

Delivery of Infrastructure

- 6.4 In order to deliver sustainable and balanced growth as outlined in this Plan, significant investment in infrastructure is required to meet the needs of residents and businesses. This encompasses a wide range of provision including transport, utilities, flood and surface water management measures, open space and social and community infrastructure (including education, health care facilities, leisure and other community facilities).
- 6.5 The Council has compiled an Infrastructure Delivery Plan (IDP) that sets out the infrastructure required to support growth over the Plan period. The IDP identifies:
- The organisation responsible for delivering each infrastructure item;
 - The period over which the relevant investment will be required (including trigger points in relation to the planned phasing of housing and employment development); and
 - The cost of each item and how it is to be funded.
- 6.6 This ensures that new development is served by the necessary infrastructure, delivered in a predictable, timely and effective fashion. The IDP has been developed in consultation and co-operation with infrastructure providers and other partner organisations and has also given consideration to wider impacts upon the viability and therefore the deliverability of development within the District.
- 6.7 The Council will ensure, through the implementation policy D 1 (and other policies within the plan) that the necessary infrastructure identified in the IDP is delivered and phased appropriately.

Approach

- 6.8 The Council will work with relevant partner organisations and infrastructure providers to ensure that the current and future infrastructure needs of the District are properly considered and planned for.

- 6.9 New development will be required to make best use of existing infrastructure and where necessary, provide or contribute towards the provision of additional services, facilities and infrastructure at a rate and scale which meets the needs and requirements that are expected to arise from that development.
- 6.10 Proposals will be required to clearly demonstrate that infrastructure can be provided and phased to support the needs of the development. Proposals will need to take into account the relevant business plans and programmes produced by infrastructure and service providers to demonstrate how provision will be brought forward to ensure development is appropriately phased in relation to planned infrastructure improvements. In assessing infrastructure and service requirements, the Council will have regard to the cumulative impact of developments in the locality and across the District.
- 6.11 Whilst funding may be available from Central Government and other sources for strategic infrastructure including utilities and road improvements, a significant amount of new or enhanced infrastructure will need to be provided directly by developers as part of new developments, or funded through financial payments by developers.
- 6.12 The Schedule set out in the Infrastructure Delivery Plan identifies the Infrastructure Delivery stakeholder responsible for delivery of each item of infrastructure and where developer funding is likely to be required. The Council will secure such contributions through planning obligations, conditions, and s278 Highways agreements (where appropriate).
- 6.13 Some infrastructure, for example improvements to the highways network, is likely to be strategic in nature and will support and enable the development of a number of sites. In such instances, it is likely that contributions will need to be pooled and combined with other funding sources.
- 6.14 In order to realise the aspirations of the Harlow and Gilston Garden Town, and acknowledging the importance of development in this location

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being brought forward in a holistic, planned manner, development proposals within the Garden Town Communities (as identified by Policy SP 2) will be expected to contribute equitably and proportionally towards delivering their collective infrastructure requirements. In developing proposals, developers should be mindful of the requirements set out in the IDP.

~~6.15 The provision of many items of infrastructure across the District is the responsibility of Essex County Council under its statutory duties. In addition to the District Council's IDP, developers will also be expected to refer to the County Council's Developers' Guide to Infrastructure Contributions.~~

6.15 Where planning obligations are necessary, the Council will require applicants for major development across the District (including within the Garden Town) to enter into planning obligations that capture the value of land for consented development to deliver required infrastructure on site and within the relevant wider settlement (or where appropriate across the Garden Town). Applicants are required to support their applications at submission stage with:

I. Proposed draft Heads of Terms for a Section 106 agreement; and

II. A Statement of Delivery confirming the applicants position in relation to the viability and deliverability of the development.

6.16 Applicants should refer to the latest supplementary guidance produced by the Council and Harlow and Gilston Garden Town partner authorities for further details.

6.17 The provision of many items of infrastructure across the District is the responsibility of Essex County Council under its statutory duties. In addition to the District Council's IDP and supplementary guidance, developers will also be expected to refer to the County Council's Developers' Guide to Infrastructure Contributions.

6.18 The Council will consider introducing a community Infrastructure Levy (CIL) and will

implement this for areas and/or development types where a viable charging schedule would best mitigate the impacts of growth. If implemented, section 106 will continue to be the appropriate mechanism for securing land and works along with financial contributions where a sum for the necessary infrastructure is not secured via CIL, including for Affordable Housing.

~~6.19 The Council recognises that viability constraints may justify an exception being made to the delivery of infrastructure in full accordance with Local Plan Policy D 1 at the time of the application. Where the Council is satisfied that the applicant has demonstrated that the submission of a viability assessment is justified, the Council will give due weight to the assessment having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, any change in site circumstances since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment. Where following independent verification, the Council is satisfied that the viability assessment justifies ~~Where, following the review of an independently verified viability and financial appraisal, the Council is satisfied that there are overriding viability concerns that prohibit the delivery of infrastructure in accordance with Policy D1, the Council will expect the delivery of additional infrastructure contributions to be made if viability improves before full completion of the development permitted. For larger scale development proposals to be delivered on a phased basis, the Council will require section 106 agreements to include mechanism for viability reviews and 'clawback' clauses (or similar) to ensure the fullest possible compliance with Local Plan policy is achieved where the viability of the scheme improves before completion.~~~~

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Policy D 1 Delivery of Infrastructure

- A. New development must be served and supported by appropriate on and off-site infrastructure and services as identified through the Infrastructure Delivery Plan.
- B. Development proposals must contribute proportionately towards the delivery of those infrastructure items set out in the Infrastructure Delivery Plan, unless subsequent iterations of the Infrastructure Delivery Plan or discussions with providers determine that these requirements have changed. Planning Obligations will only be sought where they meet the relevant tests set out in National Planning Policy and in CIL Regulations.
- C. Proposals must demonstrate that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposed development. Applications must be able to demonstrate that such capacity will prove to be sufficient and sustainable over time both in physical and financial terms.
- D. Where a proposed development is required to provide or contribute towards ~~requires~~ additional infrastructure capacity to support the growth, measures must be agreed with the Council and the appropriate infrastructure provider. Such measures may include (not exclusively):
- (i) financial contributions towards new or expanded facilities and the maintenance thereof;
 - (ii) on-site construction of new provision;
 - (iii) off-site capacity improvement works; and/or
 - (iv) the provision of land.
- For the purposes of this policy, a wide definition of infrastructure and infrastructure providers will be applied.
- E. Exceptions to this policy will only be considered if:
- ~~(i) it can be demonstrated that the benefit of the development proceeding without full mitigation outweighs the harm;~~
 - ~~(ii)(i)~~ (i) a financial and viability assessment ~~appraisal~~ (with supporting evidence), which is transparent and complies with any relevant national or local guidance

applicable at the time, demonstrates that full mitigation is not viable to allow the development to proceed. Where a viability assessment is submitted, the assessment must be based upon and refer back to the viability evidence which informed the Local Plan. The applicant must demonstrate what has changed since the evidence was produced which justifies the need for a viability assessment. In determining the weight to attach to a viability assessment submitted, the Council will have regard to:

- How up to date the Local Plan and viability evidence underpinning the plan is;
- Any change in site circumstances since the plan was brought into force; and
- The transparency of assumptions behind evidence submitted as part of the viability assessment.

~~(iii)(ii)~~ (ii) it can be demonstrated that a full and thorough investigation has been undertaken to find innovative solutions to make the necessary provision and all possible steps have been taken to minimise the residual level of unmitigated impacts; and

~~(iv)(iii)~~ (iii) Obligations are entered into by the developer that provide for appropriate additional mitigation in the event that viability improves prior to completion of the development.

(iv) it can be demonstrated that the benefit of the development proceeding without full mitigation outweighs the harm.

F. Infrastructure and services required as a consequence of development and provision for their maintenance, where appropriate, will be sought from developers and secured through planning obligations prior to the issue of planning permission.

G. In negotiating planning obligations, the Council will take into account economic viability. Where relevant, development proposals should be supported by a financial and viability appraisal (with supporting evidence), which is transparent and complies with relevant national or local guidance applicable at the time. Where a financial and viability appraisal has been submitted the Council will undertake

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an independent review of that appraisal for which the applicant will bear the cost. F. Where viability constraints can be demonstrated by evidence, the Council may consider prioritising contributions in line with the IDP Schedule and phasing developer contributions appropriately.

- H. Development proposals within the Garden Town Communities (as identified by Policy SP 5) will be expected to contribute collectively, equitably and proportionally towards delivering the identified infrastructure requirements related to each of the sites.
- I. For any major development proposals (applications for 10 or more homes or more than 1,000m² for non-residential development), unless otherwise advised by the Council, applicants will be required to demonstrate that the application will meet requirements of policies and is considered viable and deliverable. This should be through the provision of a Statement of Delivery, which should accord with relevant guidance produced by the Council and where relevant the Harlow and Gilston Garden Town partner authorities.

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