

# Infrastructure Delivery Supplementary Planning Document



July 2014



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# Foreword

This document sets out the Council's approach to delivering infrastructure required to support the Spatial Strategy outlined in the Surrey Heath Core Strategy and Development Management Policies Development Plan Document (the Core Strategy) for the plan period 2011-2028.

This Infrastructure Delivery Supplementary Planning Document (SPD) sets out Surrey Heath's planning policy framework for development to play its part in delivering infrastructure required to support growth. The SPD identifies Surrey Heath's approach to delivering infrastructure priorities and S106 planning obligations after the implementation of the Community Infrastructure Levy.

# Contents

<b>1</b>	<b>Introduction</b>	<b>4</b>
<b>2</b>	<b>Infrastructure Delivery</b>	<b>10</b>
	<b>Infrastructure Hierarchy</b>	
	Council's Approach	12
	<b>Approach to S106 Obligations &amp; S278 Agreements</b>	
	Council's Approach	14
<b>3</b>	<b>Glossary of Terms</b>	<b>18</b>

# 1 Introduction

**1.1** Surrey Heath Borough Council is expected to see substantial change up to 2028, particularly in and around Camberley Town Centre and on land at Princess Royal Barracks, Deepcut. The delivery of development in Surrey Heath over this period will provide new homes to meet local needs, a much improved town centre and growth in employment opportunities.

**1.2** The scale of change envisaged also brings with it a need to put in place sufficient infrastructure to accommodate and support growth as well as tackle environmental challenges. It is therefore a key priority for the Borough to develop and maintain strategic and local transport networks, open spaces, recreation facilities, schools, utilities, community facilities, heritage assets, internationally protected habitats and other necessary infrastructure in line with the anticipated pace of growth.

**1.3** New infrastructure to support growth in Surrey Heath is estimated to cost in the region of £85m. The cost of infrastructure provides a considerable challenge for public sector investment to meet this alone meaning that all available funding streams will need to be maximised; these will include developer contributions, such as Section 106 (S106) planning obligations secured through legal agreements and the Community Infrastructure Levy; capital expenditure; New Homes Bonus; Local Enterprise Partnership (LEP) funding and other sources. The purpose of this Infrastructure Delivery Supplementary Planning Document (SPD) is to set out how the Borough Council will prioritise infrastructure spending. It is not the role of this SPD to set the basis for the Community Infrastructure Levy (CIL) as this is subject to separate legislative procedures. Neither is it the role of the SPD to identify individual infrastructure projects as this is the role of the Infrastructure Delivery Plan (IDP).

## What is Infrastructure?

**1.4** In the context of planning for the growth of an area, infrastructure can be defined as physical development needed to support communities and which directly relates to economic development and regeneration. This includes:

- **Transport Networks** - Pedestrian facilities, roads, public transport, cycle ways;
- **Market/Affordable housing** - New development, maintaining the existing stock;
- **Health Facilities** - Hospitals, care provision, GP and dentist surgeries;
- **Education** - Schools, higher education, research infrastructure;
- **Town and Local Centre improvements** - Enhancements to the public realm through providing new facilities and highway improvements;
- **Green Infrastructure** - Enhancing and creating networks of open spaces;
- **Leisure Facilities** - Open space and built recreation facilities;
- **Protection of Environmental Assets** – Avoiding impact from development on internationally and nationally protected habitats and species;
- **Utilities Facilities** - Energy/waste/water drainage plants, networks and treatment facilities;
- **Flood Prevention** – Strategic defences;
- **Renewable Energy** - District heating and renewable energy networks;
- **Communications Infrastructure** - Broadband and mobile phone access;
- **Community Facilities** - Includes libraries, community halls etc.

**1.5** The Council's ability to plan, maintain and invest funds in infrastructure and services will be key in securing the future success of Surrey Heath and its communities.

## Surrey Heath's Local Plan

**1.6** The Surrey Heath Local Plan consists of a set of documents which provide an element of planning policy for the Borough. Adopted in February 2012, the Core Strategy and Development Management Policies Development Plan Document (the Core Strategy) sets out the vision, broad principles and spatial plan for the period 2011-2028. The Core Strategy will be supported by this Infrastructure Delivery SPD as well as an emerging Site Allocations Document and a Camberley Town Centre Area Action Plan (AAP). In combination, these documents will replace the Surrey Heath Local Plan 2000 and deliver new development up to 2028.

**1.7** The Core Strategy sets out a number of objectives which represent key outcomes to deliver the vision for the Borough. In particular objectives 1, 2, 4, 5, 6, 8, 11, 13 and 17 of the Core Strategy are most pertinent to this Infrastructure Delivery SPD.

1. To promote and deliver sustainable development in the Borough;
2. To provide sufficient new housing to meet the Boroughs need without causing harm to areas of importance for biodiversity;
4. Through the regeneration of the Princess Royal Barracks site, to deliver a sustainable rural community set within a high quality built and natural environment at Deepcut;
5. Protect and enhance biodiversity within the Borough including sites of local importance for biodiversity and aim to deliver Surrey Biodiversity Action Plan (BAP) targets;
6. Ensure that new development contributes to environmental, infrastructure and service improvements and minimises impacts upon both the natural and built environment;

8. Maintain and protect the Countryside and Green Spaces in settlement areas and provide an integrated green infrastructure network;
11. Improve travel choice and transport services to encourage sustainable travel patterns and, in particular, reduce reliance on the private car;
13. Promote the role of Camberley town centre as a secondary regional centre and as a safe and attractive retail, cultural and entertainment centre with a high quality of environment;
17. Provide and support high quality leisure and cultural facilities that are accessible to all.

**1.8** Policy CP12 of the Core Strategy (Infrastructure Delivery and Implementation) sets out a framework for the delivery of infrastructure required to support development identified in the Core Strategy and other Local Plan Documents.

**1.9** Developer contributions are a mechanism for applicants to mitigate the impact of their development by providing infrastructure to support the development or by making financial contributions towards the provision of such infrastructure. Whilst developer contributions will continue to play an important role in providing infrastructure, the cost required to support Core Strategy growth is such that it will only be one delivery mechanism. The Council will therefore need to work with a range of infrastructure partners and providers to develop new models for financing infrastructure through innovative use of funding opportunities when they become available.

## Surrey Heath's Spatial Strategy

**1.10** Policy CP1 of the Core Strategy directs new development to come forward largely through redevelopment of previously developed land in the western area of the Borough consisting of Camberley, Frimley, Frimley Green, Deepcut and Mytchett.

**1.11** Policy CP3 (Scale and Distribution of New Housing) identifies that the Borough Council will make provision for 3,240 (net) additional dwellings for the plan period 2011-2028. Between the period 2011 and 2025 the provision of 2,730 (net) additional dwellings will generally be distributed as follows:

Bagshot	270 (10%)	Frimley Green	20 (1%)
Bisley	45 (2%)	Lightwater	40 (1%)
Camberley	860 (31%)	Mytchett	55 (2%)
Chobham	55 (2%)	West End	20 (1%)
Deepcut†	1235 (45%)	Windlesham	20 (1%)
Frimley	120 (4%)	Total	2,730 (100%)*

\*Figures may not sum due to rounding

†Includes 1,200 homes at the Princess Royal Barracks.

**1.12** Within the period 2026-2028 the Borough Council will make provision for 510 dwellings within settlement areas or if insufficient sites come forward then through the release of sustainable sites within the Countryside beyond the Green Belt.

**1.13** The Borough Council will also seek to make provision for up to 7,500 new jobs up to 2027 in accordance with Policy CP8 of the Core Strategy. Employment growth in Camberley will be achieved through redevelopment of existing sites and will be largely focused on the town centre and the nearby Core Employment Areas in Yorktown and off Frimley Road. Camberley Town Centre is the focus for major new retail development particularly on the London Road frontage. Policy CP10 of the Core Strategy anticipates some 41,000 square metres of gross retail floorspace will be delivered in the period up to 2028. Employment growth in Frimley will largely be focused on the Core Employment Areas off Frimley Road, within Frimley town centre and other large employment sites close by and at Frimley Park Hospital.

**1.14** At Deepcut, the Princess Royal Barracks represents a major redevelopment opportunity that will enlarge the village and provide a major new housing area (some 1,200 dwellings). This site is allocated by Policy CP4 of the Core Strategy.

## Infrastructure Required to Deliver Surrey Heath's Spatial Strategy

**1.15** The delivery of the Spatial Strategy will place added pressure upon the Borough meaning there is a need to invest in infrastructure to cope with the additional demand. Schools, open spaces, road networks and pedestrian/cycle links are examples of where the pressure of new demand can be felt. In a broader sense, new development has a responsibility to create better, more sustainable places.

**1.16** The Borough's infrastructure needs will be greatest in and around Camberley Town Centre and at Deepcut where a significant proportion of the planned growth will take place. Therefore the focus will be on the delivery of infrastructure in these areas to support the expected change as it comes forward over the plan period. However, whilst the regeneration of the Town Centre is a key strategic Council priority, there is also a need to provide infrastructure to accommodate sustainable development in other parts of the Borough as well as addressing strategic cross-boundary issues such as avoiding development's impact on internationally protected sites of nature conservation importance such as the Thames Basin Heaths Special Protection Area (SPA) and mitigating impact on the Strategic Road Network (The M3 motorway).

**1.17** To assist with this process Surrey Heath's Infrastructure Delivery Plan (IDP) has been prepared to support the Core Strategy and this Infrastructure Delivery SPD. The IDP sets out the Borough's infrastructure projects required to accommodate growth as well as information on the project costs, extent of funding secured, any gaps in funding and timescales for delivery. The IDP also provides information on cross-boundary infrastructure issues. The IDP covers the plan period up to 2028 although its content will be monitored and updated regularly to take account of delivery and changing priorities and needs over the plan period. The IDP will also provide

an evidence base for the Council to direct funding as it becomes available to the delivery of the critical infrastructure required to support growth.

## Funding Surrey Heath's Infrastructure

**1.18** Delivering infrastructure required to support growth can be an expensive and lengthy process. Further funding for infrastructure is expected to be constrained over the plan period. Therefore a key challenge for the Council will be how to maintain investment in critical infrastructure to support growth with less public money available.

**1.19** It is necessary, therefore, for the Council to establish through this SPD and the supporting IDP a long term plan for infrastructure delivery to ensure that when funding opportunities arise they are directed towards critical projects as well as achieving best value for money.

**1.20** As public money is unlikely to be able to fund the full cost of infrastructure required to support Surrey Heath's spatial strategy, the Council will seek to encourage and create an environment of co-operation and joint working with public and private bodies to assist with the delivery of infrastructure. Options available to the Council include capturing the economic benefits of development through the Community Infrastructure Levy (CIL), S106 planning obligations or S278 highway agreements, more joined up working between the public and private sector (i.e. Local Economic Partnerships) and generating new revenue streams.

## Infrastructure Provision and Development Viability

**1.21** It is acknowledged that planning obligations can affect the financial viability of certain developments and will therefore not always be appropriate or reasonable to apply. The Borough Council does not want to impose a regime that will see the viability of development compromised by planning obligations and other developer contributions.

**1.22** To assist with this issue, the Core Strategy and Infrastructure Delivery SPD provide a suitable platform for the Community Infrastructure Levy and planning obligations to operate in Surrey Heath. It is a key requirement of the CIL regulations that a CIL Charging Schedule is evidenced by a Borough-wide viability assessment looking at the impact of proposed CIL rates in the area. Therefore, once adopted, the Community Infrastructure Levy will introduce a standard levy for development (that can differ by development type and location), which the majority of qualifying development can bear without adversely impacting its delivery. CIL is bound by a separate legislative process and will be adopted by the Council in full accordance with the relevant procedures.

**1.23** However, it is recognised that there will be cases where site characteristics, planning obligations, policy requirements and other circumstances can result in the viability of development being affected. Therefore, the Borough Council will adopt a pragmatic approach to those schemes where viability is proven to be affected through the imposition of planning obligations or any other planning requirement sought by the Borough Council.

**1.24** On schemes where viability assessments are required to support development proposals, these will be subject to independent verification by external experts at the cost of the developer.

## Establishing an Infrastructure Delivery Framework

**1.25** The planning system has a dual role in infrastructure delivery in both creating an environment for investment and economic growth as well as being able to seek developer contributions from development to mitigate impact and provide infrastructure. This SPD sets out the options and preferred approach for delivering infrastructure through setting out a delivery framework that supports the introduction of CIL and clarifies the use of planning obligations.

## Community Infrastructure Levy (CIL)

- 1.26** The Planning Act 2008 introduced provision for Local Authorities to introduce CIL in their areas to address the cumulative impact on infrastructure provision from most development resulting in net additional floorspace.
- 1.27** The Infrastructure Delivery Plan (IDP), which supports this SPD, provides an overview of the Borough's local and strategic infrastructure required to deliver the spatial strategy outlined in the Core Strategy. The IDP identifies a funding gap which will need to be met through a combination of funding sources, including finance collected by CIL.
- 1.28** The CIL Regulations 2010 (as amended) enable financial contributions to be levied from most development, although a charging authority may apply different rates to different types of development and different geographical zones if it chooses to do so.
- 1.29** Finance raised through CIL is only to be used for infrastructure required to support the development of the area, not to remedy pre-existing deficiencies, unless new development would make deficiencies worse. CIL can therefore be used for new infrastructure, or to increase the capacity of existing infrastructure to help accommodate growth. Although CIL will make a significant contribution, core public funding will continue to bear the main burden. CIL is intended to fill the funding gaps that remain once existing sources of funding have been taken into account.
- 1.30** The CIL Regulations 2010 (as amended) require that an appropriate balance is struck between the desirability of funding infrastructure from CIL (in whole or in part) and the potential effects of the imposition of the levy on the economic viability of development across its area.
- 1.31** The Council intends to implement a Community Infrastructure Levy, as set

out in policy CP12 of the Core Strategy. The strategy of this SPD is based on the assumption that this will occur. Policy CP12 therefore provides the policy context for the Council to introduce a CIL charging schedule, within which will be the rates for new development, dependent on type and location. However, the charge setting and implementation is through a separate legal process.

- 1.32** The Council will continue to use existing methods for securing contributions and infrastructure from developments including Supplementary Planning Documents, planning obligations, highways agreements and planning conditions until such time as the Community Infrastructure Levy is in place. Thereafter methods for securing contributions will be in accordance with this SPD, the Community Infrastructure Levy Regulations and any other guidance on the use of S106 planning obligations and/or S278 highway agreements.

### Infrastructure that will benefit from CIL in Surrey Heath

- 1.33** The CIL Regulations set out that a charging authority may publish a list of the infrastructure which it intends will benefit from CIL funding (A Regulation 123 list or 123 list). If no 123 list is published, all infrastructure can benefit from funds raised by the Levy.
- 1.34** However, when CIL is implemented, restrictions on the future use of S106 planning obligations will come into force. The restrictions mean that no more than 4 planning obligations (in effect 4 separate contributions) can be pooled for an infrastructure project or type. Therefore if no 123 list is published then all infrastructure projects or types would be subject to this restriction. For infrastructure such as Suitable Alternative Natural Greenspace (SANG) or education, this would mean that in effect only 4 planning applications would contribute towards these types of infrastructure.

- 1.35** Government guidance on implementing CIL<sup>1</sup> sets out the interaction between CIL and S106 obligations. The guidance states that when CIL is introduced S106 obligations should be scaled back to those matters that are directly related to a specific site and which are not set out in a 123 list. Where the 123 list includes a generic infrastructure type S106 obligations should not normally be sought unless these can be justified by infrastructure evidence.
- 1.36** Infrastructure funding raised through CIL will, in the main, be directed towards those infrastructure projects or types which are required to mitigate cumulative rather than site specific impacts.
- 1.37** For larger development sites which have specific infrastructure requirements, such as the Princess Royal Barracks (PRB), it will be preferable for some infrastructure to be delivered through S106 obligations and/or S278 agreements. As such, S106 obligations and S278 agreements will remain an important part of the package to ensure that larger developments are deliverable and sustainable.
- 1.38** Therefore, the 123 list will set out those infrastructure projects/types which will benefit from CIL funding. Where an infrastructure project/type does not appear or is caveated to be excluded from the 123 list the Borough Council will ensure that, that particular infrastructure project/type is not funded through CIL and S106 from the same planning permission. In order to do this the Borough Council will enter into a standard planning obligation to ensure that any funds raised through CIL will not be spent on infrastructure projects funded by S106.

1 Community Infrastructure Levy Guidance (2013) CLG.  
Available at: <https://www.gov.uk/government/publications/community-infrastructure-levy>

## 2 Infrastructure Delivery

**2.1** This section sets out the Council's approach to help establish an infrastructure delivery framework for Surrey Heath as well as confirming the role development will play in delivery. This SPD also sits alongside the Thames Basin Heaths Special Protection Area SPD which contains guidance on how development is expected to avoid impact to the Special Protection Area (SPA).

### Infrastructure Delivery Framework

**2.2** In establishing an infrastructure delivery framework it is important, in conjunction with identifying the cost of infrastructure, to also identify the roles and responsibilities of the various providers.

**2.3** Surrey Heath Borough Council is currently responsible for providing some essential infrastructure such as open space and avoidance measures for the Thames Basin Heaths SPA. The Borough Council does not however have delivery responsibilities for infrastructure such as health, education, transport and utilities. A key part of infrastructure planning is for the Council, therefore, to engage with those bodies responsible for delivering the infrastructure for which the Council has no duties or responsibilities. This is to ensure that their plans and programmes recognise the level of development set out in the Core Strategy and any other Local Plan document. This approach is outlined in policy CP12 of the Core Strategy. Early identification and alignment of priorities will mean the infrastructure planning process will be flexible to changes over the plan period.

**2.4** Surrey Heath's Infrastructure Delivery Plan (IDP) supports this SPD by setting out the Borough's infrastructure needs, costs, funding issues and delivery responsibilities. The IDP will be used by the Council as an evidence base to help direct finance collected through CIL and planning obligations towards delivery of the critical infrastructure required to support growth. The IDP will be reviewed on an annual basis to incorporate

changing infrastructure priorities established through continued engagement with all infrastructure providers.

### Types of Infrastructure

**2.5** For the purposes of this SPD infrastructure has been grouped into one of two elements:

1. Site Related Infrastructure;
2. Off-site Infrastructure.

#### Site Related Infrastructure

**2.6** Site related infrastructure is defined as land/development, works or facilities, usually carried out and/or funded by the Developer, which are required to mitigate the impact of their development and enable the grant of planning permission. These elements are usually provided either on-site or within the immediate vicinity. The scope of requirements will vary depending on the type, scale and location of development and can include, but are not limited to:

- Affordable housing provision;
- Suitable access to the site and road/transport network;
- Pedestrian and cycle facilities within the development;
- Travel plans to promote sustainable transport initiatives;
- Provision of land or works for new schools to be provided as part of the development;
- Local open space and/or equipped play space linked to a specific development
- Suitable Alternative Natural Greenspace (SANG) to avoid impacts to the Thames Basin Heaths SPA;
- Indoor sports facilities;
- Specific public realm enhancements and environmental Improvements e.g. a public art scheme linked to a specific development;
- Sustainable Urban Drainage Systems (SUDS);

- Community facilities e.g. Surgeries, libraries, public halls linked to a specific development, museums etc.
- Waste & recycling

- 2.7** Those site-related requirements which cannot be provided as part of the design of schemes but are necessary to enable the grant of planning permission will be secured through a Planning Obligation requiring the developer to enter into a Section 106 legal undertaking or agreement to provide the relevant infrastructure item unless it will be secured through CIL.
- 2.8** Where the Council requires site-related infrastructure to be made through Section 106 provisions, such planning obligations will need to conform to CIL Regulation 122.
- 2.9** CIL Regulation 122 requires planning obligations to be:
- i. necessary to make the proposed development acceptable in planning terms;
  - ii. directly related to the development; and
  - iii. fairly and reasonably related in scale and kind to the development.
- 2.10** Regulation 122, which came into force on 6 April 2010, makes it unlawful for a planning obligation to be taken into account in determining a planning application if it does not meet these three tests.

#### Developer Contributions and Affordable Housing

- 2.11** As a general approach, affordable housing is not required to make planning obligations in the same way that market housing is. Accordingly, the CIL Regulations exempt affordable housing from being liable to pay CIL.
- 2.12** However, at the same time European Legislation and its associated UK Regulations require that all net residential development (including both market and affordable housing) has to avoid its impact on European and internationally protected sites.

#### Off-site Infrastructure

- 2.13** Off-site infrastructure is defined as land/development, works or facilities necessitated by the combined and cumulative impact of a number of developments, which cannot be provided as part of individual schemes. In Surrey Heath, these projects are required to deliver the objectives of the Core Strategy and help accommodate the expected growth up to 2028 and are identified in the supporting IDP.
- 2.14** Off-site infrastructure will often have a cost which far exceeds the abilities of new development to meet in its entirety. Therefore, the Borough Council will continue to engage with providers to discuss and secure funding arrangements to ensure that the identified infrastructure can be delivered in line with planned growth over the plan period. However, development should be expected to make a contribution towards mitigating/avoiding its cumulative impact. CIL has been introduced specifically for this purpose and therefore payment of the Borough's CIL where applicable will be the principal mechanism for development to make its contribution towards delivering off-site infrastructure.

### The Delivery Framework – A Co-ordinated approach

#### The Council's role

- 2.15** To deliver the projects in the IDP in line with growth, the Council will need to continue to work with infrastructure providers and seek to secure funding packages where opportunities arise, as outlined in policy CP12 of the Core Strategy.
- 2.16** Whilst the Council will endeavour to secure as much funding as possible from capital and other sources as it becomes available and deliver required infrastructure in the most cost efficient manner possible, the Council will implement its planning policies and adopt a CIL to ensure development mitigates and/or avoids its cumulative impact on infrastructure demands in the Borough.

## Development's role

- 2.17** The principle for development to make a proportional contribution to the Borough's infrastructure needs is set out in Policy CP12 of the Core Strategy. This will be secured by development paying CIL in accordance with the Council's CIL Charging Schedule and where necessary, site-related infrastructure items not included on a 123 list through S106 planning obligations.
- 2.18** The Borough Council will ensure that infrastructure identified on the 123 list will not be required to enter into any further S106 planning obligations although there may be some infrastructure on the 123 list which has already attracted funding through S106 obligations and CIL is acting as a 'top up' to deliver the scheme.
- 2.19** In line with the CIL Regulations, the Council's CIL Charging Schedule will be developed striking a balance between the Borough's infrastructure needs and the demands on the economic viability of development. Should new infrastructure projects/types be placed onto the 123 list, the Borough Council will undertake consultation in line with the CIL Regulations.

## Establishing an Infrastructure Hierarchy

- 2.20** To provide a system of governance and alignment of funding it is necessary to have a structure in place which identifies the Borough Council's priorities for infrastructure delivery. This will ensure that the Council can direct and pool secured contributions to deliver the infrastructure required to facilitate growth. The infrastructure priorities for the Borough comprise the following categories:
- 1) Infrastructure Required by European Legislation**
- 2.21** This is infrastructure required by European Legislation to avoid the impact of development on Surrey Heath's European and Internationally designated sites of nature conservation importance which includes the Thames Basin Heaths SPA and the Thursley, Ash, Pirbright & Chobham Common Special Area of Conservation (SAC). Specific projects requiring funding

from CIL or S106 are set out in the IDP. A brief overview of the issues for the Borough's internationally protected areas is as follows:

- **Thames Basin Heaths SPA and Thursley, Ash Pirbright & Chobham Common Special Area of Conservation SAC** - Development can lead to adverse impacts on heathland areas through general recreation activities such as walking and dog walking. This impact needs to be avoided. Avoidance is in the form of alternative areas of land (Suitable Alternative Natural Greenspace (SANG)) provided for general recreation instead of the heathland. Avoidance is also in the form of Strategic Access Management and Monitoring (SAMM). A joint forum of Local Authorities affected by the Thames Basin Heaths SPA has been set up, together with other interested groups such as Natural England, the Wildlife Trusts and major landowners to develop a joint agreed approach to avoidance measures, in particular the methodology and standards for SANG. Development in Surrey Heath cannot be granted planning permission unless the Council is satisfied that its impact on the protected heathlands can be avoided through the delivery of SANG and a financial contribution toward SAMM. In the majority of cases SANG is provided by development making a financial contribution for the provision and management of SANG, however, in the case of large scale development an avoidance package including the delivery of SANG on site and SAMM may be appropriate. More details on this are set out in the Thames Basin Heaths SPA Supplementary Planning Document (SPD).

- 2.22** Therefore, to ensure that development can proceed, the Borough Council will need to ensure that the appropriate proportion of CIL will be directed towards delivering the avoidance projects identified in the IDP as a priority. Delivering SANG on or near site through CIL may not secure a

SANG solution which remains bespoke to that development. Therefore development which must provide its own on or near site SANG solution will continue to secure SANG through S106 obligations.

## 2) Local Infrastructure

**2.23** Working in partnership with other infrastructure providers and organisations the Borough Council will identify the infrastructure necessary to meet local needs. This could include infrastructure and enhancements to the local road network, education, community facilities, open spaces, indoor sports and so forth.

**2.24** The Borough Council will ensure that governance arrangements are in place so that any transfer of CIL funds or contributions from S106 obligations to other infrastructure providers are transparent, efficient and spent on identified projects in a timely manner.

**2.25** Amendments to the CIL Regulations<sup>2</sup> ensure that 15% of CIL funds received are transferred to a Parish Council where development has occurred in that area. This is capped at £100 per existing Council Tax property per year. Where a Neighbourhood Plan is in place the percentage rises to 25% and is uncapped. It will be for Parish Councils to determine how they prioritise any CIL funds transferred to them. The Borough Council will work with the Parishes to explore ways in which transferred funds can be maximised and used as efficiently as possible, for example pooling of Parish & Borough funds to finance joint infrastructure schemes.

**2.26** The Government's CIL guidance (footnote 1) sets out that in unparished areas, the Borough Council is to engage with local communities in terms of how best to spend the neighbourhood element of CIL. The percentage of CIL for the neighbourhood element is the same as for parished areas, 15% and capped or 25% and uncapped if there is a Neighbourhood Plan in place.

However, it is the Borough Council which retains and spends the funds on behalf of the communities.

## 3) Strategic Infrastructure

**2.27** Strategic infrastructure can include projects which go beyond local areas and are typically cross boundary in nature. Such infrastructure includes the strategic highway network (SRN) such as the M3, strategic flood or other projects which span local authority boundaries or arise due to a need to mitigate the cumulative impact arising from development in more than one area of the local authority or more than one local authority area.

**2.28** At this time, no specific strategic projects have been identified within the IDP other than avoidance measures for the SPA. However, strategic infrastructure projects may arise over the lifetime of the SPD and this should be acknowledged. The Borough Council along with Hart District, Rushmoor Borough, Surrey and Hampshire County Councils and the Highways Agency have carried out a study of the M3 to consider the cumulative impact of development on the operation of Junctions 2-4A. Whilst capacity issues were highlighted these were not seen as a bar to development, although future exploration of potential mitigation measures are required which may realise future infrastructure projects.

**2.29** However, due to the constrained capital and public funding environment the ability of the Borough Council to deliver strategic infrastructure projects over the Local Plan period is likely to be affected especially in the short term (5 years from adoption). As such, working with partners, the Borough Council will need to ensure that funding opportunities are secured as they emerge to deliver strategic projects such as Capital Grant Funding, LEP funding, contributions from S106 obligations where appropriate as well as CIL.

<sup>2</sup> The Community Infrastructure Levy (Amendment) Regulations 2013

## INFRASTRUCTURE HIERARCHY

*In support of Policy CP12 of the Core Strategy and Development Management Policies DPD, the Borough Council will coordinate and prioritise the allocation of funding and resources secured from development and other sources to delivering Surrey Heath's infrastructure needs as set out in the supporting Infrastructure Delivery Plan (IDP); Contributions received (in finance, payment in kind and/or in physical form) from development will be directed towards the delivery of infrastructure projects in line with the following infrastructure hierarchy:*

- (i) **Infrastructure & Avoidance Measures Required by European Legislation***
- (ii) **Local Infrastructure***
- (iii) **Strategic Infrastructure***

*The specific infrastructure projects to be delivered through the hierarchy are identified in Surrey Heath's IDP.*

*This approach is to be read in conjunction with the Core Strategy and other Local Plan Documents.*

*Section 106 obligations will be used to secure affordable housing and other site-related infrastructure to enable the grant of planning permission unless site related infrastructure has been identified on the CIL 123 list.*

**2.30** The approach provides an element of certainty in respect of avoiding the impact of development on Surrey Heath's European and Internationally designated sites of nature conservation importance as contributions will be prioritised towards avoidance Measures.

**2.31** Strategic infrastructure projects have a greater potential to secure funding opportunities from alternative sources than local infrastructure projects. Local infrastructure projects are required for the running of essential services and facilities that residents of Surrey Heath rely on, on a day to day basis. It is considered that infrastructure funds should be directed to local infrastructure projects after funding for avoidance measures has been allocated. This is to ensure that local infrastructure capacity remains sufficient to meet demand and that peoples day to day needs are met. Accordingly, the Borough Council will prioritise CIL and S106 expenditure towards avoidance measures required by European legislation first, followed by Local Infrastructure and then Strategic Infrastructure.

## Approach to S106 Planning Obligations

**2.32** The power of a local planning authority to enter into a planning obligation with anyone having an interest in the land to which a development relates is contained within Section 106 of the Town & Country Planning Act 1990 (as amended by Section 12 of the Planning & Compensation Act 1991). Obligations made under Section 106 (S106) can take the form of obligations or unilateral undertakings (where the Borough Council is not a party to the agreement).

**2.33** An obligation can only be created by a person with an interest in the land to which a planning application relates. An obligation may restrict development or use of land or can be in the form of a requirement to provide a specific item of infrastructure or a financial contribution, providing it accords with the restrictions set out in the CIL Regulations.

**2.34** The main features of a planning obligation are:

- It applies to the land, so enforcement would be against the parties who entered into the agreement (or their successors in title). It can also be enforced by a legal injunction.
- Where a party has defaulted on a requirement to carry out works, the local planning authority may also enter onto the land to enforce the terms of the obligation and to claim back its reasonable costs arising from this action.
- It can contain a restriction on use of the land or a requirement for works to be undertaken, that can be for an indefinite period, a stated period or a period defined by reference to some future event.
- Contributions may be assessed as being due:
  - (i) Singly on a specified date, or one that can be derived from defined future events;
  - (ii) In instalments, the amounts of which can be stated and which are payable on specified dates or on dates based on future events;
  - (iii) Singly or in instalments;
  - (iv) Under the Local Land Charges Act 1975, it must be registered as a local land charge in the register kept by the local authority and open to public inspection;
  - (v) It can be varied with the agreement of the local planning authority

**2.35** For those infrastructure projects or types not included or caveated to be excluded from the CIL Regulation 123 list the Borough Council will, in the majority of circumstances require infrastructure to be delivered through S106 obligations or where this relates to highway improvements S278 agreements. The Borough Council will ensure that such S106 obligations conform with the CIL

Regulations both in terms of ensuring obligations are reasonable and that no more than 5 obligations are pooled towards a single infrastructure project or type.

**2.36** As stated previously S106 or S278 obligations will be used where site specific infrastructure is required, especially where sites will have to deliver their own on or near site SPA avoidance measures or highway improvements. However, for those smaller sites which cannot deliver their own avoidance, SANG will be delivered through the Community Infrastructure Levy. As such the Regulation 123 list will need to ensure that SPA avoidance measures can continue to come forward whether through small sites contributing through CIL or larger sites delivering their own solution through S106. As such, shared SANG will be identified on the 123 List. This ensures small sites can contribute toward shared SANG through CIL, whilst on or near site SANG can still be delivered through S106.

**2.37** There may also be occasions where the Borough Council request contributions through S106 obligations to meet needs which are not considered infrastructure for the purposes of the Community Infrastructure Levy. Such obligations could be contributions towards Town Centre management and/or some types of environmental improvements as well as the Strategic Access and Management Monitoring (SAMM) as part of the avoidance package for European Sites.

**2.38** Where infrastructure is expected to be delivered through S106 obligations rather than the Community Infrastructure Levy the Borough Council will take a negotiated approach towards any contributions required. The starting point for negotiations will be taken from the adopted policies in any Local Plan Document and from guidance set out in any other Supplementary Planning Document or Planning Brief as well as Surrey County Council acting as the Highways Authority for the purposes of S278 agreements. In negotiating S106 obligations or S278 agreements the

Borough Council will prioritise obligations/ agreements in line with the infrastructure hierarchy set out within this SPD.

- 2.39** The Borough Council has undertaken viability work as part of its evidence to support the Community Infrastructure Levy. Therefore the infrastructure costs for those sites which will need to provide on-site infrastructure has been taken into account, including the provision of affordable housing to the requirements set out in Policy CP5 of the Core Strategy.
- 2.40** As a starting point for negotiating S106 obligations, the Borough Council will consider a scheme to be viable. If applicants consider that S106 obligations would render their proposals unviable, appropriate evidence must be submitted to demonstrate this. If it can be demonstrated through appropriate evidence that S106 obligations or S278 agreements will render a scheme unviable, the Borough Council will negotiate obligations which are achievable. Such S106 obligations or S278 agreements will be prioritised in line with the infrastructure hierarchy set out in this SPD.
- 2.41** Prior to the submission of a planning application for a major development, the applicant is recommended to contact the Council, with a view to seeking pre-application advice. The applicant will be expected to have familiarised themselves with the details of this SPD. Pre-application discussions should aim to provide an early opportunity to obtain the local planning authority's view of proposals and also to clarify the likely content of a Planning Obligation.
- 2.42** The Borough Council's Legal Department will prepare draft legal agreements and send to the applicant for completion on return. If the legal agreement is not received in a final form before a decision on the application is made there is a presumption that the application may have to be refused.

#### Model Unilateral Undertaking Agreement

- 2.43** A draft model undertaking/agreement template is available on the Council's website for information purposes only.

#### Application Processed

- 2.44** The Council will aim to process, within the nationally set target time for determining planning applications, any valid application that includes a draft S106 agreement or unilateral undertaking.

#### Officer Report

- 2.45** This SPD is front loaded to achieve the necessary early commitment to Planning Obligations that may be necessary to make a proposal acceptable in planning terms. Provided advice in this SPD is followed, and necessary work is undertaken on the requirements of the Planning Obligation at an early stage, determination should be relatively quick. In view of this the Council will operate a practice of using dual recommendations where Planning Obligations are involved, and if the applicant has not completed the necessary work on the Obligation, the Council will refuse the application.

- 2.46** Model Wording for Committee Report Dual Recommendations:

##### **Recommendation A**

Subject to the applicant first entering into an appropriate legal agreement (at no cost to the Council) for/to secure..... , by no later than (date - 8 or 13 week target), permission be granted subject to the following conditions;

##### **Recommendation B**

In the event that the requirements of recommendation A are not met by (date - 8 or 13 week target), the Head of Regulatory be authorised to refuse planning permission on the following grounds:

1. In the absence of a completed legal agreement under section 106 of the Town and Country Planning Act, 1990 (as amended), the applicant has failed to comply with Policies ..... of the..... Local Plan in relation to .....issues."

#### Register as a Local Land Charge

- 2.47** Once completed the legal agreement is entered in the Local Land Charges Register that is available for inspection by the public.

## Implementation, Legal Fees and Monitoring of Planning Obligations

- 2.48** A fee to pay the Council's legal costs for processing the agreement will be required. The Legal Services fee in preparing the legal agreement will need to be made at the time the unilateral undertaking/agreement is returned to the Local Planning Authority.
- 2.49** Please note that the provision of a completed unilateral undertaking does not mean that an application is necessarily acceptable. It will still need to be assessed in relation to all other material planning considerations. If following consideration of a planning application the scheme is refused any sums paid to the Local Authority, excluding legal fees, will be returned following the expiry of the time limit for lodging an appeal or sooner if requested.
- 2.50** Once development is commenced it is important that the undertakings given are complied with and that any contributions are provided on time (unless already paid on submission of the unilateral undertaking or as otherwise required by the Council or other benefiting stakeholder). The developer will be expected to inform the local planning authority when any development is about to commence or if the development is also liable for CIL on receiving a CIL commencement notice. This will trigger the necessary steps to be undertaken to comply with the terms of the agreement, or will be the reference point for any future milestones in the process.
- 2.51** Surrey Heath will monitor and follow up obligations as they fall due. Failure to comply may result in warning letters being sent and ultimately injunctive action to halt development on site until the undertakings have been met.
- 2.52** Variation and discharge of undertakings will only be considered formally, whether by a deed of agreement or an application following the necessary publicity. If specific obligations are time limited and cannot be met within the prescribed period then arrangements will be made for any unspent financial contributions to be returned where appropriate.
- 2.53** Annual reports will be produced to highlight the various benefits resulting from undertakings implemented throughout the year and to show how such improvements have contributed, or are yet to contribute, to the infrastructure and essential public services of the area. This is likely to form part of the AMR or CIL monitoring report.
- 2.54** A monitoring charge of 5% will be added to the total contributions calculated for each S106 document (whether S106 agreement or unilateral undertaking). This would be available to fund officer time to ensure that money is collected and allocated to and spent by the appropriate beneficiaries, as well as the collating and publishing of the periodic reports highlighted in 2.53 above.
- 2.55** To maintain the value of any contribution sought, any payment may be subject to an increase to reflect changes in indexation during the period when planning permission was granted to when payment of the contribution is made.

## 3 Glossary of Terms

### **Camberley Town Centre Area Action Plan (AAP)**

One of the documents which will form part of the Local Plan. Sets out the strategy for growth and the regeneration of Camberley Town Centre as well as guiding policies for development within Camberley Town Centre.

### **Community Infrastructure Levy (CIL)**

A new way for development to make a financial contribution toward the costs of delivering additional infrastructure.

### **Core Employment Area**

Land designated for employment uses in the Borough.

### **Core Strategy & Development Management Policies Development Plan Document (DPD)**

One of the documents forming part of the Local Plan. Sets out the long-term vision for the future of the area, the spatial objectives and strategic policies to deliver that vision.

### **Development Viability**

Whether a site is profitable taking into account expected revenue from sales or rent and all costs associated with the development such as land costs, build costs etc.

### **Infrastructure Delivery Plan (IDP)**

Document produced by the Borough Council which contains details of identified infrastructure projects including details of when projects are expected to be delivered, by whom and the costs involved.

### **Local Enterprise Partnership (LEP)**

Partnerships between local authorities and business to help determine local economic priorities and achieve economic growth and job creation. Surrey Heath is a partner within the Enterprise M3 LEP.

### **Local Plan**

A Plan for the future development and growth of an area produced by the Borough Council. A Local Plan also contains policies which guide decision

making for individual planning applications and can also allocate sites for development. The Surrey Heath Local Plan will consist of The Core Strategy & Development Management Policies DPD (already adopted), Site Allocations Document, Camberley Town Centre AAP as well as any Neighbourhood Plans.

### **Neighbourhood Plan**

Planning document forming part of the Local Plan but which considers growth in a specified local area only. Neighbourhood Plans are prepared by Neighbourhood Forums and/or Parish & Town Councils.

### **New Homes Bonus**

Funding from Central Government to local authorities based on the level of new housing development completed in their area.

### **Regulation 123 List (123 List)**

List which can be published under Regulation 123 of the Community Infrastructure Levy Regulations. The 123 list is a list of all those infrastructure projects or types which may be funded in whole or in part by the Levy.

### **S106 Planning Obligations & Agreements**

Legal agreements between a planning authority and a developer, or undertakings offered unilaterally by a developer, that ensure that certain extra works related to a development are undertaken. For example, the provision of highways. Sometimes called 'Section 106 agreements'.

### **S278 Highways Agreement**

An agreement entered into under Section 278 of the Highways Act 1980 which can provide for improvements to the public highway either on or within the vicinity of a development site by the developer or the Highways Authority (Surrey County Council for the Surrey Heath Area).

### **Site Allocations Document**

Document forming part of the Local Plan. Allocates specific parcels of land for specific types of development such as new housing or employment.

### **Special Area of Conservation (SAC)**

SACs are areas which have been given special protection under the European Union's Habitats Directive. They provide increased protection to a variety of wild animals, plants and habitats and are a vital part of global efforts to conserve the world's biodiversity.

### **Special Protection Area (SPA)**

European designated area warranting special protection for the importance of its fauna. The area will comprise a number of sites that are also designated Sites of Special Scientific Interest (SSSI) in the UK. For example, the Natura 2000 designated Thames Basin Heaths SPA comprises 13 SSSIs across Surrey, Hampshire and Berkshire, protected principally for its rare species of ground nesting birds.

### **Strategic Access Management & Monitoring (SAMM)**

Scheme for the monitoring and management of access onto the Thames Basin Heaths SPA. Required with SANG as part of the package to avoid recreational impacts to the SPA.

### **Suitable Alternative Natural Greenspace (SANG)**

Areas of open space specifically provided for the purpose of avoiding recreational impacts to the Thames Basin Heaths SPA.

### **Supplementary Planning Documents (SPD)**

These can be produced to provide guidance to supplement policies and proposals in Local Plan Documents. However they do not form part of the Development Plan although they must undergo a formal process of consultation.

