

## **Appendix 1: Update on Development Contributions**

### **1 The Guidance Note Update 2010**

#### **1.1 Inflationary Changes**

- 1.1.1 The Council now uses the Building Cost Information Service 'BCIS' All in Tender Price Index as the cost basis for the calculation of the impact of inflationary changes on the deferred contributions secured through planning legal agreements and paid by developers and/or land owners for all contributions except those specified below, and highways Contributions that are applied against the Building Information Service Output Price Index for New Construction (2010): Public Works Non – Housing.
- 1.1.2 The Council will apply the indices that are stated in<sup>1</sup> this report to calculate the updated delivery costs for the infrastructure contained with the Guidance Note. The stated indices will be reflected in the drafting of legal agreements to ensure consistency in application. The base line costs are as set out in the adopted Ready Reckoner and encapsulated in the accompanying S106 Calculator. The Guidance Note does however list the indices to be used for two specific infrastructure items and these are the Retail Price Index 'RPI' for Affordable Housing and the Output Price Index 'OPI' - Non-Housing for Open Space calculations.
- 1.1.3 The original evidence bases and accompanying delivery costs evolved over the period of preparation, and consultation on The Guidance Note, making it very difficult to establish the actual indices price at the time for each of the infrastructure items. Therefore the Council is using a single circumstance under which inflated/depreciated costs should be calculated. The control cost indicator will be the Building Cost Information Service 'BCIS' All in Tender Price Index level as at September 2006 (3rd Quarter) as it was during this quarter that the Guidance Note was adopted. At the time of adoption the indices stood at a figure of 228. Where the evidence base being used was generated from the 2007 Guidance Note update, the indexation to place against 3<sup>rd</sup> Quarter 2007.
- 1.1.4 The impact of inflationary changes could either result in a positive or a negative change to the contribution levels. In the circumstances of a position change, the most recent figure is higher than the original, leading to an increase in the value of the financial sum. In other circumstances the more recent value would be lower creating a negative effect, the outcome of which would be a reduced contribution.

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1.1.5 **Appendix B** sets out the Index Cost Figures for the RPI, OPI Non-Housing and TPI. Concentrating on the TPI, throughout the period from 2<sup>nd</sup> Quarter 2006, the indices rose to a peak of 251 in the 4th quarter 2007. Thereafter it fell steadily to 241, with a sharp drop to 222 in the 1<sup>st</sup> Quarter 2009. Experiencing a small fluctuation, the index ultimately dropped to a low of 212 in 4<sup>th</sup> Quarter 2009, the most recent finalised level, and the level that has been used for calculating the index values under this 2010 Guidance Note Update. To date all index values through 2010 are forecast values and are not finalised but the suggestion is that they are expected be affected by a further decrease through 2010. At the time of writing this report the index is not anticipated in the forecasting to experience any recovery above until January 2011. The impact of this reduction below the control level of 228 in 2006 (a reduction of 16 points) is an overall percentage reduction in the perceived infrastructure project delivery costs. This is reflected in the reduction in some of the infrastructure costs set out in the Developer Contributions Ready Reckoner at **Appendix C** proposed for adoption to accompany the 2010 Guidance Note Update. A comparison can be made against the 2006 values in **Appendix D**.

## **1.2 Infrastructure Updates**

1.2.1 In order to inform those who need to use and apply the 2010 Guidance Note Update of the alterations that have taken place, an Overview Summary has been created at the front of the document to explain the key changes on an infrastructure item chapter and accompanying appendices basis. This summary also includes details of the key amendments in the Introduction and general appendices. **Appendix E** of this report contains an overview of the 2010 Guidance Note Update Summary. This detail is not duplicated in this report, and a copy of the entire document has been made available electronically on the Council's website and in the Members Room. This report highlights specific chapters where more complicated elements have been reviewed, and explain why and how aspects of the document have changed as a result. Where specific infrastructure chapters are not listed, the update information is more straightforward.

### Education Updates

#### Financial Contribution per dwelling and £ per place

1.2.2 The education contributions are calculated using a unique set of externally generated values. For this reason the index changes detailed above cannot be applied to make alterations to the level of these contributions. A combination of the following is used to calculate the cost education contributions:

- Government DCSF cost multipliers that reflect the basic costs of delivering a school place; and

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- The regional factor reflecting localised changes to that that basic cost level. (The regional factor is represented by a plus or minus value where 1.0 represents the initial control factor position.)

1.2.3 The Tables 1 below set out the change in position of the basic sum of the cost multiplier that has increased since 2006. The most recent cost multiplier from January 2009 is available on Teachernet at the following weblink

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<http://www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/schooldesign/costinformation/>). In addition to this the regional factor has moved from minus value of 0.98 in 2006 to a positive value of 1.03 in 2009 (DCSF) as set out in Table 1. The outcome of the combined changes is a significant rise in the cost of delivering a school place in the Borough of Swindon since 2006.

| Type        | DCSF Cost Multiplier 2006 | DCSF Cost Multiplier 2010 | Regional Factor 2006 | Regional Factor 2010 |
|-------------|---------------------------|---------------------------|----------------------|----------------------|
| Early Years | £10,372.00                | £12,257.00                | 0.98                 | 1.03                 |
| Primary     | £10,372.00                | £12,257.00                | 0.98                 | 1.03                 |
| Secondary   | £15,848.00                | £18,469.00                | 0.98                 | 1.03                 |
| 16-18       | £17,013.00                | £20,030.00                | 0.98                 | 1.03                 |

**Table 1  
Comparison of Regional Factor and Cost Multiplier 2006 and 2010**

| Educational Sector | DCSF Multiplier 2006 | Regional Factor | ICT     | £ per place                |
|--------------------|----------------------|-----------------|---------|----------------------------|
| Early Years        | £10,372.00           | 0.98            |         | £10,165.00                 |
| Primary            | £10,372.00           | 0.98            | 900.00  | £11,065.00<br>(£10,165)*   |
| Secondary          | £15,848.00           | 0.98            | 1800.00 | £17,331.00<br>(15,531.00)* |
| 16-18              | £17,013.00           | 0.98            | 1800.00 | £18,472.74<br>(16,672.74)* |

**Table 2  
2006 Education £ per place**

Costs in Appendix 18 Developer Contributions DCGN (2006) that failed to add the ICT costs

1.2.4 Children's Services have requested an amendment to the costs for ICT provision as it is now recognised that ICT equates to 10% of the cost of per place (BECTA 2008 'Planning Technology into your Building: A Guide for School Leaders' p.4). The ICT does technically represent a cost that is capable of being altered under para 9.1 of The Guidance Note, as the methodology for calculating the value is being affected by external guidance. These ICT cost changes are set out in Table 3.

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| <b>Educational Sector</b> | <b>DCSF Multiplier 2009</b> | <b>Regional Factor</b> | <b>ICT</b> | <b>£ per place</b> |
|---------------------------|-----------------------------|------------------------|------------|--------------------|
| Early Years               | £12,257.00                  | 1.03                   |            | £12,624.71         |
| Primary                   | £12,257.00                  | 1.03                   | 1225.7     | £13,850.41         |
| Secondary                 | £18,469.00                  | 1.03                   | 1846.90    | £20,869.97         |
| 16-18                     | £20,030.00                  | 1.03                   | 2003       | £22,633.90         |

**Table 3  
2010 Education £ per place**

1.2.5 The DCSF 2009 figures have been used to create the new costs. Table 1 sets out the comparative change in cost between the 2006 and the 2009 figures. And Table 4 reflects the actual value increase.

| <b>Educational Sector</b> | <b>Gross £ change since 2006</b> |
|---------------------------|----------------------------------|
| Early Years               | + £2,459.71                      |
| Primary                   | + £2,785.41                      |
| Secondary                 | + £3,538.97                      |
| 16-18                     | + £4161.16                       |

**Table 4  
Change in £ per place (excluding IT) between 2006 and 2010**

1.2.6 The costs table that generated the value per dwelling for each element of infrastructure when adopted in 2006, whilst listing the ICT cost failed to include it in the cost per place, thus the £per dwelling was much lower it should have been. This can be seen in Table 2. This was a calculation error, that has been corrected in the 2010 update, and as a consequence is reflected in a greater increase in the contribution level to education than would have been expected.

1.2.7 The 2010 update also includes amendments to the percentage of primary and secondary pupils that have special educational needs. This alteration has been factored in to the calculation update. The cost per pupil place has also increased from the 2006 figure of £68,000 per pupil place, to £137,375 for Primary school pupils and £109,130 for Secondary school pupils. The increased cost per place has not influenced the calculations to SEN provision under this update to prioritise mainstream education provisions increased costs.

### Calculating Net Capacities

1.2.8 The current methodology in The Guidance Note for determining whether a development should make financial contributions to education places is based on a cost per dwelling considered against whether the primary/secondary school that forms the indicative catchment to the site has spare capacity. The capacity of the school is calculated from the forward forecasted numbers on roll over a 5-year period, against the school's capacity. The forecast is generated from PCT data relating to live births in the catchment, alongside leavers in

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each given year over that 5-year period, and includes potential capacity generated from consented residential permissions.

1.2.9 The Guidance Note also currently requires the need for developer contributions to Education to be calculated for Primary and Secondary capacities on a 5% capacity basis. The work undertaken by CEA under the 'School Place Planning Study identified a need to increase capacities to 8% for Primary and 6% for Secondary. This is considered as a calculation amendment that can be included in the Update in line with Paragraph 9.1 of the Guidance Note. In addition, those catchments that are close to these levels have been flagged in Amber where contributions are likely to trigger. This does not change the basic principle of the methodology.

#### Use of the replacement methodology

1.2.10 Children's Services, in conjunction with Planning commissioned the preparation of an evidence base document to identify the Council's school place planning requirements to support the expected growth agenda to 2026, and beyond. This was produced by 'CEA' and completed in July 2009, entitled 'School Place Planning: Future Demand to 2026'. It identifies the additional and improved education infrastructure that will be necessary to support Swindon's expected growth as a consequence of new development. The report forms the evidence base to the emerging Swindon Borough Core Strategy that went out to public consultation from July to October 2009.

1.2.11 At present the adopted Guidance Note calculates the need for education contributions based on a combination of indicative catchment and a surplus capacity level of 5% for both primary and secondary schools. The Update 2010 has continued to set out the catchment methodology as a starting point and for the reasons above raise the percentages of capacity for both Primary and Secondary to create the capacity maps.

1.2.12 School capacities are calculated from PCT live birth data that is forward projected across the year groups in Primary Schools, and then rolled forward to Secondary Schools after the 7 years at primary. For this reason pressure always occurs at the bottom, i.e. Reception classes in primary, and Year 7 in secondary education. The projections of secondary schools capacities are currently generated by the known number of leavers from primary feeder schools on an annual basis. Net immigration and out-migration of occupants of properties will affect school capacities throughout the school year. The fact that PCT data is used to support the methodology would automatically place pressures from the bottom up. Thus, if under the capacity figures the school has no capacity in the earliest year group, a capacity problem

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would automatically exist, regardless of whether there is capacity across all year groups for the school as a whole.

1.2.13 This method, if updated on an annual basis will capture the births within the catchment area, however with the existence of 'parental preference' and the creation of Foundation, Voluntary Aided, Free and Academy Schools that can set their own intake controls, catchments are no longer capable of being applied rigidly. Furthermore, some schools may exist in locations where high pressures for school places exist, but site constraints either prevent expansion or make extension very difficult. Under such circumstances, children would have to be re-directed to schools that may not be in the immediate vicinity of their home. This can often occur in inner urban wards where the school sites have land constraints.

### Managing the Peak

1.2.14 The CEA School Place Planning Study has taken a more comprehensive and longer-term approach to the provision of educational places specifically as a direct result of the expected growth agenda. The outcome of this report indicates that, setting new births in existing properties aside, the entire Borough will come under pressure for the provision of educational places as a result of growth. In addition to the long-term level and need for educational places, evidence from previous town expansion has identified that a 'peak' (that could represent as much as a 50% increase in the need for school places) is likely to occur and that would require the provision of additional educational places for an interim period of time before numbers plateau at a lower level. To manage this peak, there is a need to ensure that school sites have sufficient land to accommodate the additional accommodation and accompanying outdoor space. Peak demand is likely to be accommodated through modular or temporary buildings that can be removed when it is no longer required.

1.2.15 The methodology for securing education contributions is to be altered by this updated under paragraph 9.2 of the Guidance Note 2006. The CEA School Place Planning Study identified, that the Borough cumulatively will come under school place planning pressures as a consequence of new development, and as the study takes a longer-term view of the impact of growth. Based on the conclusions of this study, contributions will now be sought from all residential development irrespective of whether there is capacity over the next 5 years in the catchment schools. This will allow contributions secured to be used more flexibly for investment where the need is greatest, to ensure that additional capacity can be provided for the children that reside in new developments.

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### Education Conclusions

1.2.16 The combined inclusion of the increased DCSF cost multiplier, regional factor and increased percentage of ICT results in an increase in the level of contributions for most dwellings that reflects the increased costs of providing education infrastructure and fall within the scope of the Guidance Note update 2010 under paragraph 9.1 of the Guidance Note 2006. For the reasons set out above, Members are asked to support the use of the increased costs as detailed above, and the use of the CEA School Place Planning Study as a material consideration to override the 'RED' 'GREEN' capacity levels that would currently trigger the requirement for developer contributions toward education, effectively turning the whole Borough RED for primary and secondary contributions. This would assist in managing the cumulative demand for school place over the longer period of time, allowing the contributions to be invested based on priority of need, thus introducing more flexibility in the location for investment not constrained to a specific school. The amendment to the methodology for securing developer contributions towards education infrastructure can be accommodated under the paragraph 9.2 of the Guidance Note 2006.

### Affordable Housing

1.2.17 As part of the Guidance Note Review 2007, the Affordable Housing chapter of the document was subject to substantial change. The primary focus of this was to alter the ratio of percentage mix of tenure that the Council would seek from the 60/40 split in favour of social rent to a 70/30 increasing the consequent provision of rental properties. Alongside this the dwelling type percentages were also revisited in favour of larger dwellings to reflect the local market circumstances identified by the Housing Register. The Housing Register is updated Quarterly. The current percentage split proposed is reflective of the Housing Register July 2010.

1.2.18 As the Guidance Note 2007 update was not adopted; the guidance Note 2010 Update offers an opportunity to revisit its adoption. The structure of the 2007 section represented a significant improvement to that of the Guidance Note 2006, therefore the 2007 Chapter represents the starting point used for the 2010 update. Officers are of the opinion that as the original alterations represented some material change in methodology that have already been subject to public consultation under the 2007 Review, the percentage change to the dwelling mix can be applied to the Guidance Note 2010 Update without requiring additional public consultation, under paragraph 9.2 of the adopted Guidance Note 2006.

1.2.19 The Council understand the need to demonstrate flexibility in tenure split and dwelling mix, and recognises that these require consideration

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on a site-by-site basis where the economic viability of a site could be compromised by the tenure split and dwelling mix that it is seeking. The onus of responsibility will continue to fall to the developer to demonstrate through viability assessment that the split and mix sought by the Council is not achievable alongside the required infrastructure package.

- 1.2.20 In addition to this basic approach, some minor amendments to the wording of the chapter, that include alterations to the choice of words used, that was raised through comments received in consultation representations made by external parties have also been included in the 2010 Update. These alterations do not materially impact the methodology of the document. A reference to the investment of capital receipts from the disposal of affordable housing has also been added to reflect standard clauses that the Council seek to secure within planning legal agreements.
- 1.2.21 In addition to this, the dwelling type percentages have also been altered to reflect the current demand as identified on the Housing Register. The dwelling mix was altered in 2007, for the same reason. This change is not material and is in accordance with paragraph 9.1 of the adopted Guidance Note 2006.
- 1.2.22 The other significant difference is the re-inclusion of the Supportable Deficit Matrix that is used to calculate off-site contributions. It was removed from the 2007 update but provides important information to the development industry on methodology behind calculating financial contributions to affordable housing in lieu of on-site provision, where the Council has a preference for this approach. It has been include as an appendices.
- 1.2.23 Whilst the alterations may appear in the first instance to be substantial since 2006, that is simply a reflection of the un-adopted stage that appeared in the middle. The Affordable Housing chapter methodology has not changed since 2007, and therefore this update is considered to be in accordance with paragraphs 9.1 and 9.2 of the Guidance Note.

### Open Space

- 1.2.24 As part of the 2007 Update, the open space chapter and accompanying appendices were subject to significant improvements. The primary reason for this was to provide additional scrutiny over how the contributions are calculated.
- 1.2.25 The calculation of contributions for open space is a complex matter as the existing open space provision by Ward is a material factor in whether contributions to or provision of new open space is required.

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To translate this into the standard charge approach can be complicated. The approach that was therefore taken was to use the worst-case scenario for on and off-site provision to identify the requirements, which could then be subject to further scrutiny by officers.

- 1.2.26 The fact that off-site contributions generated by the standard charge are lower than the costs associated with on-site provision has caused much confusion to the development industry, and supported a desire of sites that trigger contributions not to provide the required open space on site. The Guidance Note clearly states however that the starting point for open space is to integrate the LOS and play provision on site.
- 1.2.27 To ensure that the Open Space on Residential Developments SPG (2004) appendix data correctly translates into the standard charge approach to assist with consistency when planning applications go out to consultation the 2003 Values of the cost of provision of open space from Appendix 8 of the Open Space SPG has been used as the base to re-calculate current prices. A change in 2010 to the published index that is being used to reflect inflationary changes to open space contributions that is explained in **Appendix B**, means that the 2010 prices now support the Open Space chapter 2010 update.
- 1.2.28 The methodology behind the translation calculations has been double-checked. The outcome of this exercise identified a minor calculation error that resulted in the off-site contribution levels being slightly lower than they should be. This has been rectified in the 2010 Update. For clarification the off-site contribution is a lower sum because it only includes upgrade costs for Local Open Space (plus land purchase cost to be invested in upgrade) and excludes a maintenance sum that appears in the on-site values. The impact of the indexation, and resolution of the calculation error has been a general increase in the costs per dwelling. These alterations do not however represent a change to the methodology in how the costs were translated into a standard charge. For this reason the Update for open space is compliant with Paragraphs 9.1 and 9.2 of the Guidance Note.

### Community Safety and Community Centres

- 1.2.29 The 2007 Guidance Note Update revisited the structure of the 2006 Guidance Note by moving some infrastructure items into different chapters. The 'Community Safety' and 'Community Centres' element of Culture and Leisure contribution were affected by this change being re-labelled 'Community and Neighbourhoods'.
- 1.2.30 A decision has been made to leave the infrastructure items under their original headings, but use the data and content of the 2007 Update

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chapters to create the 2010 Update. This has no material impact on methodology in any way since the 2007 public consultation exercise.

- 1.2.31 The key changes to be noted that were taken forward in 2007 were to delete the lighting and landscaping elements from the Community Safety contribution to concentrate on CCTV, and expand the evidence base for Community Centres and neighbourhood projects, with a consequent increase in the total value of the works identified as investment opportunities in existing facilities to enhance their attractiveness and thus capacity to accommodate additional demand generated by the cumulative impact of new development.
- 1.2.32 The 2007 approach has been incorporated into the 2010 update under consideration. The cost per dwelling generated from the 2007 figures, has been altered to reflect inflationary changes.
- 1.2.33 It is considered that this approach to the 2010 Update is compliant with the constraints of paragraphs 9.1 and 9.2 of the adopted Guidance Note, and Members are asked to provide their support to this approach.

### Waste Management Contributions

- 1.2.34 During the 2007 review of The Guidance Note, an evidence base was created that provided a justification for financial contributions towards Waste Management. This is specifically to support the costs of providing household waste recycling services including:
- a) Added capacity at strategic waste sites;
  - b) Local recycling facilities; and
  - c) Residential wheelie bins and recycling boxes for individual properties.
- 1.2.35 The contributions were calculated out to a cost per dwelling as set out below in Table 5.

#### Contribution to Waste Management by Dwelling Type

| Dwelling size | Total Contribution 2007 | Total Contribution 2010 |
|---------------|-------------------------|-------------------------|
| 1 Bed         | £79                     | £67                     |
| 2 Bed         | £106                    | £90                     |
| 3 Bed         | £150                    | £127                    |
| 4 Bed +       | £187                    | £158                    |

**Table 5**  
**Waste Management Contribution Values**

- 1.2.36 The waste provision for flats is different, as they are predominantly supported by shared waste facilities. For this reason, a standard charge of £750 per every 6 flats to provide a near entrance collection
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facility is to be secured irrespective of the size of the flat, or pro rata as applied, should the intention be to have this supplied by the Council.

- 1.2.37 The Developer Contributions DCGN 2007 Update introduced this as an additional contribution, as the provision of waste management facilities is a direct pressure generated by all new residential development. For this reason it would be acceptable to continue to incorporate this as a specific requirement from all new residential properties within the Borough. As the document was publicly consulted with a set figure, there is no intent to make any amendments to the level of contribution in this instance, other than to link it to inflationary changes which has brought the cost per dwelling down to the figures that now appear in the appropriate Chapter and the Ready Reckoner. It is not considered necessary to put the content out to further consultation as nothing has changed since 2007.
- 1.2.38 The public consultation in 2007 raised received comments asking about the detail behind the calculation, therefore as part of the 2010 Guidance Note Update this has been added as an appendix. The detail of the contribution is set out in its own chapter in the main Guidance Note Update 2010
- 1.2.39 For the reasons set out above Members are asked support the inclusion of this contribution, as there has been no change to the methodology behind the infrastructure item since 2007.

### Strategic Leisure

- 1.2.40 Under the adopted Guidance Note, financial contributions are secured under the 'Culture and Leisure' contribution to support investment opportunities to support the intensification of use, and/or provision of additional strategic sporting facilities to support the additional demand placed upon them as a consequence of the growth in population from new residential development.
- 1.2.41 Since the adoption of the 2006 Guidance Note, Leisure Services have created an updated evidence base to expand on the additional evidence provided, the purpose of which is to understand the investment opportunities that are likely to be required as a consequence of growth past 2011, to support the leisure policies coming forward through the emerging Core Strategy. The document is entitled, 'The Strategy for Major Sports Facilities Provision Swindon 2009-2026' known as the 'Leisure Strategy'.
- 1.2.42 The Leisure Strategy reviews the quantity, capacity and quality of the existing strategic leisure sites that exist across the Borough provided in both the public and private sector, and identifies the investment opportunities that will be necessary to ensure that there will be

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sufficient capacity at a quality that will assist in maintainable participation targets as set out in the Active Swindon Strategy.

1.2.43 There strategy primarily targets four key areas of sport: Swimming Pools, Sports Halls, Indoor Bowls and Synthetic Turf Pitches. These align with the facilities identified by Sport England. Sport England has created an on-line calculator that can provide local costs for the construction of these facilities, based on additional population demand, and regional building cost variations. The calculator can be found at: [http://www.sportengland.org/facilities\\_planning/planning\\_tools\\_and\\_guidance/sports\\_facility\\_calculator.aspx](http://www.sportengland.org/facilities_planning/planning_tools_and_guidance/sports_facility_calculator.aspx)

1.2.44 Using the calculator for Swindon the new build costs come out at the rates set out in Table 6.

| Leisure Item           | £ per Average dwelling 100% value | £ per Average dwelling 70% value |
|------------------------|-----------------------------------|----------------------------------|
| Swimming Pools         | £312.37                           | £218.66                          |
| Sports Halls           | £559.69                           | £391.78                          |
| Indoor Bowls           | £42.28                            | £29.60                           |
| Synthetic Turf Pitches | £66.32                            | £46.42                           |
| <b>TOTAL</b>           | <b>£980.66</b>                    | <b>£686.46</b>                   |

Table 6  
Sport England Leisure Services Construction Costs 2010

1.2.45 It is proposed to use the Sport England costs as the new methodology base for calculating contributions to Leisure. This change to the methodology can be incorporated into the Guidance Note update 2010 under paragraphs 9.2 and 9.1 of the adopted Guidance Note 2006.

1.2.46 The 100% figures listed above reflect new build costs, and consequently it would not be appropriate to apply this as a rate per dwelling when it is known that the Council needs to concentrate on renovation and refurbishment, alongside extension of premises and new build. For this reason, liaison with the Council's Property Services department estimated that the compensatory reduction in value should be 30%. The above costs have therefore been reduced to reflect the 70% value as stated in the final column of the Leisure costs table.

1.2.47 These total costs based on an average dwelling occupancy of 2.38 person per dwelling would then be translated into the value per dwelling set out below:

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| Dwelling size | Total Contribution |
|---------------|--------------------|
| 1 Bed         | £412               |
| 2 Bed         | £554               |
| 3 Bed         | £785               |
| 4 Bed +       | £981               |

1.2.48 These contributions values are much higher than those calculated under the Guidance Note Update 2010. In order to ensure that the developer contributions package is not further compromised by these updated costs Members are asked to support the commensurate reduction in the Central Area Public Realm contribution to ensure that the total infrastructure package does not significantly rise above the 2006 prices. This reduction has been incorporated in the total infrastructure Package costs in the Ready Reckoner at **Appendix C**.

1.2.49 The justification for taking this approach, is based on the fact that in 2006 the Central Area Public Realm contribution represented a high percentage of the total costs generated towards infrastructure from each size of unit varying from 38% of the contribution on 1-bed units (where nil contribution is sought for education) to 23% of the contributions on 4-bed dwellings. Whilst the adopted Regional Guidance RPG10 under policy SS11 clearly identifies investment in the Swindon central business district and urban fabric and environment as a key priority for the Borough, this needs to be balanced alongside other infrastructure priorities. To date the primary investment in the Public Realm improvements has come from external funding sources, although this investment opportunity was taken into consideration as part of the calculation. The inclusion of the increased Leisure contributions levels would continue to provide a significant contribution towards Central Area Public Realm reflecting its continued priority for investment opportunities within the Borough.

### Wiltshire Fire & Rescue Service

1.2.50 To support the emerging Core Strategy, Wiltshire Fire and Rescue Service have created an evidence base document 'Wiltshire Fire & Rescue Service's Community Risk Strategy for Swindon Borough from 2006-2026' (2009) 'The Strategy'. It's purpose is to set out the capital investment that research into response times has identified would be required to allow it to continue to deliver a service to the best standards, and respond to call-outs in the required timeframes. The original document went out to public consultation quoted as an evidence base under the Swindon Core Strategy and Development Management Policies Proposed Submission Document July 2009. It is for this reason that the contribution can be included in the Guidance Note 2010 Update under the provision of paragraph 9.2 of the Guidance Note 2006.

Further information on the subject of this report can be obtained from *Sarah Screen, Planning obligations Project Manager* on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

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- 1.2.51 The Fire Service Strategy document contained two options, the 'Preferred Option' and the 'Compromise Option'. These set out slightly different levels of provision, dependent on the ability to deliver the full package subject to financial support.
- 1.2.52 The Strategy looks at a combination of upgrading existing fire stations, from immediate response during the day and delayed response at night, to immediate response by day and night. This is alongside the shrinking of existing service provision in other areas to relocate from one site to another. The Strategy identifies areas of search inside which new fire stations may need to be best located to deliver the service in the future. Consideration has already been given in the document, to the possible funding sources, including the potential revenue generated from the sale of existing sites. The document does not take into account the potential cost of the purchase of land to accommodate new fire stations, and the Fire Service would seek to participate in negotiations with landowners or developers where development proposals come forward in locations that lie within the search areas, with a view to securing the land area required, although the services starting point for any negotiation would be land transfer at nil cost.
- 1.2.53 Subsequent to consultation on the original document, it became apparent that although the Capital expenditure was identified, the costs did not take into account the initial first years revenue costs of set up, i.e. the equipment and officers needed to run the service and the supply of the engines. The service could not run without these. The document has very recently been updated to reflect changes in land values as a consequence of the changing economic environment. At the same time the initial revenue costs have been added, as Council Tax receipts do not cover them. These amendments can be absorbed under paragraph 9.1 of the Guidance Note 2006. It is the 2010 figures that have been used to undertake the calculations.
- 1.2.54 There is a need to acknowledge that the Fire Service does not exist solely to provide a service to residential properties in the Borough, but the service is also needed to support all other land uses including employment, commercial, retail and public facilities. The WFRS had undertaken research that identified that 60% of their call-outs in Wiltshire are to attend residential incidents, therefore this research provides a strong justification to split the contribution 60/40 between residential and non-residential development.
- 1.2.55** The evidence base was created based on the expected growth agenda of 34,200 homes, and therefore that number has been used to create the cost per dwelling. The figure remains static across dwelling sizes as the same level of service, two pumps will need to be dispatched as

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a minimum regardless of dwelling size. This generated a value of £155 per dwelling. The methodology is set out in **Appendix F**.

1.2.56 In this instance the infrastructure provision is also to be provided non-residential development, that is commercial, business and retail that is new-build, or where change of use occurs that will intensify the risk at the location.

1.2.57 The methodology that has been used to calculate the non-residential contribution is to consider the scale number of hectares of employment land that was required to support the growth to 2026. In the emerging Core Strategy Submission Draft 2009, this was cited as 128 hectares. The funding gap for the non-residential element (40% of the total gap) has been divided by the 128 hectares and then translated into a price per square metre.

1.2.58 The calculation of a contribution will be taken against the gross internal floor area in the following circumstances:

- The gross internal floor space for new commercial, retail and leisure provision
- The gross internal floor space of existing premises where a change of use proposal will result in a greater fire risk than the original use e.g. The new use introduces additional staff and public, intensifies the number and timeframe of the building occupancy.

This methodology will allow the contribution level to be spread across wider land-uses and trigger against the floor space as opposed to the size of the application site, as the two are often not comparable when it comes to the level of activity and site to floor space ratio.

### Wiltshire Fire & Rescue Service Conclusions

1.2.59 It is the opinion of Officers, that as the initial WFRS document was subject to public consultation and made available to the public if requested through the consultation on the Core Strategy in July-October 2009, it would not be necessary to require additional public consultation.

1.2.60 It is however acknowledged that whilst the main document was put to public consultation, that document did not include a methodology behind a standard charge approach for either residential or non-residential contributions, or set scope of the application of contributions from non-residential uses. The methodology that has been applied, stands as robust against the evidence base that created the costs. It is for this reason that the full methodology is set out in the Appendix of this report to support it's the request for it's future inclusion.

1.2.60 It is considered that both the methodology and the calculation can be fully integrated into the Guidance Note Update 2010 under a

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combination of paragraphs 9.1 and 9.2 of the Guidance Note 2006. For this reason the document will become a material consideration to the determination of certain planning applications, and the costs for residential have been added into the Developer Contributions Ready Reckoner appended to this appendices at **Appendix C**.

### Infrastructure Update Conclusions

- 1.2.61 The paragraphs and sections above provide details of the justification behind the approach that has been taken to producing the Guidance Note 2010 update, when considered alongside all the other information contained in the update Summary.
- 1.2.62 In the event that Members decide that officers approach not to include the increased SEN place costs, is not appropriate and wish to incorporate it, the only viable way forward how this might be achievable would be to recommend that this could be achievable by a commensurate reduction in the cost per dwelling of the Central Area Public Realm contributions, as being the only other contribution of a size that would be capable of absorbing a reduction. This approach would assist in retaining the Standard Charge package at close to the originally published 2006 values, thus reducing the potential pressure to add to viability pressures under the current economic circumstances.

## 2 Requests for Additional infrastructure Support

### 2.1 Children's Services

#### Inclusion of contributions towards Youth Provision

- 2.1.1 Children's Services have recently created an evidence base for the provision of contributions towards Youth Provision. This is a brand new infrastructure type that has not previously been considered. The review mechanisms for the Guidance Note as set out in paragraph 9.2 clearly state that,

*'The Council will not amend methodology for calculating contributions, or add additional contributions without full and inclusive public consultation'*.

- 2.2.2 A contribution towards Youth Provision cannot be accommodated as part of the Guidance Note 2010 Update the subject of this report, as there is no requirement to put this document through a public consultation exercise. A fully inclusive public consultation exercise would be required to add a contribution for Youth, as it has not previously been the subject of any public consultation exercise.

Further information on the subject of this report can be obtained from Sarah Screen, Planning obligations Project Manager on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

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2.2.3 Members are also asked to acknowledge the justification as to why Youth Provision cannot be added.

### **2.3 Air Quality Monitoring**

2.3.1 Commercial Regulation has created an evidence base to seek contributions from new development to support air quality monitoring within the Borough. Unfortunately the evidence base has not been subject to public consultation, and therefore it cannot be considered for inclusion alongside this report.

### **3 Guidance Note update Conclusions**

3.1 The detail above set out the robust and justified approach to how the Developer Contributions Guidance Note 2006 is to be updated in 2010, to accompany the main report.

3.2 The complete Guidance Note 2010 (to replace the 2006 DCGN) accompanies this report. An electronic copy accompanies this agenda on the Council's Website, and a printed copy is available in the Members Room. The areas where substantial alteration has occurred have been comprehensively discussed above and set out in the accompanying appendices.

Further information on the subject of this report can be obtained from *Sarah Screen, Planning obligations Project Manager* on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

## Developer Contributions Update

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### Appendix A Representations made to public Consultation on 2007 Developer Contributions Update

| Company/<br>Organisation | Support | Comments/Objections  |
|--------------------------|---------|--|
| Home Builders Federation |         | <ol style="list-style-type: none"> <li>1. Objects on the basis that it has no material weight in the planning process as the Planning and Compulsory Purchase Act 2004 does not provide for the preparation of this document or revision of previous saved documents.</li> <li>2. It forms no part of the Council's LDF</li> <li>3. It does not comply with emerging policy set out in paragraph 6.9 of the draft PPS12</li> <li>4. Not subject to independent testing as part of the development plan process, as is the principle of the Community Infrastructure Levy planning charge as set out in Yvette Cooper's speech on 9<sup>th</sup> October 2007.</li> <li>5. Para 2.2 – Not in compliance with the SCI on consultation of DCGN's</li> <li>6. Para 2.4 – No procedures in place to replace SPG within the current planning system.</li> <li>7. Para 7.6 – No Viability testing.</li> <li>8. Para 7.14 – Opposition to the Open Book Approach.</li> <li>9. Para 11.5 – Affordable housing requirements to be set out under the SHMA not the HNA</li> <li>10. Para 11.25 &amp; 11.26 – No tested evidence to support the requirement of Lifestyle Homes Standard.</li> <li>11. Para 11.26 – Requirement to meet level 4 of the Code for Sustainable Homes does not now comply with recent national Planning Policy Statement on Climate Change.</li> <li>12. Section 15 – Community &amp; Neighbourhoods – Social behaviour is linked to many external factors outside of planning.</li> <li>13. Section 15 – No link between this section and other planning</li> </ol> |

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|                                   |  |  |
|-----------------------------------|--|--|
|                                   |  | <p>policy.</p> <p>14. Section 15.8 – general objection to this paragraph.</p> <p>15. Section 17 - No independent testing of the evidence to support the public realm improvements within this section.</p> <p>16. Section 20 - No independent testing of the evidence to support this section. The Council cannot expect the development of industry to contribute to healthcare provision where the overall funding requirement has not been subject to independent scrutiny and examination.</p>   |
| <p>Bower Mapson Ltd</p>           | <ol style="list-style-type: none"> <li>1. In support of a fair developer contributions system – appreciating the local benefits linked to the development.</li> <li>2. An equitable roof tax would help the community accept the decisions of the Council to provide more homes, particularly if the sums raised are seen to be spent locally.</li> <li>3. What is needed is a clear-cut three-band-system, which would remove damaging delays and uncertainty and importantly keep economics separate from planning considerations.</li> <li>4. Three Band System:<br/>Band 1 – Greenfield – as presently defined<br/>Band 2 – Affordable/Social – exempt<br/>Band 3 – Previously developed land – 20% of Band 1</li> </ol> | <ol style="list-style-type: none"> <li>5. Brownfield sites should not be taxed at the same rate as Greenfield sites as the cost base is entirely different between the two.</li> <li>6. Brownfield sites will often have the benefit of being served by existing infrastructure so the servicing costs will be lower, which is why a reduced level of contribution can often be accommodated before viability is threatened.</li> <li>7. It is impossible to follow the procedures for detailed third party evaluation of proposals as set out in paragraphs 7.11 – 7.13 inclusive within the normal time constraints of estate agents' tender periods.</li> </ol> |
| <p>Haydon Wick Parish Council</p> |  | <ol style="list-style-type: none"> <li>1. Need to consider impact on existing provision in terms of shortfall.</li> <li>2. Para 7.5 – setting thresholds allows developers to arrange projects to avoid them.</li> <li>3. Para 7.7 – Would allow properties to be sold with fewer</li> </ol>   |

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|                                       |  |  |
|---------------------------------------|--|--|
|                                       |  | <p>bedrooms, but converted later, Should applications for conversions be subject to contributions in future?</p> <ol style="list-style-type: none"> <li>4. Para 17.4 – Assumes peripheral areas have little need to utilise central area for services.</li> <li>5. Public Realm to be funded by Business contributions.</li> <li>6. Appendix 5 – Maintenance sum to be directed to Parish Council.</li> <li>7. Para 1 – No reference to transfer funds to parish for investment – need clear mechanism to transfer funds.</li> </ol>   |
| <p>East Swindon Development Group</p> |  | <ol style="list-style-type: none"> <li>1. EDA to be managed on a separate tariff.</li> <li>2. DCGN needs to concentrate on smaller developments where there is no prospect of onsite provision.</li> <li>3. Add extra Para at 2.6 – relating to infrastructure priorities at EDA</li> <li>4. Section 4 – No details on mechanism for pooling contributions or provision for repayment.</li> <li>5. Clear programme for delivery should be provided.</li> <li>6. Para 7.3 – consider based on household occupancy at time of approval of application.</li> <li>7. 7.4 Address handling of outline applications</li> <li>8. 7.9 – 7.10 – exemptions and discounts – where sites provide for infrastructure beyond its own needs, provision should be made for reimbursement promptly form contributions collected from other developments.</li> <li>9. Welcome the need to reflect individual circumstances and need for negotiation in line with B35 of Circ 05/05</li> <li>10. 7.11 – 13 - Viability appraisals to be submitted before and application is due.</li> <li>11. Section 8 - payments to be timed and phased so as not to place an unreasonable burden on development.</li> <li>12. The 5% admin fee proposed is unclear.</li> </ol> <p>Specific Observations on sections</p> |

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|  |  |  |
|--|--|--|
|  |  | <p>11 &amp; 12</p> <p>13. Para 11.6 tenure mix to be a matter for negotiation.</p> <p>14. Para 11.5 last sentence be deleted</p> <p>15. Para 11.8 level of developer profit is to be determined on a site-by-site basis.</p> <p>16. Para 11.16 70% to be social rented, this should be more flexible.</p> <p>17. Para 10.3 the words 'generally proffered' should be deleted.</p> <p>18. SEN appears to be calculated on construction costs of special schools – there is no link to PCT.</p> <p>19. The cost of primary and secondary provision has increased substantially.</p> <p>20. Social Services – does not appear to be reasonable.</p> <p>21. Community &amp; Neighbourhood - conflicts with advice in Circ 5/05</p> <p>22. Culture &amp; Leisure - the costs are derived from the DCGN on Culture &amp; Leisure. It is unclear how the developer contributions sought are those arising directly from development.</p> <p>23. Public Realm - Objections are robustly made focussing on the transparency of the process, the appropriateness of the guidance in the context of Circ 5/05 and the reasonableness of the overall scale of the contributions sought. The same concerns remain, given the intention to retain the advice in the overarching DCGN</p> <p>24. Public Art – The support from policy is unclear, this feeds into public realm.</p> <p>25. Community Forest – The evidence base to support the anticipated project costs of £6.5 million and the direct linkage between that and new as opposed to existing development, needs to be set out to test its robustness and hence the appropriateness of the contributions sought.</p> <p>26. Waste Management – The justification for a new waste treatment plant is not set out in the DCGN particularly having</p> |
|--|--|--|

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|  |  |   |
|--|--|---|
|  |  | regard for the increase in recycling over that time.  |
| David Wilson Homes                         |  | <ol style="list-style-type: none"> <li>1. Developer Contributions must be necessary and justified.</li> <li>2. Waste Management not accepted without justification of necessity and costs.</li> </ol>   |
| CPRE                                       | <ol style="list-style-type: none"> <li>1. Guidance Note Strongly Welcomed.</li> <li>2. It is hoped that ratio of affordable housing will increase and threshold in Swindon lowered.</li> <li>3. Hope viability issues are not raised on Greenfield sites.</li> </ol> |   |
| Wiltshire Wildlife Trust & Natural England |  | <ol style="list-style-type: none"> <li>1. Disappointed that the document does not include green infrastructure.</li> <li>2. Only applies to major development</li> <li>3. Consider roof tax band on 1% of land value uplift for wildlife</li> <li>4. Provided a developer contribution to biodiversity and wildlife GI vision document proposed by WWT &amp; NE</li> </ol>  |
| Westlea Housing Association                | <ol style="list-style-type: none"> <li>1. Split of Para 11.14 accepted.</li> </ol>   | <ol style="list-style-type: none"> <li>2. Document should not stifle Brownfield land coming forward.</li> <li>3. System need to be able to cope with unforeseen costs</li> <li>4. 11.7 – not acceptable – Westlea should be able to self-certify along with other rsl partners.</li> <li>5. Policy should not be retrospective where land is already owned</li> <li>6. Requirement for code 4 – not be reinforced in this document – guidance only.</li> <li>7. Suggested mix / split over tenancy on 15% 4 bed para 11.13</li> <li>8. Negotiation on site by site basis</li> </ol> |
| Wessex Water                               | <ol style="list-style-type: none"> <li>1. Utilise provisions of Water Industry Act 1994 and case-by-case basis.</li> </ol>   |   |
| Theatre Trust                              | No Comment on this document  |   |

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### Appendix B Indexation Figures for TPI, RPI and OPI

#### All Developer Contributions DCGN Indexation Calculations for all infrastructure items (excluding Open Space and off-site Affordable Housing)

##### Building Cost Information Service All-in Tender Price Index

High: 4Q 2007 - 251

Low: 4Q 2009 - 212

|               |   |
|---------------|---|
| 3Q 2006 - 228 | DCGN 2006 adopted control value for indexation calculations   |
| 3Q 2007 - 248 | DCGN 2007 update control value for indexation calculations where those figures are being integrated into the update e.g. Waste Management |
| 4Q 2009 - 212 | Current firm Tender Price Index figure against which indexation has been calculated   |

2010 Provisional index values: Not confirmed

1Q 2010 – 209      2Q 2010 – 208      3Q 2010 – 208

The update process was started in January 2010 so this is why the firm levels from Q4 2009 have been used, as provisional values are constantly subject to change.

##### Building Information Service Output Price Index for New Construction Works: Public Works: (Open Space)

Further to the announcement on 11 March 2010, regarding changes to the construction output statistics by the Office for National Statistics (ONS), arrangements for the BIS Output Price Indices have now been finalised as set out below. These changes took place on the 14 June 2010 but the OPIs for New Construction and Repair and Maintenance will not be updated until 13 September 2010. Thereafter, it will return to the previous quarterly publishing cycle.

Further information on the subject of this report can be obtained from *Sarah Screen, Planning obligations Project Manager* on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

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### OLD Output Price Index

### NEW Output Price Index

BIS Output Price Index for New Construction Works:

BIS Output Price Index for New Construction:

All New Construction

All New Construction

Public Housing

Public Housing

Private Housing

Private Housing

#### **Public Works**

#### **Public Non-Housing**

Private Commercial

Private Commercial

Private Industrial

Private Industrial

Infrastructure

Infrastructure

Other than the name changes, the indices in this series will continue from those previously

It is the Public Works, now known as the Public –Non-Housing that is used to calculate the indexation on the Open Space costs.

OPI Public Works:

High: 1Q 2007 - 157

Low: 1Q 2003 - 124

1Q 2003 - 124

Open Space figures created under the adopted SPG 2004 control value

3Q 2007 - 150

DCGN 2007 update value used to calculate the updated costs

The future indexing of the Open Space figures was the continued using the OPI Non-Housing which although a new index that has been backdated and includes 2007.

### **Building Information Service Output Price Index for New Construction (2010): Public Non-Housing**

High: 4Q 2007 - 118

Low: 3Q 2009 - 103

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3Q 2007 - 116

DCGN 2007 update control value

3Q 2009 - 103

Current firm OPI PNH value used to calculate indexation to date.

2010 provisional value: Not confirmed

4Q 2009 - 98

1Q 2010 – 96

### **Retail Price Index 'RPI'**

The RPI is used to calculate the increase on the Affordable Housing 'Supportable Deficit Matrix'. The figures were created in 2006, these have be calculated against the RPI annual averages;

2006 - 198.1

2007 - 206.6

2008 - 214.8

2009 - 213.7

2010 - 221.4 (present)

Further information on the subject of this report can be obtained from *Sarah Screen, Planning obligations Project Manager* on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

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### Appendix C Proposed Developer Contributions Ready Reckoner 2010

| Contribution To                                 | Threshold No. dwe | Info*  | Per dwe. | Contribution (£) |              |              |              |
|---|-------------------|--|----------|------------------|--------------|--------------|--------------|
|   |                   |  |          | 1 Bed            | 2 Bed        | 3 Bed        | 4+ Bed       |
| Affordable Housing                              | 15                |  | n/a      | 30% of all units |              |              |              |
| Open Space                                      | 25                | On Site  | N/a      | 577              | 1105         | 1622         | 2233         |
|   |                   | Off Site   | N/a      | 519              | 996          | 1459         | 2017         |
| Education Facilities                            | None              | EY 0-2   | n/a      | n/a              | 126          | 252          | 252          |
|   |                   | EY 2-4   | n/a      | n/a              | 360          | 840          | 840          |
|   |                   | P  | n/a      | n/a              | 1662         | 3186         | 3186         |
|   |                   | S  | n/a      | n/a              | 1461         | 2296         | 2296         |
|   |                   | 16-18  | n/a      | n/a              | 340          | 498          | 498          |
|   |                   | SEN P  | n/a      | n/a              | 196          | 375          | 375          |
|   |                   | SEN S  | n/a      | n/a              | 205          | 322          | 322          |
| Social Services Facilities                      | None              |  | 940      | 469              | 758          | 1074         | 1342         |
| Community Safety                                | None              |  | 409      | 246              | 330          | 467          | 584          |
| Culture and Leisure                             | None              |  | 1205     | 724              | 972          | 1378         | 1722         |
| Central Area Public Realm                       | None              |  | 2788     | 1263             | 1695         | 2401         | 3002         |
| Percent for Art                                 | 10                |  | 793      | 476              | 640          | 906          | 1133         |
| Community Forest                                | None              |  | 158      | 95               | 127          | 180          | 226          |
| Local Health                                    | None              |  | 199      | 120              | 161          | 227          | 284          |
| Waste Management                                | None              |  | 110      | 67               | 90           | 127          | 158          |
| Wiltshire Fire & Rescue Service                 | None              |  |          | 155              | 155          | 155          | 155          |
| Highways Infrastructure                         | None              | Will be required in addition to contributions outlined above |          |                  |              |              |              |
| <b>TOTAL</b><br>Maximum Potential Contribution* |                   |  |          | <b>4192</b>      | <b>10383</b> | <b>16346</b> | <b>18608</b> |

\*Figure includes contribution for on-site open space provision (no contribution to off-site) and assumes all educational establishments and local health facilities (GP Practices) are at capacity.

#### Key Information

|                            |        |
|----------------------------|--------|
| Early Years Age 0-2 years  | EY 0-2 |
| Early Years Age 2-4 years  | EY 2-4 |
| Primary School Provision   | P      |
| Secondary School Provision | S      |
| Secondary (16-18)          | 16-18  |

Infrastructure contributions for the commercial or retail elements of mixed use developments will be required in addition to contributions for any residential element.

The term 'new dwellings' also includes subdivisions.

Further information on the subject of this report can be obtained from the Planning Committee **Screen, Planning obligations Project Manager** on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

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|                                     |       |
|-------------------------------------|-------|
| Special Educational Needs Primary   | SEN P |
| Special Educational Needs Secondary | SEN S |

### Appendix D Developer Contributions Ready Reckoner 2006

| Contribution To                                  | Threshold No. dwe | Info*  | Per dwe. | Contribution (£) |              |              |              |
|--|-------------------|--|----------|------------------|--------------|--------------|--------------|
|  |                   |  |          | 1 Bed            | 2 Bed        | 3 Bed        | 4+ Bed       |
| <b>Affordable Housing</b>                        | 15                |  | n/a      | 30% of all units |              |              |              |
| <b>Open Space</b>                                | 25                | On Site  | 1287     | 456              | 881          | 1296         | 1834         |
|  |                   | Off Site   | 1021     | 321              | 699          | 1039         | 1472         |
| <b>Education Facilities</b>                      | None              | EY 0-2   | n/a      | n/a              | 102          | 203          | 203          |
|  |                   | EY 2-4   | n/a      | n/a              | 290          | 676          | 676          |
|  |                   | P  | n/a      | n/a              | 1328         | 2545         | 2545         |
|  |                   | S  | n/a      | n/a              | 1213         | 1906         | 1906         |
|  |                   | 16-18  | n/a      | n/a              | 277          | 406          | 406          |
|  |                   | SEN P  | n/a      | n/a              | 163          | 313          | 313          |
|  |                   | SEN S  | n/a      | n/a              | 238          | 374          | 374          |
| <b>Social Services Facilities</b>                | None              |  | 1140     | 685              | 920          | 1303         | 1628         |
| <b>Community Safety</b>                          | None              |  | 1059     | 636              | 854          | 1210         | 1513         |
| <b>Culture and Leisure</b>                       | None              |  | 755      | 453              | 609          | 862          | 1078         |
| <b>Central Area Public Realm</b>                 | None              |  | 2998     | 1802             | 2419         | 3427         | 4284         |
| <b>Percent for Art</b>                           | 10                |  | 853      | 512              | 687          | 896          | 1217         |
| <b>Community Forest</b>                          | None              |  | 170      | 103              | 137          | 193          | 241          |
| <b>Local Health</b>                              | None              |  | 145      | 87               | 117          | 166          | 207          |
| <b>Highways Infrastructure</b>                   | None              | Will be required in addition to contributions outlined above |          |                  |              |              |              |
| <b>TOTAL<br/>Maximum Potential Contribution*</b> |                   |  |          | <b>4734</b>      | <b>10235</b> | <b>15776</b> | <b>18425</b> |

\*Figure includes contribution for on-site open space provision (no contribution to off-site) and assumes all educational establishments and local health facilities (GP Practices) are at capacity.

Further information on the subject of this report can be obtained from Sarah Screen, Planning obligations Project Manager on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

## Appendix E

### Developer Contributions 2010 Update Summary Overview

#### Introduction

1. Minor tweaking of arrangement of paragraphs
2. Inclusion of some paragraphs used in the un-adopted 2007 update to improve explanations.
3. Addition of a section on the Community Infrastructure Levy Regulations (April 2010)
4. Update on Local Policy position
5. Expansion of the section on Viability as a clearer position
6. Inclusion of some additional triggers as set out under the un-adopted 2007 update e.g. subdivisions, HMOs, rooms that could be classed as bedrooms e.g. 'hobby/play room' or 'studies' where they are capable of being used as bedrooms, clarification around affordable housing, and triggers for adult social care contributions

#### Affordable Housing

1. The 2007 consultation structure has been used as the basic content to replace the 2006 structure as it was considered that this provided a clearer explanation.
2. Seek the application of a 70/30 split in favour of social rent as set out in the un-adopted 2007 update, to replace the 60/40 stated in the 2006 Guidance Note
3. Updated dwelling mix based on the Housing Register July 2010 update
4. Update to the RSL Providers in the Partnership
5. Inclusion of an up-to-date index-linked supportable deficit matrix in the accompanying appendices. Indexed against the Retail Price indices as stated in appendix 4 of the 2006 guidance Note (against the average costs, excluding the +0.5%)
6. Inclusion of a reference to seeking staircasing receipts

#### Open Space

1. Use of the structure of the 2007 update document
2. Indexed against the BCIS Output Price Indices Non-Housing

#### Education

1. Updated DSCF Cost Multiplier
2. Updated DCSF Regional Factor
3. Update to ICT to 10% of cost of a place for Primary, Secondary and Post 16.
4. Changes to net capacity increase from generic 5% to 8% for Primary and 6% of Secondary based on evidence from the Cambridge Education School Place Planning Study (July 2009)

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5. Replaced the Catchment Maps for Primary and Secondary
6. Included an easy reference school catchment table
7. Updated SEN pupil yield and SEN Factor. No change to the cost of a place
8. Added the Early Years Map that was missing from the printed document with updated capacity information
9. Explanation of the update in the Children's Centres construction programme
10. Added paragraph from 2007 consultation that explains catchment information
11. Update to methodology to trigger contributions from all development regardless of capacity levels

### **Public Realm**

1. Index linking of contributions to 2010 prices
2. Reference to the application of the adopted Central Area Action Plan (2009) alongside Policy D8 instead of policy CA15 of the adopted Local Plan, which was superseded by the Central Area Action Plan.
3. Inclusion of a reference to the fact that the contribution listed in the main document could be subject to reduced levels in the Ready Reckoner and S106 on-line calculator in order to reflect increases in costs in other infrastructure areas

### **Adult & Child Social Care (Social Services)**

1. Rename to Adult and Child Social Care to better reflect the Service Delivery mechanism.
2. Use of the costs as set out in the un-adopted 2007 update appendices.
3. Removal of payment of contributions to support child social care from by 1-bed units.
4. Retention of Child Social Care under Social Services as set out in the original 2006 Guidance Note.
5. Index linked contributions by dwelling size to reflect 2010 prices.

### **Community Safety**

1. Use of the un-adopted 2007 Guidance Note position that removed the contributions for Street Lighting and Landscaping
2. Index contributions to 2010 prices

### **Culture & Leisure**

1. Used 2006 position for Libraries and The Arts and index linked to 2010 prices
2. Use of the sustainable Communities section of the un-adopted 2007 update paragraphs 15.9 –15.13 to replace the structure for community centres as set out in the 2006 Guidance Note.
3. Replaced the programme of investment for Community Facilities in the 2006 Guidance Note with the programme table from Appendix 9 of the

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up-adopted 2007 Guidance Note, and index linked these costs to 2010 prices.

4. Include new methodology and calculation for contributions for Leisure

### **Public Realm**

1. Index link contributions per dwelling to 2010 prices.
2. Inclusion of reference to public realm contributions generated by non-residential development at 2010 prices
3. S106 Ready Reckoner altered on back page to reflect increases in other infrastructure items 'Leisure costs'.

### **Public Art**

1. Average Cost of a dwelling updated in the calculation.
2. Index linked to 2010 prices.
3. Inclusion of reference to Public Art from non-commercial development as set out under ENV7 and the Provision of Public Art SPD (August 2004).

### **Community Forest**

1. Index linking of contributions to 2010 prices
2. Inclusion of reference to non-residential development
3. Inclusion of appendix that index links the £ per sq. m from non-residential development

### **Local Health**

1. Update the GP Capacity data with 2010 levels
2. Update the population increase data
3. Update the Catchment Area Maps
4. Update the average cost for a GP Surgery
5. Index link the contributions per dwelling to 2010 Prices

### **Waste Management**

1. Inclusion of the Waste Management infrastructure item as set out in the un-adopted 2007 update.
2. Addition of an appendix to explain the methodology to the calculation
3. Index link contribution per dwelling to 2010 prices.

### **Wiltshire Fire & Rescue Service**

- a. Inclusion of the contribution
- b. Justification behind the contribution for both residential and non-residential uses
- c. Methodology and calculation
- d. On-site infrastructure requirements
- e. Appendix of Infrastructure Funding Gap costs

### **Appendices (to Main Guidance Note 2010)**

Further information on the subject of this report can be obtained from *Sarah Screen, Planning obligations Project Manager* on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

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All appendices alterations are referenced according to the infrastructure item listed above, except for:

### **Appendix 2: Household Projections:**

Additional explanatory paragraph

### **Appendix 3 Questions & Answers:**

Some minor updates to definitions

### **Contacts:**

Updated with 2010 information

### **S106 Ready Reckoner:**

Updated with adopted 2010 costs per infrastructure items, including reduced Central Area Public Realm contributions, updated to include contributions towards Waste Management and Wiltshire Fire & Rescue Service

Further information on the subject of this report can be obtained from *Sarah Screen, Planning obligations Project Manager* on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

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### Appendix F

#### Wiltshire Fire & Rescue Service

1. To support the emerging Core Strategy, Wiltshire Fire and Rescue Service have created an evidence base document 'Wiltshire Fire & Rescue Service's Community Risk Strategy for Swindon Borough from 2006-2026' (2009) 'The Strategy'. Its purpose is to set out the capital investment that research into response times has identified would be required to allow it to continue to deliver an acceptable level of service and respond to call-outs in the required timeframes. The Fire Service document contained two options, the 'Preferred Option' and the 'Compromise Option'. These set out slightly different levels of provision, dependent on the ability to deliver the full package subject to financial commitment.
2. The Strategy looks at a combination of upgrading existing fire stations, from 'immediate response during the day and delayed response at night to immediate response day and night', alongside the shrinking existing service provision in other areas to relocate from one sites to another, and identifies areas of search inside which new fire stations would be best located to deliver maximum benefit. Consideration has already been given to the possible funding sources, including the potential revenue generated from the sale of existing sites. The document does not take into account the potential cost of the purchase of land to accommodate new fire stations.
3. The 2010 Update of this strategy incorporates the initial revenue costs of set up, e.g. the equipment and officers needed to run the service and the supply of the engines for the first year, and the funding Gap values have been reviewed based on early 2010 land values.
4. There is a need to acknowledge that the Fire Service does not exist solely to provide a service to residential properties in the Borough, but the service is also needed to support all other land uses including employment, commercial, retail and public facilities. The WFRS had undertaken research that identified that 60% of their call-outs in Wiltshire are to attend residential incidents, therefore this research provides a strong justification to split the contribution 60/40 between residential and non-residential development.
5. The evidence base was created based on the expected growth agenda of 34,200 homes, and therefore that number has been used to create the cost per dwelling. The figure remains static across dwelling sizes as the same level of service; two pumps will need to be dispatched as a minimum regardless of dwelling size.

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- 6 In this instance the infrastructure provision is also to be provided non-residential development, that is commercial, business and retail that is new-build, or where change of use occurs that will intensify the risk at the location.
  
- 7 The methodology that has been used to calculate the non-residential contribution is to consider the scale number of hectares of employment land that was required to support the growth to 2026. In the emerging Core strategy this was cited as 128 hectares. The funding gap for the non-residential element (40% of the total gap) has been divided by the 128 hectares and then translated into a price per square metre.
  
- 8 The calculation of a contribution will be taken against the gross internal floor area in the following circumstances:
  - The gross internal floor space for new commercial, retail and leisure provision
  - The gross internal floor space of existing premises where a change of use proposal will result in a greater fire risk than the original use e.g. The new use introduces additional staff and public, intensifies the number and timeframe of the building occupancy.
  
- 9 This methodology will allow the contribution level to be spread across wider land-uses and trigger against the floor space as opposed to the size of the application site, as the two are often not comparable when it comes to the level of activity and site to floor space ratio.
  
- 10 The Fire Service had already undertaken research that identified that 60% of their call-outs in Wiltshire are to attend residential incidents.

### Preferred Option A Funding Gap

|  |                   |
|--|-------------------|
| Total Capital Sum                            | £4,533,563        |
| Total Revenue Sum                            | £4,320,200        |
| <b>Total Funding Gap</b>                     | <b>£8,953,763</b> |
|  |                   |
| Residential Allocation<br>(60% of total)     | £5,312,257        |
| Non-Residential Allocation<br>(40% of Total) | £3,641,506        |

### Residential Methodology

|   |   |   |   |                          |
|---|---|---|---|--------------------------|
| <b>£5,312,257</b><br>(60% of total contributions) | / | <b>34,200</b><br>No. of dwellings to 2026 | = | <b>£155 per dwelling</b> |
|---|---|---|---|--------------------------|

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### Non Residential Methodology

|   |   |   |   |              |
|---|---|---|---|--------------|
| £3,641,506<br>40% of funding gap for<br>Non-Residential | / | 1280000 m2<br>(equivalent of 128<br>Hectares) | = | £2.84 per m2 |
|---|---|---|---|--------------|

#### **Fire Hydrants and Water Supply for Fire Fighting**

- 11 In addition to the requests for financial contributions towards the overarching infrastructure, the WFRS Community Risk Strategy highlights the need for development to ensure that it is served by an appropriately sized water main that is capable of providing a pressure and flow rate that can be used for fire fighting purposes. In addition to the mains supply and flow rate, fire hydrants will be required to be located at strategic positions around the development to serve the need for access to that water supply in the event of fire.
- 12 In circumstances where it is deemed that the existing provision, water supply and/or hydrants in the vicinity of the development is incapable of satisfactorily serving a fire fighting need for that development proposal, the developer will be expected to deliver the infrastructure requirements integral to the development to include both the pipework required and accompanying hydrants. Where this provision cannot be achieved the Fire Authority may seek additional contributions to cover the costs of installation of a separate water supply. The required provision is set out in the Box below.

#### **Wiltshire FRS Specifications for Fire Hydrants and Water Mains for Fire-fighting Purposes**

- Fire hydrants are fitted to water mains; those water mains must be of at least 100mm in diameter in residential areas and at least 150mm diameter in commercial/industrial areas.
- In residential areas, fire hydrants should be positioned no more than 350 metres apart, and in industrial areas no more than 180 metres apart. Fire hydrants covering large public buildings and areas such as hospitals, hotels, schools and town centre developments should be spaced at 180 metre intervals unless relevant codes of practice state otherwise. In planning the provision of fire hydrants in rural areas, particular attention should be paid to specific risks and therefore no definitive distances can be provided.
- Where development is considered to be a 'major risk', it will be considered individually to ensure that the overall provision for fire fighting comprising, as appropriate, internal water based protection systems, private fire hydrants, statutory fire hydrants and other 'open water' supplies, is adequate.

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- Fire hydrants should be sited in positions to be agreed by the Fire Authority and, where possible, such locations will be at main roads, feeder roads or road junctions where they are readily visible.

13 Applicants will be notified of this requirement during the determination of the planning application. It is expected that the fire fighting mains and hydrants will be installed in tandem with the construction phases of development to ensure that they are immediately available should an incident occur and the Fire & Rescue Service be called.

14 The provision of such infrastructure is likely to be secured through the most appropriate means and could be included on a conditional planning permission, or tied by legal agreement, dependent on the circumstances.

Further information on the subject of this report can be obtained from *Sarah Screen, Planning obligations Project Manager* on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

## APPENDIX 2

### Community Infrastructure Levy An overview



Further information on the subject of this report can be obtained from *Sarah Screen, Planning obligations Project Manager* on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

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Further information on the subject of this report can be obtained from Sarah Screen, Planning obligations Project Manager on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

### Introduction

This document provides an overview of the Community Infrastructure Levy, a new planning charge that will come into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010. It explains the key features of the new charge, its rationale, purpose and how it will work in practice. The document is designed to inform all those who have an interest in the levy and who might be involved in its operation. The Government will also issue guidance on specific aspects of establishing and running a CIL regime.

#### **What is the Community Infrastructure Levy?**

2. The Community Infrastructure Levy (CIL) is a new charge which local authorities in England and Wales will be empowered, but not required, to levy on most types of new development in their areas. The proceeds of the levy will provide new local and sub-regional infrastructure to support the development of an area in line with local authorities' development plans.

#### **Who may charge CIL?**

3. The CIL charging authorities (charging authorities) in England will be district and metropolitan district councils, London borough councils, unitary authorities, national park authorities, The Broads Authority and the Mayor of London. In Wales, the county and county borough councils and the national park authorities will have the power to charge CIL. These bodies all prepare development plans for their areas, which are informed by assessments of the infrastructure needs for which CIL may be collected.

#### **Why introduce CIL?**

4. The planning system has for a long time allowed local planning authorities to require developers to make payments to mitigate the impacts of new development, using a system known as planning obligations (or Section 106 agreements). However, the planning obligations system has been criticised for not being transparent, leading to concerns that on the one hand planning permission is being bought and sold, and on the other that developers are being held to ransom by local authorities. Planning obligations have also often struggled to contribute effectively to large infrastructure requirements, or infrastructure needs, which are caused incrementally through the cumulative impact of a number of developments. This can result in either the first or last developer in an area contributing disproportionately to the cost of the infrastructure required in that area, because their development was the 'tipping point' for the need for a piece of infrastructure, while others make a low contribution or no contribution at all.
5. Research commissioned by the Government shows that major development disproportionately bears these costs and that despite encouragement by the Government, local authorities have not spread the burden more fairly and transparently including through the use of local 'tariffs'. At present, only 6 per

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cent of planning permissions in England make any contributions under the planning obligations regime.<sup>2</sup>

6. The Housing Green Paper, published in July 2007, set out a number of options for developer contributions, intended to form the basis of discussion with the development industry. The Green Paper made it clear that in considering whether to proceed with the Government's proposals for a Planning Gain Supplement (PGS), or an alternative, "the test of an effective approach to planning gain will be its ability to raise significant additional funds to support the infrastructure needed for development, in a fair and non-distortionary way, and in a way that preserves incentives to develop in a variety of circumstances". As a consequence of engagement with the industry during summer 2007, the Chancellor was able to announce at the Pre-Budget Report in October 2007 that PGS would be deferred and that the Government would instead legislate for a new statutory planning charge. That charge is the Community Infrastructure Levy (CIL), for which the Government legislated in the Planning Act 2008.
7. CIL builds on many of the proposals that the Government has explored since 2003, not least on the standard charging approach which has formed the basis of most of these proposals. CIL will deliver a number of benefits. These include:
  - far greater legal certainty as to the basis for a charge in a manner that the existing system cannot easily achieve, enabling for example the mitigation of cumulative impacts
  - a broader (and therefore fairer) range of developments contributing; and
  - improvements in transparency; and greater certainty and predictability as to the level of contribution which will be required.

### **Why should development pay for infrastructure?**

8. Almost all development has some impact on the need for infrastructure, services and amenities - or benefits from it - so it is only fair that such development pays a share of the cost. It is also right that those who benefit financially when planning permission is given should share some of that gain with the community which granted it to help fund the infrastructure that is needed to make development acceptable and sustainable.
9. However, the Government also believes that developers should have more certainty as to what they will be expected to contribute, thus speeding up the development process, and that the money raised from developer contributions should be spent in a way that developers will feel worthwhile; namely, on infrastructure to support development and the creation of sustainable communities set out in the Local Development Framework. This is what CIL will do.

### **How much will CIL raise?**

---

<sup>1</sup> Valuing Planning Obligations in England: Update Study for 2005-06, University of Sheffield, 2008 ([www.communities.gov.uk/publications/planningandbuilding/obligationsupdatestudy](http://www.communities.gov.uk/publications/planningandbuilding/obligationsupdatestudy))

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10. The introduction of CIL has the potential to raise an estimated additional £700 million pounds a year of funding for local infrastructure by 2016 (the Impact Assessment on CIL published on 10 February 2010 sets out further details). CIL will make a significant contribution to infrastructure provision, but core public funding will continue to bear the main burden. CIL is intended to fill the funding gaps that remain once existing sources (to the extent that they are known) have been taken into account. Local authorities will be able to look across their full range of funding streams and decide how best to deliver their infrastructure priorities, including how to utilise CIL. This flexibility to mix funding sources at a local level will enable local authorities to be more efficient in delivering the outcomes that local communities want.

### **How will CIL be spent?**

11. Local authorities are required to spend CIL revenues on the infrastructure needed to support the development of their area and they will decide what infrastructure is needed. CIL is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development. CIL can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure.
12. Charging authorities will be able to use their CIL receipts to recover the costs of administering CIL, with the regulations permitting them to use up to a 5 per cent of their total CIL revenue on administrative expenses to ensure that the overwhelming majority of receipts are directed towards infrastructure provision. Where a collecting authority has been appointed to collect a charging authority's CIL, as will be the case in London where the boroughs will collect the Mayor's CIL, the collecting authority may keep up to 4 per cent of receipts to fund their administrative costs, with the remainder available to the charging authority up to the 5 per cent ceiling.

### **What is infrastructure?**

13. The Planning Act 2008 provides a wide definition of the infrastructure which can be funded by CIL, including transport, flood defences, schools, hospitals, and other health and social care facilities. This definition allows CIL to be used to fund a very broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, district heating schemes and police stations and other community safety facilities. This gives local communities flexibility to choose what infrastructure they need to deliver their development plan.
14. The draft regulations rule out the application of CIL for providing affordable housing because the Government considers that planning obligations remain the best way of delivering affordable housing. Planning obligations enable affordable housing contributions to be tailored to the particular circumstances of the site and crucially, enable affordable housing to be delivered on-site in support of the Government's policy for mixed communities.

Further information on the subject of this report can be obtained from Sarah Screen, Planning obligations Project Manager on 01793 466397 or Email [sscreen@swindon.gov.uk](mailto:sscreen@swindon.gov.uk).

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15. In London, the draft regulations restrict spending by the Mayor to funding roads or other transport facilities, including Crossrail to ensure a balance between the spending priorities of the boroughs and the Mayor.

### **Infrastructure spending outside a charging area**

16. Charging authorities may pass money to bodies outside their area to deliver infrastructure which will benefit the development of their area, such as the Environment Agency for flood defence or, in two tier areas, the county council, for education infrastructure.
17. If they wish, charging authorities will also be able to collaborate and pool their CIL revenues to support the delivery of 'sub-regional infrastructure', for example, a larger transport project where they are satisfied that this would support the development of their own area.

### **Timely delivery of infrastructure**

18. It is important that the infrastructure needed by local communities is delivered when the need arises. Therefore, the draft regulations allow authorities to use CIL to support the timely provision of infrastructure, for example, by using CIL to backfill early funding provided by a financier, such as the Homes and Community Agency.
19. The draft regulations also include provision to enable the Secretary of State to direct that authorities may 'prudentially' borrow against future CIL income, should the Government conclude that, subject to the overall fiscal position, there is scope for local authorities to use CIL revenues to repay loans used to support infrastructure.

### **Monitoring and reporting CIL spending**

20. To ensure that CIL is open and transparent, charging authorities must prepare short reports on CIL for the previous financial year which must be placed on their websites by 31 December each year. They may prepare a bespoke report or utilise an existing reporting mechanism, such as the Annual Monitoring Report which reports on their local development plan.
21. These reports will ensure accountability and enable the local community to see what infrastructure is being funded from CIL. Charging authorities must report how much CIL revenue they received in the last financial year and how much revenue was unspent at the end of the financial year. They must also report total expenditure from CIL in the preceding financial year, with summary details of what infrastructure CIL funded and how much CIL was 'spent' on each item of infrastructure.

## Setting the CIL charge

### **Charging schedules**

22. Charging authorities should normally implement CIL on the basis of an up-to-date development plan or the London Plan for the Mayor's CIL. A charging

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authority may use a draft plan if they are planning a joint examination of their core strategy or LDP and their CIL charging schedule.

23. Charging authorities wishing to levy CIL must produce a charging schedule setting out the CIL rates in their area. Charging schedules will be a new type of document within the folder of documents making up the local authority's Local Development Framework in England, sitting alongside the LDP in Wales and the London Plan in the case of the Mayor's CIL. In each case, charging schedules will not be part of the statutory development plan.

### **Deciding the rate of CIL**

24. Charging authorities wishing to introduce a CIL should propose a rate which does not put at serious risk the overall development of their area. They will need to draw on the infrastructure planning that underpins the development strategy for their area. Charging authorities will use that evidence to strike an appropriate balance between the desirability of funding infrastructure from CIL and the potential effects of the imposition of CIL upon the economic viability of development across their area.
25. In setting their proposed CIL rates, charging authorities should identify the total infrastructure funding gap that a CIL is intended to support, having taken account of the other sources of available funding. They should use the infrastructure planning that underpinned their development plan to identify a selection of indicative infrastructure projects or types of infrastructure that are likely to be funded by CIL. If a charging authority considers that the infrastructure planning underpinning its development plan is weak, it may undertake some additional bespoke infrastructure planning to identify its infrastructure funding gap. In order to provide flexibility for charging authorities to respond to changing local circumstances over time, charging authorities may spend their CIL revenues on different projects from those identified during the rate setting process.

### **Evidence of economic viability**

26. Charging authorities will need to strike an appropriate balance between the desirability of funding infrastructure from CIL and the potential effects of the imposition of CIL upon the economic viability of development across their area. Charging authorities should prepare evidence about the effect of CIL on economic viability in their area to demonstrate to an independent examiner that their proposed CIL rates strike an appropriate balance.
27. In practice, charging authorities may need to sample a limited number of sites in their areas and in England, they may want to build on work undertaken to inform their Strategic Housing Land Availability Assessments. Charging authorities that decide to set differential rates may need to undertake more fine-grained sampling to help them to estimate the boundaries for their differential rates.

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### **Charge setting in London**

28. A London Borough setting a local CIL must take into account any CIL rates that have been set by the Mayor of London. Allowing both the Mayor and the boroughs to levy CIL will enable CIL to support the provision of both local and strategic infrastructure in London.

### **Differential rates**

29. Charging schedules may include differential rates of CIL, where they can be justified either on the basis of the economic viability of development in different parts of the authority's area or by reference to the economic viability of different types of development within their area. The ability to set differential rates gives charging authorities more flexibility to deal with the varying circumstances within their area, for example where an authority's land values vary between an urban and a rural area.

## Procedure for setting the charge

### **Preparing the charging schedule**

30. The process for preparing a charging schedule is similar to that which applies to development plans in England and LDPs in Wales in three key respects. Firstly, there is a requirement to consult and a public examination before an independent person (the CIL Examination). Secondly, the report of the independent examiner will be binding on the charging authority. Thirdly, the charging authority is not under an obligation to adopt the final schedule but can, if it prefers, submit a revised charging schedule to a fresh examination. Charging authorities will be able to work together when preparing their CIL charging schedules.

### **Public consultation**

31. Charging authorities must consult local communities and stakeholders on their proposed CIL rates in an early draft of the charging schedule. Then, before being examined, a draft charging schedule must be formally published for representations for a period of at least four weeks. During this period any person may request to be heard by the examiner. If a charging authority makes any further changes to the draft charging schedule after it has been published for representations, any person may request to be heard by the examiner, but only on those changes, during a further four-week period.

### **The examination of the charging schedule**

32. A charging schedule must be examined in public by an independent person appointed by the charging authority. If any person has requested to be heard before the examiner at the CIL examination, hearings must be held in public. The format for CIL examination hearings will be similar to those for development plan documents and the independent examiner may determine the examination procedures and set time limits for those wishing to be heard to ensure that the examination is conducted in an efficient and effective manner.

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33. Where a charging authority has chosen to work collaboratively with other charging authorities, they may opt for a joint examination of their charging schedule with those of the other charging authorities. In addition, a CIL examination of one or more charging schedules may be conducted as an integrated examination with a draft development plan.

### **Outcome of the CIL examination**

34. The independent examiner will be able to recommend that the draft charging schedule should be approved, rejected, or approved with specified modifications and must give reasons for those recommendations. A charging schedule may be approved subject to modifications if the charging authority has complied with the legislative requirements, but for example, the proposed CIL rate does not strike an appropriate balance given the evidence.
35. The independent examiner should reject a charging schedule if the charging authority has not complied with an aspect of the legislation (and this cannot be addressed by modifications), or if it is not based on appropriate available evidence. The examiner's recommendations will be binding on the charging authority, which means that the charging authority must make any modifications recommended if they intend to adopt the charging schedule and cannot adopt a schedule if the examiner rejects it.

### **Procedure after the CIL examination**

36. To ensure democratic accountability, the charging schedule must be formally approved by a resolution of the full council of the charging authority. In London, the Mayor must make a formal decision to approve his or her CIL charging schedule.
37. In order to ensure that the correct CIL rate is charged, certain errors in the charging schedule may be corrected for a period of up to six months after the charging schedule has been approved. If the charging authority corrects errors it must republish the charging schedule.

### **Ceasing to charge CIL**

38. Charging authorities should keep their charging schedules under review (although there is no fixed end date). Charging authorities may formally resolve to cease charging CIL at any time through a resolution of the full council.

## How will CIL be applied?

### **What is CIL liable development?**

39. Most buildings that people normally use will be liable to pay CIL. But buildings into which people do not normally go, and buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery, will not be liable to pay CIL. Structures which are not buildings,

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such as pylons and wind turbines, will not be liable to pay CIL. CIL will not be charged on changes of use which do not involve an increase in floorspace.

### **How will CIL be levied?**

40. CIL must be levied in pounds per square metre of the net additional increase in floorspace of any given development. This will ensure that charging CIL does not discourage the redevelopment of sites.
41. Any new build – that is a new building or an extension – is only liable for CIL if it has 100 square metres, or more, of gross internal floor space. Whilst any new build over this size will be subject to CIL, the gross floorspace of any existing buildings on the site that are going to be demolished will be deducted from the final CIL liability. To ensure CIL is cost effective to collect, any final net CIL charge less than £50 must not be pursued by the charging authority.
42. In calculating individual CIL charges, charging authorities will be required to apply an annually updated index of inflation to keep CIL responsive to market conditions. The index will be the national All-In Tender Price Index of construction costs published by the Building Cost Information Service of The Royal Institution of Chartered Surveyors.

### **How does CIL relate to planning permission?**

43. CIL will be charged on new builds permitted through some form of planning permission. Examples are planning permissions granted by a local planning authority or a consent granted by the Independent Planning Commission. However, some new builds rely on permitted development rights under the General Permitted Development Order 1995. There are also local planning orders that grant planning permission, for example Simplified Planning Zones and Local Development Orders. Finally, some Acts of Parliament grant planning permission for new builds: the Crossrail Act 2008 is one such Act. CIL will apply to all these types of planning consent.
44. The planning permission identifies the buildings that will be liable for a CIL charge: the 'chargeable development'. The planning permission also defines the land on which the chargeable buildings will stand, the 'relevant land'. Buildings that are to be demolished, whose gross internal floorspace can be deducted from the CIL liability, will be situated on the relevant land.

### **Who collects CIL?**

45. Collection of CIL will be carried out by the 'CIL collecting authority'. In most cases this will be the charging authority but, in London, the boroughs will collect CIL on behalf of the Mayor. County councils will collect CIL levied by districts on developments for which the county gives consent. The Homes and Communities Agency, Urban Development Corporations and Enterprise Zone Authorities can also be collecting authorities for development where they grant permission, if the relevant charging authority agrees.

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#### **How is CIL collected?**

46. CIL charges will become due from the date that a chargeable development is commenced in accordance with the terms of the relevant planning permission. The definition of commencement of development for CIL purposes is the same as that used in planning legislation, unless planning permission has been granted after commencement.
47. When planning permission is granted, the collecting authority will issue a liability notice setting out the amount of CIL that will be due for payment when the development is commenced, the payment procedure and the possible consequences of not following this procedure. The payment procedure encourages someone to assume liability to pay CIL before development commences. Where liability has been assumed, and the Collecting Authority has been notified of commencement, parties liable to pay CIL will benefit from a 60 day window in which they can make payment.
48. Where the CIL charge is over £10,000, the liable parties will be able to pay CIL within a series of instalment periods from the commencement date. The number of instalments will vary, depending on the size of the amount due. If the payment procedure is not followed, payment will become due in full.

#### **Who is liable to pay CIL?**

49. The responsibility to pay CIL runs with the ownership of land on which the CIL liable development will be situated. This is in keeping with the principle that those who benefit financially when planning permission is given should share some of that gain with the community. That benefit is transferred when the land is sold with planning permission, which also runs with the land. The draft regulations define landowner as a person who owns a 'material interest' in the relevant land. 'Material interests' are owners of freeholds and leaseholds that run for more than seven years after the day on which the planning permission first permits development.
50. Although ultimate liability rests with the landowner, the regulations recognise that others involved in a development may wish to pay. To allow this, anyone can come forward and assume CIL liability for the development. In order to benefit from payment windows and instalments, someone must assume liability in this way. Where no one has assumed liability to pay CIL, the liability will automatically default to the landowners of the relevant land and payment becomes due immediately upon commencement of development. Liability to pay CIL can also default to the landowners where the collecting authority, despite making all reasonable efforts, has been unable to recover CIL from the party that assumed liability for CIL.

#### **Charity and Social Housing Relief**

51. The draft regulations give relief from CIL in two specific instances. First, a charity landowner will benefit from full relief from their portion of the CIL liability where the chargeable development will be used wholly, or mainly, for charitable purposes. A charging authority can also choose to offer

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discretionary relief to a charity landowner where the greater part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes. The charging authority must publish its policy for giving relief in such circumstances. Secondly, the draft regulations provide 100% relief from CIL on those parts of a chargeable development which are intended to be used as social housing.

52. To ensure that reliefs from CIL are not used to avoid proper liability for CIL, the draft regulations require that any relief must be repaid, a process known as 'clawback', if the development no longer qualifies for the relief granted within a period of seven years from commencement of the chargeable development.

### **Exceptional circumstances**

53. Given the importance of ensuring that CIL does not prevent otherwise desirable development, the draft regulations provide that charging authorities have the option to offer a process for giving CIL relief in exceptional circumstances where a specific scheme cannot afford to pay CIL. A charging authority wishing to offer exceptional circumstances relief in its area must first give notice publicly of its intention to do so. A charging authority can then consider claims for relief on chargeable developments from landowners on a case-by-case basis, provided the following conditions are met. Firstly, a section 106 agreement must exist on the planning permission permitting the chargeable development. Secondly, the charging authority must consider that the cost of complying with the section 106 agreement is greater than the CIL charge and that paying the charge would have an unacceptable impact on the development's economic viability. Finally, relief must not constitute a notifiable State aid.

### **In-kind payments**

54. There may be circumstances where it will be more desirable for a charging authority to receive land instead of monies to satisfy a CIL liability, for example where the most suitable land for infrastructure is within the ownership of the party liable for CIL. Therefore, the draft regulations provide for charging authorities to accept transfers of land as a payment 'in kind' for the whole or a part of a CIL charge, but only if this is done with the intention of using the land to provide, or facilitate the provision of, infrastructure to support the development of the charging authority's area.
55. To ensure that 'in-kind' payments are used appropriately, such payments may only be accepted where the amount of CIL payable is over £50,000 and where an agreement to make the in-kind payment has been entered into before commencement of development. Land that is to be paid 'in kind' may contain existing buildings and structures and must be valued by an independent valuer who will ascertain its 'open market value', which will determine how much CIL liability the 'in-kind' payment will off-set. Payments in kind must be provided to the same timescales as cash CIL payments.

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### **How will CIL payment be enforced?**

56. The vast majority of CIL liable parties are likely to pay their CIL liabilities without problem or delay, guided by the information sent by the collecting authority in the liability notice. In contrast to negotiated planning obligations which can cause delay, confusion, and litigation over liability, CIL charges are intended to be easily understood and easy to comply with. However, where there are problems in collecting CIL, it is important that collecting authorities have the means to penalise late payment and deter future non-compliance. To ensure payment, the draft regulations provide for a range of proportionate enforcement measures, such as surcharges on late payments.
57. In most cases, these measures should be sufficient. However, in cases of persistent non-compliance, the draft regulations also enable collecting authorities to take more direct action to recover the amount due. One such measure is the CIL stop notice, which prohibits development from continuing until payment is made. Another is the ability to seek a court's consent to seize and sell assets of the liable party. In the very small number of cases where a collecting authority can demonstrate that recovery measures have been unsuccessful, a court may be asked to commit the liable party to a short prison sentence.
58. The payment and enforcement provisions of the draft regulations add substantial protection for both charging authorities and liable parties compared with the existing system of planning obligations, particularly for small businesses which may not have easy access to legal advice. This is an important benefit of the new legislation which has not been available before.

## The relationship between CIL and planning obligations

59. CIL is intended to provide infrastructure to support the development of an area rather than to make individual planning applications acceptable in planning terms. As a result, there may still be some site specific impact mitigation requirements without which a development should not be granted planning permission. Some of these needs may be provided for through CIL but others may not, particularly if they are very local in their impact. Therefore, the Government considers there is still a legitimate role for development specific planning obligations to enable a local planning authority to be confident that the specific consequences of development can be mitigated.
60. However, in order to ensure that planning obligations and CIL can operate in a complementary way and clarify the purposes of the two instruments the draft CIL regulations scale back the way planning obligations operate. Limitations will be placed on the use of planning obligations in three respects:
- I. Putting the Government's policy tests on the use of planning obligations set out in Circular 5/05 on a statutory basis for developments which are capable of being charged CIL

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II. Ensuring the local use of CIL and planning obligations does not overlap; and

III. Limiting pooled contributions from planning obligations towards infrastructure which may be funded by CIL.

### **Making the Circular 5/05 tests statutory for CIL development**

61. The draft regulations place into law for the first time the Government's policy tests on the use of planning obligations. The statutory tests are intended to clarify the purpose of planning obligations in light of CIL and provide a stronger basis to dispute planning obligations policies, or practice, that breach these criteria. This seeks to reinforce the purpose of planning obligations in seeking only essential contributions to allow the granting of planning permission, rather than more general contributions which are better suited to use of CIL.
62. From 6 April 2010 it will be unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, that is capable of being charged CIL, whether there is a local CIL in operation or not, if the obligation does not meet all of the following tests:
- (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.
63. For all other developments (i.e. those not capable of being charged CIL), the policy in Circular 5/05 will continue to apply.

### **Ensuring the local use of CIL and planning obligations does not overlap**

64. On the local adoption of CIL, the draft regulations restrict the local use of planning obligations to ensure that individual developments are not charged for the same items through both planning obligations and CIL. Where a charging authority sets out that it intends to fund an item of infrastructure via CIL then that authority cannot seek a planning obligation contribution towards the same item of infrastructure.
65. A charging authority should set out its intentions for how CIL monies will be spent on the authority's website. If a charging authority does not set out its intentions for use of CIL monies then this would be taken to mean that the authority was intending to use CIL monies for any type of CIL infrastructure, and consequently that authority could not seek a planning obligation contribution towards any such infrastructure.

### **Limiting Pooled s106 contributions for CIL infrastructure**

66. On the local adoption of CIL or nationally after a transitional period of four years (6 April 2014), the draft regulations restrict the local use of planning obligations for pooled contributions towards items that may be funded via CIL.

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CIL is the government's preferred vehicle for the collection of pooled contributions.

67. However, where an item of infrastructure is not locally intended to be funded by CIL, pooled planning obligation contributions may be sought from no more than five developments to maintain the flexibility of planning obligations to mitigate the cumulative impacts of a small number of developments.
68. For provision that is not capable of being funded by CIL, such as affordable housing or maintenance payments, local planning authorities are not restricted in terms of the numbers of obligations that may be pooled, but they must have regard to the wider policies set out in Circular 5/05.
69. Crossrail will bring benefits to communities across London and beyond and its funding will be met by a range of sources, including contributions from CIL and planning obligations. To effectively maintain the ability of planning obligations to raise revenue for Crossrail, this restriction will not apply to planning obligations that relate to or are connected with the funding of Crossrail.

### **Next steps**

70. The Government has announced that it will consult on a new policy for planning obligations to reflect the introduction of CIL and related reform to the use of planning obligations, as well as to deliver the Government's Planning White Paper (2006) commitment to streamline planning policy. This policy will replace Circular 5/05 and will form an Annex to the new Development Management Planning Policy Statement on which the Government launched a consultation in December 2009.
71. The Government will also produce new guidance and support for local authorities concerning the setting and operation of CIL, including effective use of planning obligations alongside CIL.

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