

Planning overview

Policy assessment and guidance for the implementation of Section 106 contributions

Introduction

- 15.1 The purpose of this section is to provide a planning overview for the Council, in particular:
- providing guidance on the impact of the PPG17 study on the emerging LDF
 - providing guidance for the application of Section 106 contributions.

Background

- 15.2 Section 38 of the Planning and Compulsory Purchase Act 2004 states that for the purposes of any area in England other than Greater London, the development plan is:
- the Regional Spatial Strategy (RSS) for the region in which it is situated, and
 - the Development Plan Documents (DPDs) which have been adopted or approved in relation to that area.
- 15.3 Whilst not part of the statutory development plan, local planning authorities can also produce Supplementary Planning Documents (SPDs) that expand upon the policies and proposals in the development plan. Alongside the DPDs these form the Local Development Frameworks (LDFs) that the new legislation demands. This open space assessment forms part of the evidence base to ensure that the policies and proposals in the LDF are sound.
- 15.4 The Rother District Local Plan was adopted on 10 July 2006 and includes specific planning policies and proposals that will be applied to manage development and change up to 2011. The Plan is saved in its entirety upon adoption for at least a three-year period. Elements of it will subsequently be reviewed and updated with the preparation of Development Plan Policies (DPDs). If policies are to be saved for a longer period, there will need to be a formal assessment as part of the Annual Monitoring Report in December 2008, and a request made for a 'direction' by the Secretary of State.

Planning contributions

Strategic context

- 15.5 Planning obligations are typically agreements negotiated between local authorities and developers in the context of granting planning consent. They provide a means to ensure that a proposed development contributes to the creation of sustainable communities, particularly by securing contributions towards the provision of necessary infrastructure and facilities required by local and national planning policies.
- 15.6 The framework for the current system of planning obligations in England is set out in Section 106 (S106) of the Town and Country Planning Act 1990 (as amended by the 1991 Act). Under the new planning system, provisions have been made in the 2004 Planning and Compulsory Purchase Act to make legislative changes to the developer contributions system. However, in the interim period the Government has decided to provide further advice on working within the current system by publishing a Planning Obligations Circular 05/2005 whilst it considers further reforms. Further “good practice” guidance on the implementation of developer contributions has recently been published.
- 15.7 Section 106 provides that anyone with an interest in land may enter into a planning obligation enforceable by the local planning authority. Such an obligation may be created by agreement or by the person with the interest making an undertaking. Such obligations may restrict development or use of the land; require operations or activities to be carried out in, on, under or over the land; require the land to be used in any specified way; or require payments to be made to the authority either in a single sum or periodically.

Planning Policy Guidance Note 17 (PPG17): Planning for Open Spaces, Sport and Recreation

- 15.8 PPG17 emphasises the importance of undertaking robust assessments of the existing and future needs of local communities for open space, sport and recreational facilities.
- 15.9 Local authorities should use the information gained from their assessments of needs and opportunities to set locally derived standards for the provision of open space, sports and recreational facilities.
- 15.10 With regards the use of planning obligations, paragraph 33 of PPG17 states; “Planning obligations should be used as a means to remedy local deficiencies in the quantity or quality of open space, sports and recreation provision. Local Authorities will be justified in seeking planning obligations where the quantity or quality of provision is inadequate or under threat, or where new development increases local needs. It is essential that local authorities have undertaken detailed assessments of needs and audits of existing facilities, and set appropriate local standards in order to justify planning obligations.”

Assessing needs and opportunities: A Companion Guide to PPG17

- 15.11 Whilst the advice within the Companion Guide was written at a time when the guidance on developer contributions was contained within Circular 1/97, its recommendations on the implementation of developer contributions are still highly relevant.

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- 15.12 Diagram 1 of the Companion Guide outlines a recommended approach of how to deal with the redevelopment of an existing open space or sports/recreation facility, using developer contributions and planning conditions.
- 15.13 Crucially paragraph 9.1 states that provided authorities have undertaken assessments of need and audits of existing facilities compliant with PPG17, locally determined provision standards will meet the tests of reasonableness set out in paragraph 7 of DoE Circular 1/97, Planning Obligations. Whilst Circular 05/2005 has superseded this circular, the reference to “reasonableness” remains.
- 15.14 The Companion Guide states that additional provision will be needed when the total amount of provision within the appropriate distance threshold of the site is or will be below the amount required in the area following the development. The decision as to whether on-site provision or a contribution to off-site provision will be more appropriate depends primarily on whether the total quantity of each form of new provision required as a result of the proposed development is above the minimum acceptable size in the adopted provision standards. If it is, then new provision should normally be on-site. If not, the developer should normally be required to contribute to off-site provision.
- 15.15 Before seeking contributions to off-site provision, authorities should be satisfied that they will be able to use them within the distance threshold of the proposed development site. If they do not use them within an agreed time frame, developers are able to submit an S106 application for their return. This underlines the importance of ensuring planning obligations are implemented or enforced in an efficient and transparent way, in order to ensure that contributions are spent on their intended purposes and that the associated development contributes to the sustainability of the areas. This will require monitoring by the local planning authority.
- 15.16 Whilst the Council will be justified in seeking contributions for the full range of open space sport and recreation facilities for which they have adopted provision standards, in practice they will have to be realistic and in many instances prioritise within the findings of the local needs and audit assessment. This will vary dependent on the location of the planning application.

Circular 05/2005: Planning obligations

- 15.17 This Circular replaces the Department of the Environment Circular 1/97, with the changes only concerning the negotiation of planning obligations. This Circular will apply in the interim period before further reforms are brought forward.
- 15.18 Planning obligations are intended to make acceptable development that would otherwise be unacceptable in planning terms. They may be used to:
- prescribe the nature of a development (eg proportion of affordable housing)
 - compensate for loss or damage created by a development (eg loss of open space)
 - mitigate a development’s impact (eg through increased public transport provision).

15.19 Planning obligations should only be sought where they meet all of the following tests, namely that they are:

- relevant to planning
- necessary to make the proposed development acceptable in planning terms
- directly related to the proposed development
- fairly and reasonably related in scale and kind to the proposed development; and
- reasonable in all other aspects.

Planning obligations: Practice guidance (July 2006)

15.20 The Department for Communities and Local Government (DCLG) Practice Guidance aims to provide local planning authorities and developers with practical tools and methods to help the development, negotiation and implementation of planning obligations. It is accompanied by a model Section 106 agreement prepared by the Law Society. The guidance relates directly to sections of Circular 05/05 Planning Obligations. It covers the following issues:

- types of contribution, including maintenance payments and pooled contributions
- policies in Regional Spatial Strategies, Local Development Frameworks, and the roles of Supplementary Planning Documents
- improving processes of negotiation, by the use of applicant/stakeholder guides and setting local authority service standards
- developing formulae and standard charges, and the need to assess the impact and costs of proposals in order to inform such charging
- the Law Society model agreement, which is intended to form a template from which authorities can select relevant sections
- the use of third parties to validate and mediate agreements
- the role of community involvement, and responsibilities of authorities under the Freedom of Information Act 2000
- unilateral undertakings
- improvements to ways of managing and implementing planning obligations, including the use of performance bonds.

Plan Led System

15.21 Planning obligations can be in kind or in the form of financial contributions. Policies on the types of payment, including pooling and maintenance payments should be set out in Local Development Frameworks. Developers should be able to predict as accurately as possible the likely contributions they will be asked to pay.

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- 15.22 Development Plan Documents should include general policies about the principles and use of planning obligations, for example, matters to be covered by planning obligations and factors to take into account when considering the scale and form of contributions.
- 15.23 More detailed policies applying the principles set out in the Development Plan Document, for example specific localities and likely quantum of contributions, ought to then be included in Supplementary Planning Documents. Depending on the scope of the SPD, the Council may wish to also consider the development of codes of practice in negotiating planning obligations, so as to make clear the level of service a developer can expect.

Maintenance

- 15.24 Where contributions are secured through planning obligations that are predominantly for the benefit of users of the associated development, it may be appropriate for the development to make provision for subsequent maintenance. Such provision (for example, children's play areas to serve a new housing development) may be required in perpetuity.
- 15.25 However, when an asset is intended for wider public use, the costs of subsequent maintenance should normally be borne by the authority. Where contributions to the initial support are necessary, maintenance sums should be time limited and should not be required in perpetuity. Examples where this might apply include, for example, outdoor sports facilities, which will serve a wider area.

Pooled contributions

- 15.26 Where the combined impact of a number of developments creates the need for infrastructure, it may be reasonable for the associated developer contributions to be pooled. In addition, where the individual development will have some impact but is not sufficient to justify the need for a discrete piece of infrastructure, local planning authorities may seek contributions to specific future provision. This can be determined through the application of the quantity standards and the agreed accessibility thresholds developed in the study. However, a degree of certainty is needed that cumulatively sufficient developments will come forward in that locality within an agreed time frame or else the contributions will need to be returned to the developer. This should be closely linked to emerging Local Development Framework work on-site-specific allocations and knowledge of areas of significant development.
- 15.27 Alternatively, in cases where an item of infrastructure necessitated by the cumulative impact of a series of developments is provided by a local authority before all the developments have come forward, the later developers may still be required to contribute the relevant proportion of costs. Therefore it is recommended that the Council develops a strategy for the provision of new open space, sport and recreation as required, ensuring contributions are maximised in areas which are known to have a quantitative shortfall and where housing growth is expected.

Formulae and standard charges

15.28 Local authorities are encouraged to employ formulae and standard charges where appropriate as part of their framework for negotiating and securing planning obligations. The benefits to the system are that it:

- speeds up the negotiation process
- ensures predictability
- promotes transparency
- assists in accountability.

15.29 Standard charges and formulae applied to each development should reflect the actual impacts of the development or a proportionate contribution.

Revisions to the Developer Contributions system

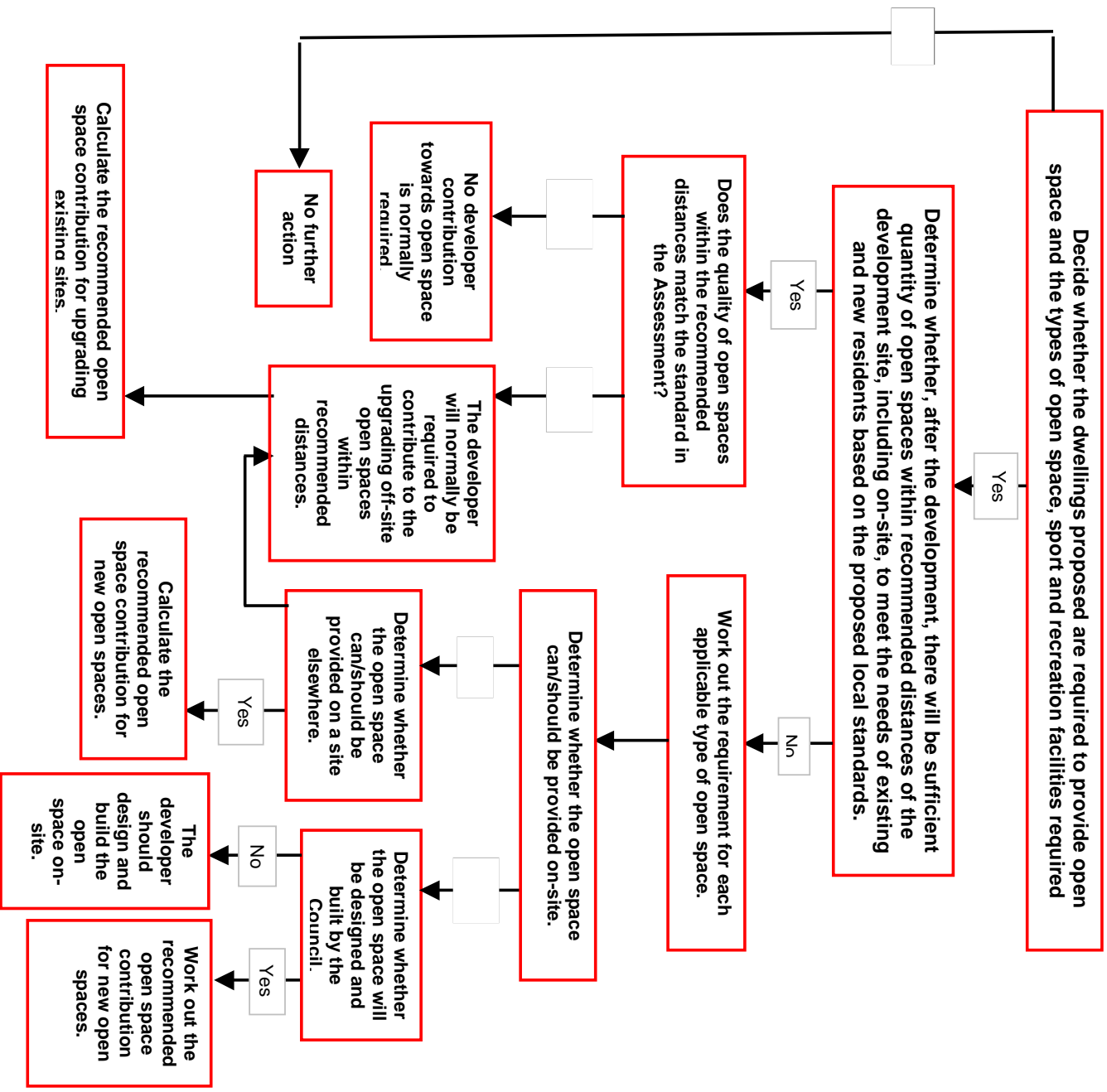
15.30 Government policy on developer contributions has been under review in recent years, seeking to speed up the process, increase transparency and reduce uncertainty. The Government has been examining the possibility of augmenting site-specific agreements with tariffs where developers can opt to pay a prescribed contribution (optional planning charge) set out in a plan as an alternative to negotiation obligations.

15.31 Planning obligations have become a prominent feature of land use policy because they enable local authorities to agree significant benefits from developers that go beyond compensating third parties for the negative externalities and have become something of an informal tax on land betterment. In a review of housing supply for the Government, economist Kate Barker recommended that as a solution, planning obligations should be scaled back and restricted to dealing with the mitigation of development impact and to agree affordable housing contributions. A tax – planning gain supplement – would be used to extract some of the windfall gain and the majority of the money returned to local authorities to finance strategic infrastructure requirements. The Government has accepted Barker's recommendations and consulted on the proposed planning gain supplement (PGS), indicating that it might well come into force in the near future. The consultation documents reveal that open space would continue to be considered under planning obligations but leisure facilities would come under the scope of the PGS.

Policy assessment and guidance for the implementation of Section 106 contributions

15.32 The flow diagram overleaf in Figure 15.1 is based on the review of guidance and provides a step-by-step process for determining developer contributions. This is intended as a guide for the Council to develop the process for determining developer contributions and forms the structure of the rest of this section.

Figure 15.1 - Proposed Process for Determining Open Space Requirements
(adapted from Swindon Borough Adopted SPG: 2004)



Determine whether the dwellings proposed are required to provide open space

15.33 The first key stage detailed within the flow diagram is to determine whether the dwellings proposed are required to provide open space and what types of open space, sport and recreation facilities will require developer contributions. Table 15.1 below provides a summary of the approach taken by other authorities

Table 15.1 Summary of approaches taken by other authorities

Number and type of dwellings	
Tynedale Council	Applied to all new dwellings. Requirements for outdoor sports are only applied to three dwelling developments and above.
Mid Devon Borough Council	All new developments to contribute to the provision of open space including single dwellings, tied accommodation, elderly persons units, conversions, flats, maisonettes and permanent mobile homes. Exceptions to this are replacement dwellings, extensions, wardened accommodation, nursing homes or similar institutional developments and temporary mobile homes. Affordable housing schemes can be unviable if required to contribute to open space provision but still incur a demand. The onus is on the developer to demonstrate that open space contributions would make the scheme unviable.
	Most types of residential development are considered to generate demand for all categories of open space. This includes market housing, new build dwellings, affordable housing, permanent permissions for mobile homes. It excludes one for one replacement dwellings, extensions and annexes. Only specific types of open space are required for elderly accommodation (active/less active/least active) and a case by case basis is applied to specialist accommodations eg hostels and conversions or sub-division of dwellings.
	Applied to 10 dwellings or more. Most types of residential development will generate additional demand on open space. The SPG includes a table to assess whether open space is required for each type of dwelling. Open market housing/flats and affordable housing are required to contribute to all types of open space. Housing for active elderly excludes a requirement for playing fields, local play areas and neighbourhood play areas. Excludes extensions, replacement dwellings, nursing homes and substitute house types.
Leicester City Council	Applies to all new residential development including flats, maisonettes, student accommodation.
Cambridge City Council	Open space required for developments of 10 or more dwellings and open space requirement is applied to all new build self-contained residential units and conversions or change of use.
Hinckley and Bosworth Borough Council	Requires provision of some form of open space for all residential dwellings. Non-residential development may have an impact on existing open space and a financial contribution may be sought for facilities such as footpath lighting.

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- 15.34 In general the approach taken to affordable housing is to include a statement within the guidance stating that affordable housing schemes will require the same level of provision as open market housing but where it can be demonstrated that this would lead to the scheme being unviable, the level of provision required can be reduced.
- 15.35 The existing approach taken by the Council is that residential play space and equipment will usually be required in new developments. However due to the lack of play areas in some areas of the District it would appear that the policy is not always applied. It is the Council's intention to continue a threshold system with only large scale developments being expected to have all open space typologies on site.
- 15.36 Based on the review of existing guidance, it is recommended that the following approach be taken:
- to base the nature and scale of obligations sought from development on the size of development and the impact on open space, sport and recreation provision ensuring that all developments (1 dwelling +) could make a proportionate contribution if an area has a quantity deficiency within the relevant accessibility catchment. This may be particularly important in rural areas where the size of developments will be relatively small to mitigate against the cumulative impact. Many smaller villages have very limited open space facilities but have a steady increase of small site housing completions which should contribute to open space provision rather than worsen deficiencies
 - the Council requires developers to provide and/or contribute towards all typologies of open space, sport and recreation facilities set out in the PPG17 audit which have their own local standards. This will require new development plan policies
 - devising a matrix approach to clearly state the types of housing mix that will be required to contribute to open space. This can be broken down to indicate the types of open space different housing types will be required to contribute to. This builds in the flexibility that is currently left to negotiation, but ensures a clear implementation of the policy. An example from the Sport England/Milton Keynes Council/English Partnerships, Joint Pilot Project, Draft SPG on Open Space, Sport and Recreation, March 2004 is shown overleaf in Table 15.2
 - including a statement to clearly set out the approach to affordable housing.

Table 15.2 Example implementation

Category	Open market housing/flats	Affordable housing	Housing for the active elderly
Playing fields	✓	✓	X
Local play areas	✓	✓	X
Neighbourhood play areas	✓	✓	X
Community centres/Meeting halls	✓	✓	✓
Local parks	✓	✓	✓
District parks	✓	✓	✓
Swimming pools	✓	✓	✓
Sports halls	✓	✓	✓
Allotments	✓	✓	✓

15.37 The fact that industrial development of a strategic scale is included is in line with paragraph 20 of PPG17, which states that in identifying where to locate new areas of open space, sport and recreational facilities, local authorities should “look to provide areas of open space in commercial and industrial areas”. As such, this inclusion is supported although it may be difficult to administer the times when open space provision is appropriate.

PLAN 1	Ensure developer contributions can be required from all developments where necessary in local policies (ie one dwelling and above).
PLAN 2	Devise a matrix approach to clearly state the types of housing that will be required to contribute to open space.
PLAN 3	Include a statement to clearly set out the approach to affordable housing.
PLAN 4	Apply the policy to commercial development.
PLAN 5	Require developer contributions for all types of open space, sport and recreation facilities covered in the PPG17 audit (with local standards).

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- 15.38 Determine whether, after the development, there will be sufficient quantity of open spaces within recommended distances of the development site, including on-site, to meet the needs of existing and new residents based on the proposed local standards. Does the quality of open spaces within the recommended distances match the standard in the assessment?
- 15.39 The next main step determines whether there is an existing open space need that, if there is no quantitative deficiency identified, leads to the next step of identifying a qualitative deficiency. Table 15.3 provides a summary of the approach taken by other authorities.

Table 15.3 Summary of approaches

Open space need?	
Tynedale Council	An assessment of open space, sport and recreation has been completed and identifies where there are deficiencies in existing provision. The authority area is divided into 21 sub areas and the strategy concludes that there are deficiencies in each of these sub areas. The implication is that there would always be a requirement for open space contribution.
Leicester City Council	Whether an open space contribution should be sought depends on the level of existing provision, determined by the existing amount of open space, quality, scale and nature of housing development.
Stockport Metropolitan Borough Council	Whether an open space contribution should be sought depends on whether existing provision exceeds the minimum requirement and can meet increased demand.
Hinckley and Bosworth Borough Council	Whether an open space contribution should be sought depends on whether an over-supply of public open space is in easy walking distance (400m) of a proposed development.
Fareham BC	Normally only seek to secure provision of open space where it can be demonstrated that the proposed development will exacerbate or create a deficit in provision based on the Open Space Survey and catchments of: children's equipped and informal play space is on a ward basis and outdoor sports facilities and recreation facilities is based on catchments of the 4 main built up areas. The only exception is sites accommodating over 200 dwellings where the site will be expected to include play spaces regardless of ward totals.

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15.40 Despite the majority of authorities taking the approach of identifying whether there is an open space need in the area, it is considered that this moves away from the concept of ensuring the requirement on developers is fair and consistent. By applying the quantity standard based on the increased level of demand this ensures the developer is paying directly for the associated impact of the development rather than it being dependent on what open space happens to be around the development. In addition, by applying the open space study it is likely that if there is no quantitative or accessibility deficiency there is likely to be a qualitative deficiency that needs to be addressed.

15.41 To identify the level of quantitative, qualitative and accessibility deficiency within the area of the development, the PPG17 study should be applied for each of the types of open space. In simple terms, this is as follows (a worked example is shown later in this section):

- estimate the number of residents living in the proposed development (being explicit about assumed occupation rates)
- calculate the existing amount of open space within the agreed accessibility threshold of the new development. For example, there may be an existing quantitative undersupply of parks and gardens, provision for young people and children and allotments in the area of the development site
- estimate the existing population within the relevant accessibility threshold and combine this with the estimated population of the new development
- compare the existing amount of open space and the total population with the quantity standards developed for that typology in the PPG17 study to decide if after the development there will be sufficient quantity within recommended distances of the development site to meet local needs
- if, when assessed against the relevant PPG17 quantity standards, there is a sufficient amount of that type of open space in the local areas to meet the needs of the total population, the Council may expect developer contributions to enhance the quality of open spaces within that accessibility threshold
- where it has been decided that a contribution is required to improve provision locally, reference should be made to the quality standards for each typology and assessment against these standards. Contributions should only be considered necessary where the quality of local provision is considered below the quality vision as outlined in the PPG17 assessment.

PLAN 6

Apply the PPG17 assessment's local standards to decide whether the development creates a need for new open space or a need to improve the quality of existing open space in the local area

Determine whether the open space can/should be provided on-site.

15.42 In instances where a quantitative deficiency has been identified, it is necessary to determine whether the open space should be provided on-site. A new area of open space should be required where the existing amount of open space is insufficient to cater for the needs of the total population. The requirement should only be to such an extent as to cover the needs of the people who will be living in the new housing development.

15.43 If a housing development generates a need for new open space then wherever possible this should be provided on-site. However, in many circumstances it will not be possible to achieve this. It is recommended that minimum size standards for each typology are developed to ensure that provision is useable and can be viably maintained.

Table 15.4 Off-site development examples

When should development be provided off site?	
Tynedale Council	Includes a matrix detailing the on and off-site provision thresholds: at less than three dwellings – financial contribution for children’s play space and no requirement for outdoor sports; three to nine dwellings – financial contribution for children’s play and outdoor sports; 10 or more dwellings, on-site provision for children’s play and financial contribution for outdoor sport.
Fareham Borough Council	Presumption in favour of on-site. Includes a number of factors to consider eg size of development site and whether site is located near to existing good open space. Includes a matrix of when on/off-site is considered appropriate according to the number of dwellings and open space type.
Milton Keynes Council	On-site provision (in existing Milton Keynes area) is worked out according to number of dwellings and type of open space, eg sites of 10 – 49 dwellings, on-site is normally required. Sites of 50-199 dwellings, on-site provision for LEAPs and Local Parks will normally be sought.
Mid Devon District Council	On-site provision is usually required when a development is 25 dwellings plus. There is a general preference for on-site provision.
Cambridge City Council	Any shortfall in provision, which cannot be accommodated on-site, should be met through commuted payments and be spent on identified projects.
Stockport Metropolitan Borough Council	Commuted payments are acceptable for small scale developments and funds will be held in an interest earning account until enough is accumulated for improvements.
Hinckley and Bosworth Borough Council	Thresholds are set for different types of open space and whether provision is appropriate on or off-site. Off-site provision is generally acceptable when development is too small to reasonably accommodate formal or informal open space and high density schemes.
Reading Borough Council	In most cases, it is more appropriate to seek off-site contributions, especially in small developments.

PLAN 7	Identify appropriate minimum size thresholds for on-site provision for each typology. Develop a matrix approach to determine the threshold of dwellings for on versus off-site provision as a guide only. A case by case approach will still be required.
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15.44 If it is not possible to provide the open space required on-site, then contributions should be sought towards the new provision or enhancement of that type of open space within the accessibility threshold. Where this is not possible, then contributions towards quality improvements could be considered as an alternative. Some different approaches to where off-site contributions should be spent in Table 15.5.

Table 15.5 Off-site contributions

Where should the off site contribution be spent?	
Fareham Borough Council	Open Space Survey provides a framework for open space requirements. SPG sets out a list of appropriate items developer contributions can be spent on.
Mid Devon District Council	Catchment areas are used to ensure provision is related to the development. Contributions generated within a catchment area will be spent within a catchment area. Catchments are based on the grouping of parishes, based on: anticipated rate of future residential development in an area and the location of existing facilities that could be extended or improved and the potential locations for the provision of new facilities. The SPG advocates the use of a pooled fund for these catchment areas.
Leicester City Council	For larger developments, the Council will be able to indicate exactly where any contributions made by developers will be spent. Smaller developments – may be appropriate to pay into an area based open space fund. Fund will be ring-fenced within the area based budget.
Stockport Metropolitan Borough Council	Funds will be used within the area easily accessible from the funding development. For children's/casual play space this will be within 1000 metres from the funding development.
Reading Borough Council	Open Spaces Audit and Strategy points to a need for qualitative improvements to meet the needs of both existing population and those occupying new developments.

Where should the off site contribution be spent?	
	Developments will contribute separately towards improvements on the basis of needs in relation to borough wide facilities and the needs in respect of smaller localised facilities. Capital expenditure to meet the needs of existing and future population is a key requirement in Reading and as such new developments should make contributions towards identified areas of open space that serve the whole Borough. Additional contributions are also required to improve play and other facilities in the local area. This will include specific works or improvements set out in the Open Space, Sport and Recreation Strategy or other approved programmes.
Salford City Council	When identifying a suitable site, the City Council will look at the availability of sites within a reasonable walking distance of the development. Where local play facilities are deemed adequate, the City Council will seek the contribution for alternative outdoor recreation needs in the area.

Calculate the recommended open space contribution for new open spaces.

- 15.45 The level of developer contributions for off-site provision will depend on whether it includes the costs of land acquisition. Standards costs towards the enhancement of existing open space and provision of new open spaces (across all typologies) should be clearly identified and revised annually.
- 15.46 The cost of open space can be difficult to determine based on what elements of open space provision to include within the costing, for example, whether the cost of a facility should include site preparation, eg levelling, drainage, special surfaces and what ancillary facilities to include within costings, what level of equipment and land costs. The costs should be based on local costings but a guide can be found on the Sport England website: http://www.sportengland.org/kitbag_fac_costs.doc and the NPFA Cost Guide for Play and Sport.

For each typology, the size of provision or contributions should be based on:

number of people (in terms of increased demand over capacity within accessibility catchment of the development) x quantity provision per person x cost of provision per hectare

Worked example: contribution towards amenity greenspace

- a housing development for 70 dwellings has been submitted to the Council. The development consists of 30 four-bed dwellings, 30 three-bed dwellings and 10 two-bed dwellings. This will result in 230 additional residents living in the locality
- the agreed accessibility catchment for amenity greenspace is a 10 minute walk time or 480 metres. Within this distance of the housing development there is currently 0.2 hectares of provision

- the estimated population within 480 metres of the housing development is 800 people. Combined with the estimated population (230) this gives a total population of 1030
- the quantity standard for amenity greenspace is 0.3 hectares per 1000 population. Multiplied by the total population (1030) produced a requirement for 0.31 hectares of amenity green space. The existing amount of amenity green space is 0.2 hectares
- 0.2 hectares of amenity green space within 480 metres is a lower level of provision than the required 0.31. The developer will therefore be required to provide further provision
- the size requirement can be calculated by multiplying the quantity standard per person by the population of the new development. In this example this represents 0.0003 hectares per person multiplied by 230 people, producing a requirement for 0.07 hectares. Given the shortfall in provision is 0.11 hectares, in order to meet the needs of the people who will be living in the new housing development; the full quantity provision should be secured
- reference should be made to the agreed minimum size standards to determine whether the requirement should be on-site or off-site. In this example the minimum acceptable size is 0.2 hectares, so a contribution towards off-site provision should be sought.

15.47 It is unreasonable to ask the developer to fund the entire shortfall in the area, and the contribution can only seek to obtain a contribution for the impact of the additional housing.

- if the open space were to be provided off-site, the estimated cost for the provision of amenity greenspace is £8,200 on the basis of a site being 0.2ha (2000m²) in size. The cost per hectare is therefore £41,000
- the agreed local standard for provision is 0.30 ha per 1000 population, or 0.0003 ha per person
- using the formula set out above, the contribution required for a 70 dwelling development is:
 - 230 (number of people in development in terms of increased demand over capacity within accessibility catchment of the development) \times 0.0003 (requirement per person) \times $41,000$ (cost of provision per hectare)
 - the contribution required towards amenity greenspace is £2,829.

15.48 The application of this formula ensures that the level of provision required from developments is worked out proportionally as to the level of increased demand the development incurs.

15.49 The study can be used as a tool to determine the level of open space and indoor facilities required in major new urban extensions as well as within smaller new housing developments. The existing level of provision is measured against the projected population, which shows how much open space should be provided to meet the open space standards, however this includes existing deficiencies.

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15.50 The worked example above can be applied to an urban extension area to calculate the required level of open space for the overall area as part of site-specific proposals in the LDF.

PLAN 8	Use a formula for the calculation of the provision of open space requirement. Update costings regularly.
PLAN 9	Utilise the methodology above to assess the impact of major growth against agreed quantity standards to proactively plan for emerging open space, sport and recreation needs.

15.51 Maintenance sums are also an important element of any S106 process. A review of the approach taken by other authorities is set out below at Table 15.6.

Table 15.6 Maintenance approaches

Maintenance	
Tynedale Council	Developers are expected to make a contribution equivalent to 25 years maintenance costs, where a) they are providing on-site facilities and asking the Council to take on responsibility for management and maintenance or b) making a financial contribution to the capital costs of provision of facilities in the area.
Fareham Borough Council	Maintenance of sites is required. If transferred to the Council, this is usually done after a period of 12 months, following completion of open space. The developer is only liable for maintenance of the amount of open space equivalent to that required by the development where the Council demonstrates that the off-site provision is of direct benefit to the residents of the proposed development (based on NPFA defined sphere of influence for equipped and 1 km radius of development site for outdoor sports facilities). Maintenance rates are worked out on a number of beds/open space type basis and are updated annually.
Milton Keynes Council	Developer will be required to maintain the site for a period of 12 months after completion. Maintenance sum will then be required for a period of 20 years following establishment. The sum is based on contract prices and allows for inflation.
Reading Borough Council	The Council will normally adopt and maintain properly laid out open space, subject to a commuted sum payment. The commuted sum payment should cover 20 years of maintenance costs.

Maintenance	
	<p>Commutated maintenance sum is calculated using current contract prices and maintenance costs for maintaining open spaces (ie work schedules) and multiplied to establish a 20 year figure. This allows for inflation of contract prices and deflation for diminishing present values over time.</p>
Harrogate Borough Council	<p>Where the provision of open space is principally of benefit to the occupants of a proposed development rather than the wider public, the developer will normally be required to pay a commuted sum to cover the cost of future maintenance.</p> <p>New provision of open space should be maintained by the developer for 12 months and will be transferred to the Council after this period with the commuted sum.</p>
	<p>Revise figures annually for the cost of maintaining different types of open space. Total commuted payment is calculated by adding 10% contingencies to the annual costs and multiplied by the number of years.</p> <p>Maintenance is required for a period of five years.</p>
Sedgemoor District Council	<p>Arrangements will be made for the transfer of new areas of open space to the Council (or Parish Council) after a period of 12 months.</p> <p>A commuted maintenance sum will be required for 15 years after the year of adoption by the Council.</p> <p>The commuted maintenance sum shall equate to the anticipated future expenditure of 15 years annual maintenance costs taking into consideration the cost of inflation and the interest received on the diminishing average balance of the sum.</p> <p>Sum is calculated by: costs and expenses estimated for the first year's maintenance based on the Council's ground maintenance bills, minus the interest received on the annual maintenance sum, with the cost of inflation added (in accordance with the annual rate of increases in the Retail Price Index at the time of calculation).</p>
Daventry Council	<p>Maintenance sum will be for a 20 year period.</p> <p>Maintenance costs should be based on current costs of maintaining the specific type of outdoor space that has been provided with an allowance made for inflation, calculated over a number of years. Examples are provided for the cost of maintenance per sq metre for a range of facilities.</p>

15.52 Where appropriate new developments should therefore make contributions towards the capital expenditure required to provide/enhance areas of open space and for its on going maintenance.

SECTION 15 – PLANNING OVERVIEW

- 15.53 Where facilities for open space are to be provided by the developer and will be adopted by the Council:
- the Council should normally adopt and maintain properly laid out open space within residential areas subject to the payment, by the developer, of a commuted sum to cover the cost of future maintenance
 - it is anticipated that the developer will be required to maintain the open space for 12 months, or other reasonable period for 'establishment'
 - a commuted sum payment is payable on transfer of the land covering cost of maintenance for a defined period. From the review of existing supplementary planning policy maintenance periods are normally between 5 and 25 years
 - the commuted maintenance sum should be calculated using current maintenance prices to manage open space, multiplied to allow for inflation of prices and the interest received on the diminishing average annual balance of the sum.

PLAN 10	Set out maintenance (commuted sums) required and update these regularly.
PLAN 11	Prepare an SPD detailing the approach towards open space developer contributions

Summary and recommendations

- 15.54 The open space sport and recreation study is an invaluable tool in the formulation and implementation of planning policies. This relates to both the protection and enhancement of existing open space and the framework for developing planning obligations.
- 15.55 The study provides the tools with which the value of an open space can be assessed on a site-by-site basis, as and when a development proposal is submitted for an existing piece of open space. Similarly, this approach can be the basis for determining what type of open space provision is appropriate to be provided within a housing development and for pre-empting growth implications as part of the LDF.
- 15.56 The use of a standard formula for open space provision in new housing developments (based on the cost of provision) will greatly aid the negotiation process and provide a transparent approach in line with Circular 05/2005.
- 15.57 There are many other factors to consider in administering planning obligations such as determining occupancy rates, costings and on-site versus off-site provision. The Council's approach should be set out clearly within a Supplementary Planning Document.
- 15.58 Maintenance sums are an important element of open space provision. It is not considered reasonable to expect maintenance in perpetuity, however the maintenance agreements made by those local authorities reviewed are typically of 20 years duration.

SECTION 15 – PLANNING OVERVIEW

- 15.59 More generally, it is important to note that the provision standards are only the starting point in negotiations with developments and high quality environments will not result simply from applying them in a mechanical way. This is why it is desirable also to complement provision standards with design guidance that concentrate on effective place making.
- 15.60 The recommendations for the planning overview section are as follows:

Summary of recommendations

PLAN 1	Ensure developer contributions can be made to all dwellings where necessary in local policies (ie one dwelling and above).
PLAN 2	Devise a matrix approach to clearly state the types of housing mix that will be required to contribute to open space.
PLAN 3	Include a statement to clearly set out the approach to affordable housing.
PLAN 4	Apply the policy to commercial development.
PLAN 5	Require developer contributions for all types of open space, sport and recreation facilities covered in the PPG17 audit (with local standards).
PLAN 6	Apply the PPG17 assessment's local standards to decide whether the development creates a need for new open space or a need to improve the quality of existing open space in the local area.
PLAN 7	Identify appropriate minimum size thresholds for on-site provision for each typology. Develop a matrix approach to determine the threshold of dwellings for on versus off-site provision as a guide only. A case by case approach will still be required.
PLAN 8	Use a formula for the calculation of the provision of open space requirement. Update costings regularly.
PLAN 9	Utilise the methodology above to assess the impact of major growth against agreed quantity standards to proactively plan for emerging open space, sport and recreation needs.
PLAN 10	Set out maintenance (commuted sums) required and update these regularly.
PLAN 11	Prepare an SPD detailing the approach towards open space developer contributions.