreement/ undertaking.

Legal costs

- 12.6 The Council's legal costs for the drafting or checking of legal agreements must be met by the applicant.

Complying with in-kind contributions

- 12.7 Where an in-kind obligation is required through an s106 agreement the developer should provide evidence of compliance with the obligation to the Council, as outlined in the terms of the specific clauses. This evidence should be provided to the Council's Section 106 and CIL Monitoring Officer. If approval is required from the Council on an element of the in-kind obligation, the Section 106 and CIL Monitoring Officer should be the first point of contact.

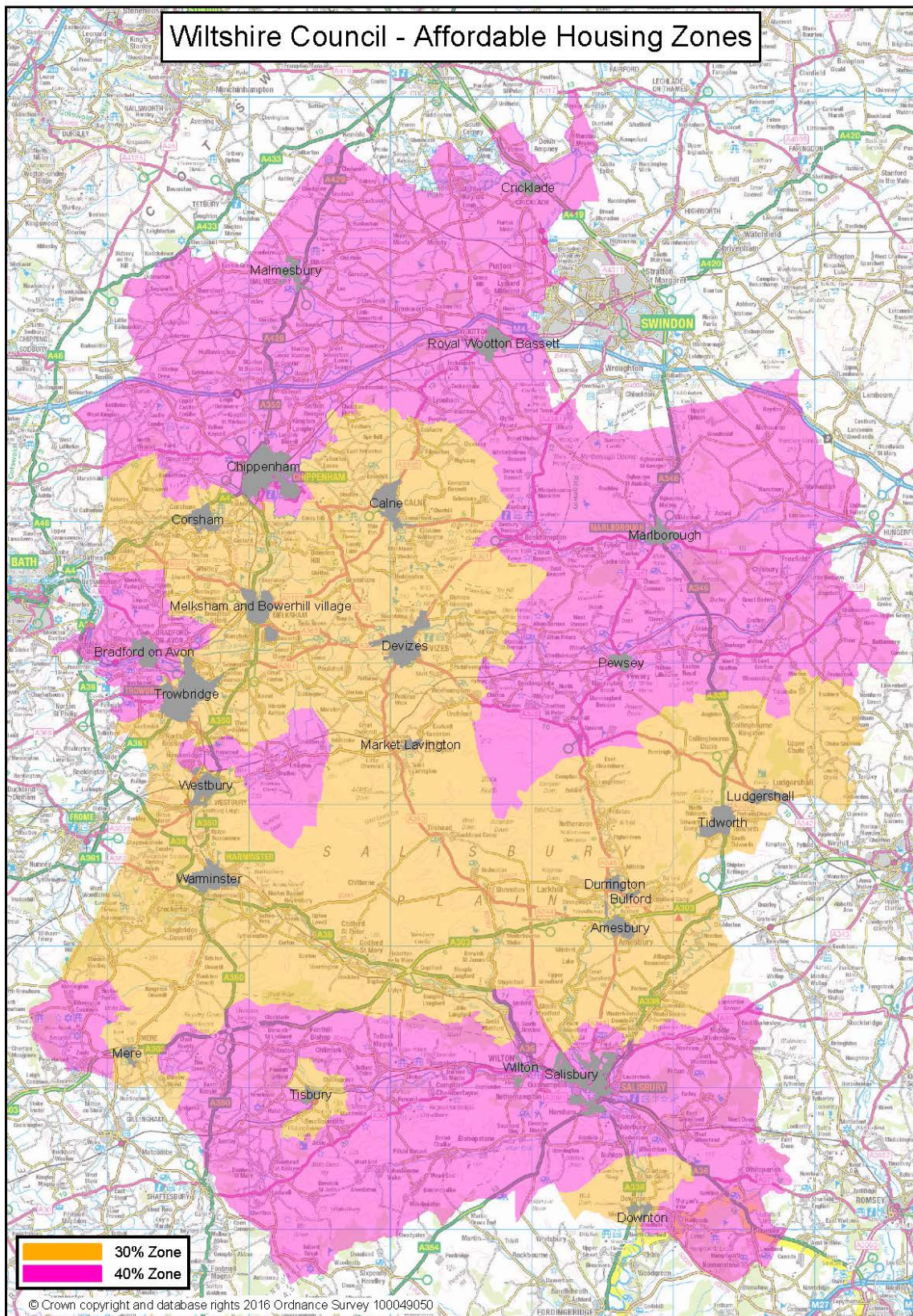
Non-financial obligations

- 12.8 The delivery of non-financial contributions, or in-kind obligations, will be monitored by the appropriate service areas responsible for project delivery. For example, where there is an affordable housing element to a legal agreement, the New Housing Team will monitor this section of the agreement to ensure that it is complied with.

Financial obligations

- 12.9 Once a financial contribution is received by the Council the service area or organisation with the responsibility for delivery of the s106 project will be informed.
- 12.10 CIL Regulation 123 states that the pooling of contributions from more than five separate planning obligations towards a specific type of infrastructure or infrastructure project will not be permitted.
- 12.11 Any pooling of contributions will be in line with CIL Regulations and guidance.

Appendix 1 – Affordable housing zones map (Core Policy 43)



Appendix 2 – Useful links

Planning legislation

- [CIL Regulations 2010](#)
- [CIL Regulations \(amended\) 2011](#)
- [CIL Regulations \(amended\) 2012](#)
- [CIL Regulations \(amended\) 2013](#)
- [CIL Regulations \(amended\) 2014](#)
- [CIL Regulations \(amended\) 2015](#)

National planning policy

- [Planning Practice Guidance \(PPG\)](#)
- [National Planning Policy Framework \(NPPF\)](#)
- [Planning Practice Guidance \(PPG\)](#)

Local planning policy

- [Wiltshire Core Strategy](#)
- [Wiltshire Community Infrastructure Levy](#)

Local planning application process advice and fees

- [Planning and building control](#)

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For further information please visit the following website:

<http://consult.wiltshire.gov.uk/portal>